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Civil Registration and  
Vital Statistics Systems**  
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Handbook on  
Civil Registration and  
Vital Statistics Systems  
**Preparation of  
a Legal Framework**

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## PREFACE

The purpose of this Handbook on the Civil Registration and Vital Statistics Systems: Preparation of a Legal Framework is to present a method for developing an appropriate legal framework for a national civil registration system that highlights its statistical function and its role in the national vital statistics programme. The goal is to assist countries by providing them with the necessary elements and a procedure for preparing an organic civil registration law which ensures that all vital events and records affecting civil status occurring in a given country are recorded within the statutory time limits, while complying faithfully with the established rules. The Handbook was prepared as part of the International Programme for Accelerating the Improvement of Vital Statistics and Civil Registration Systems.

The International Programme, designed jointly by the Statistics Division of the United Nations, the United Nations Population Fund, the World Health Organization, and the International Institute for Vital Registration and Statistics, was approved by the United Nations Statistical Commission during its 25th and 26th sessions held in 1989 and 1991, respectively. The purpose of the Programme is to encourage countries to design and carry out long-term reforms, using their own resources, to strengthen their civil registration and vital statistics systems. To this end, among other things, it offers technical assistance through handbooks and other papers, and conducts training activities. It is being executed in stages by the Statistics Division of the United Nations, with the cooperation of the United Nations regional commissions and the support teams of the United Nations Population Fund, and with financial support primarily from the United Nations Population Fund.

One core project activity carried out during the first stage of the International Programme, with financial support from the United Nations Population Fund, was to prepare a series of five Handbooks on Civil Registration and Vital Statistics, dealing with specific topics, to assist countries in their efforts to strengthen the organization, operation and maintenance of their civil registration and vital statistics systems. Another basic activity was the organization of five workshops in different regions of the world between 1991 and 1995.<sup>1/</sup>

The legal framework, the subject of this handbook in the series, is an essential component for the efficient management, operation and maintenance of civil registration, since, among other things, it supplies the rules and regulations needed to register the vital events and records that affect the civil status of individuals, defines its role in the compilation of vital statistics, its relations with other institutions in the country that rely on this source to perform their own functions, and the services it should provide to the country. It is important to study and review this framework as part of any national programme to improve these systems. This Manual accordingly lays out for officials of national statistical and civil registration offices, and of agencies involved in their operation, a series of steps to be followed in framing an organic civil registration law, and shows how such a law ties in with the national vital statistics system and other principal users. The actions and strategies suggested in this handbook, the content of the law, and illustrations of how to draft the regulations are merely examples and can be readily adapted to the circumstances and conditions of any given country.

The present Handbook is designed to be used in conjunction with the four other Handbooks of the International Programme:

(a) Handbook on Civil Registration and Vital Statistics Systems: Management, Operation and Maintenance;

(b) Handbook on Civil Registration and Vital Statistics Systems: Developing Information, Communication and Education;

(c) Handbook on Civil Registration and Vital Statistics Systems: Computerization;

(d) Handbook on Civil Registration and Vital Statistics Systems: Policies and Protocols for the Release and Archiving of Individual Records.

The Handbooks of the International Programme complement the United Nations Principles and Recommendations for a Vital Statistics System,<sup>2/</sup> adopted by the Statistical Commission at its sixteenth session in 1970<sup>3/</sup> and published by the United Nations in 1973, and the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects,<sup>4/</sup> and vol. II, Review of National Practices,<sup>5/</sup> published as guidance for Member States and organizations and persons interested in the application of those principles and recommendations. A national vital statistics system can be based on data from a variety of sources, but civil registration offers greater advantages as a method of compiling data on vital events. It has therefore been given preferential attention in a number of United Nations methodological documents. It is recommended that countries consult these publications.

A study of the data gathered by the United Nations for the publication of volume II of the Handbook of Vital Statistics Systems and Methods and the national reports submitted at the workshops organized between 1991 and 1995 by the International Programme justify the assertion that, on the whole, the organic civil registration laws in force in the countries have major shortcomings. Almost all are old and over-regulated, which gives less leeway for management and hampers adoption of the new organization, operation and modernization principles.

Few laws contain clear definitions of the objectives and functions assigned to the agencies involved. Moreover, in many cases the rules have been issued in a number of different legislative texts, making them harder to find, study and apply. More importantly, it is not uncommon to find significant discrepancies between the legal procedures and actual methods of operation, indicating that because of its serious shortcomings the law has fallen into disuse.

In the provisions dealing with the collaboration needed from civil registration to operate the corresponding management system, the laws on the statistical and public health systems also need modernizing and amending. The vast majority merely provide that civil registration must collect certain statistical data for them, without giving it any voice in decision-making. This creates a kind of subordination, which in practice has not produced good results.

There is a sound case, therefore, for publishing the present Handbook, which is intended to assist countries in revising their current laws on civil registration and vital statistics with a view to updating them and making them more consistent and effective. With appropriate and necessary government

support, these systems can meet essential targets in terms of reliability and timeliness. Civil registration is without question an invaluable source of data and demographic information for a whole range of services to individuals, to the local community, to the country, and to the international community.

A first draft of the handbook was prepared by Adolfo Gaete Darbó (Chile), former Director of the Regional Project for Latin America and the Caribbean, a consultant for this purpose. The present volume was completed by the United Nations Secretariat with the valuable assistance of Susana Salvador Gutiérrez, Magistrate Responsible for the Combined Civil Register of Madrid (Spain), who revised and edited the manuscript. The United Nations Secretariat thanks the following individuals who commented on the manuscript: Alejandro Giusti, Director of Population Statistics, Institute of Statistics and Censuses (Argentina), and Violeta Gonzales Díaz, Statistics Division of the United Nations.

#### Notes

1/ Held in Buenos Aires, Argentina (1991); Damascus, Syrian Arab Republic (1993); Beijing, China (1993); Addis Ababa, Ethiopia (1994); Rabat, Morocco (1995).

2/ United Nations publication, Sales No. E.73.XVII.9.

3/ See Official Documents of the Economic and Social Council, Fiftieth Session, Supplement No. 2 (E/4938), paras. 100 to 106.

4/ United Nations publication, Sales No. E.91.XVII.5.

5/ United Nations publication, Sales No. E.84.XVII.11.

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## Introduction

1. Every country in the world needs to know the characteristics of and trends in its population. Studies carried out as part of the ongoing work of the Statistics Division of the United Nations Secretariat, in fulfilment of the United Nations World Programme to Improve Vital Statistics, highlight the fact that both developed and less developed countries need to adopt measures to gather statistical data that effectively track levels and trends in fertility and mortality, while showing the correlations with different demographic, economic and social conditions. Statistical data then become necessary inputs that are vital to meeting state planning objectives in a variety of areas: public health, research, demographic studies, etc. The end-purpose is to improve people's living conditions. Several methods have been used to capture and compile such data to produce vital statistics: enumeration, which is employed in population censuses; periodic surveys, which use the same method; and registration. Other important sources of data for statistical use are health and court records.
2. For reasons that there is no need to analyse in the present Handbook, as they have been studied in detail in other United Nations papers, it has been concluded that the best way to achieve the stated purpose is the registration method, which should be implemented by a State agency, normally referred to as civil registry. It should nevertheless be borne in mind that, even starting from the proven and preferred principle that the civil registration system is the primary source of countries' vital statistics, the other complementary methods of gathering data on vital events, based on enumeration, sample surveys of households, population censuses, etc., should receive positive ratings in that it is recognized that developing countries which face serious difficulties in implementing a comprehensive civil registration system can adopt these basic data-gathering techniques on a provisional basis, while pursuing the ultimate goal of organizing a civil registration system.
3. Contrary to what might be supposed, many countries still do not have a well structured and organized civil registration system that operates with clear objectives and is staffed with specifically trained personnel who are well paid, in keeping with the complexity of their duties, which are mostly linked and subordinate to each country's family law. United Nations studies on the civil registration systems and vital statistics methods of 105 countries or areas of the world between 1979 and 1997 bring home the inevitable diversity that exists with respect to the organizational systems and the definitions and methods used by the countries and areas covered by the *United Nations Survey*. Aside from the results of this Survey, the United Nations each year canvasses countries for demographic statistics through the *Demographic Yearbook questionnaires on vital statistics*. Together, the data from the Survey and the questionnaire reveal that about 150 countries have a civil registration and vital statistics system and regularly reply to the United Nations' request. Among these countries there are great differences in degree of coverage, depending on how sophisticated each system is. Other countries or regions, about 40 in number and mostly in Africa and Asia, do not respond to the annual request from the United Nations, so that it is not known whether a civil registration system exists or vital statistics are available.
4. Even when countries do have civil registration and vital statistics compilation systems, these do not always work properly or provide quality information. Unlike the case of the other agencies that make up the public

administration in the countries, it is common to find that the civil registration system does not have a central office to manage it and, if it has one, it cannot always manage the local officials who perform the civil registration function because they come under other ministries. The problem is even more serious if the registration process is decentralized because the political organization of the country is federal. If prevailing local conditions are more or less as described, there is little hope that the registration process can meet the expectations of the State with respect to family organization, nor those of the agencies that use the statistical data which the civil registration system should presumably be gathering. One of the main problems encountered by international agencies when tackling the task of organizing or reorganizing the civil registration and vital statistics systems in the countries stems from the need to establish general standards, classifications and definitions that will lay the groundwork for greater international comparability of national registration and vital statistics systems.

5. The existence of a civil registration system as such should spring from and be supported by a comprehensive organic law that is not over-regulated. Comprehensive means that the law should contain, as a minimum, provisions concerning the structural base of the system; definitions of its objectives, functions and linkages; the principal features of its organization and method of operation, its financing or financial set-up, and, if an earlier agency is being replaced, the transitional arrangements. Not being over-regulated means taking careful decisions as to how much freedom of action is to be given to system management. The basis for any civil registration and vital statistics system should therefore be custom-designed legislation that maps out the systems, establishes their organization and defines the classes of vital events to be registered, the basic information to be gathered, and the registration requirements, as well as by whom, when and how the events are to be registered. In addition, the registration legislation should clearly define: the powers and resources of the agencies responsible for registration functions; the mechanics of preparing the registration and statistical documents; quality controls on the information obtained using the civil registration method; to ensure its effectiveness at law as the preferred means of proof that the vital events registered actually occurred; and its subsequent compilation for statistical purposes in order to prepare and comply with state programmes in such areas as public health, nutrition, family planning, social and demographic studies, fertility and mortality studies, education, public housing, etc. Most countries that have civil registration systems with some degree of sophistication have commonly enacted civil registration laws and administrative provisions. The establishment - or, where appropriate, improvement - of a civil registration and vital statistics system should therefore be preceded by enactment of a civil registration law as a prerequisite for proper operation of the system. The law should make it mandatory to register vital events, defined in a uniform manner, and should establish the legal framework for developing civil registration in each country, with due regard for its specific circumstances. This regulatory requirement should be addressed regardless of how effectively the legal provisions are currently being applied, or should be applied as the ultimate goal, even when their actual implementation may need to be phased in as the country's needs and available resources permit. When sketching an outline of how to frame a draft organic law for a civil registration system, which is the aim of the present volume, it is important to remember that in the field of law it has for centuries been the accepted wisdom that the only duty of the legislator and the law is to regulate generic cases and thus deal only in abstract and general terms. All those called upon to enforce legal provisions,

such as judges and administrators, each in their own sphere, must inevitably operate within a framework that regulates such characteristics and must therefore, by their rulings and decisions, complete the process of legal creation which was begun earlier by the legislator.

6. As stated earlier in the preface, the purpose of the present handbook is essentially to offer developing countries the tools and a procedure for developing an appropriate legal framework, in other words an organic law, for a national civil registration system that highlights its statistical function and its role in the system for managing vital statistics. United Nations studies in this area have brought home the diversity in national legislation on civil registration, as well as in the methods of organizing and managing civil registration and vital statistics systems. The differences found stem more than anything from the historical traditions and socioeconomic conditions peculiar to each country. For their part, cultural elements, the geographical distribution of the population, physical geography, and the availability of human and financial resources are determining factors in organizing a civil registration and vital statistics system. This diversity makes it hard to develop a single model when designing a civil registration system for use in all countries. However, surveys of different registration practices and vital statistics systems in different countries allow a registration model to be designed that meets the needs of most countries and constitutes a target for the developing countries, for which the present Handbook is primarily intended.

7. Given the diversity that exists among the different countries to which the present Handbook is addressed, the specimen organic law which is offered must necessarily refer to one specific type of civil registration system. It is not feasible in a single draft law to consider or take account of all the organizational forms that countries are currently using for civil registration purposes. Accordingly, Chapter I of the Handbook describes the civil registration system used as an example, which is based on one of the options contained in the international principles and recommendations; and Chapter VI includes the draft organic law for this example. A centralized model was selected for managing the civil registration system; it involves the establishment of a central, nationwide agency to direct, coordinate and oversee civil registration work throughout the country. In keeping with this centralized type of organization, the proposed law is nationwide in character, that is, is applicable throughout the territory and to the country's entire population. With respect to the statistical function that is also performed by civil registration, the starting point is similarly a centralized, nationwide system, even when management of the vital statistics is entrusted to a national statistical agency different and independent from the national body responsible for civil registration; this implies essential, ongoing coordination between both public agencies in order to accomplish effectively any goals that may be set in terms of shared interests. Nevertheless, since the different organizational arrangements that exist may have historical roots that are hard to change, countries must feel at liberty to adopt all or part of the ideas contained in the present Handbook or to adapt them as they see fit. At all events, this handbook continually refers to other organizational forms and arrangements.

8. Precisely because it is addressed to developing countries, the draft law does not cover the immediate incorporation of technology, but does lay some of the necessary groundwork. Any analysis of registration procedures used in preparing legal and statistical documents should be approached with a long-term view that paves the way, in due course and depending on the country's

technological development, for incorporating modern technological aids, including computerization, into the legally designed registration system. The use of technology in civil registration is therefore not covered in the present Handbook but in another in the same series (see the Preface). However, with an eye to the future, the civil registration law should give the central civil registration agency broad, general powers to build into the registration procedure whatever technology is considered appropriate for the registration service, so as to ensure that the system is effective and the records registered are secure and confidential.

9. As a basic management principle, it is worth recalling that technology is a management tool and as such should be at the service of the agency, not vice versa. This is why it is felt that, before worrying about technology, the system should be working normally. Invaluable as they are, modern technological aids such as computing cannot on their own - or overnight - resolve some of the more serious problems of civil registration. Automation can do little to encourage people to report vital events to the civil registration authority, a problem faced by most developing countries. It would be a fallacy to believe that any technology can on its own induce changes in registration coverage. Thinking otherwise merely diverts attention from an issue that needs to be tackled vigorously and continually. <sup>1/</sup> However, technology can help to improve system management and speed the processing of records and statistical reports, so as to pinpoint what local offices are not submitting their periodic documentation on time, are not reporting at all, or have substandard registration levels. This is where management should focus its efforts to enhance the efficiency and coverage of registration.

10. One of the main issues raised by the possibility of introducing new technology in civil registration systems concerns the confidentiality of personal data, which can be affected by the computerization of civil registration records. The information contained in civil registration records and statistical documents is usually protected in accordance with the laws governing civil registration and statistics. However, the need for scientific research into the data contained in such registration records makes it essential that the law should prescribe confidentiality criteria that do not hamper the transmission of information on individuals to responsible researchers. The necessary steps need to be taken to guarantee respect for individuals' rights to personal and family privacy, by controlling indiscriminate and unchecked computer access to the information; such access can be gained by cross-matching data from the civil registration system with other data banks, since computers can store vast quantities of detailed data on each individual by linking different sources of information, which turns the individual into what has been called a "glass man." This potential danger appears to increase as some countries introduce unique identification numbers which are assigned to everyone at birth and used thereafter for identification purposes in everything they do. This identifier system, with its undoubted advantages for computer processing of information gathered, facilitating as it does the retrieval of information and cross-matching between different sources of information, needs to be approached with the utmost caution to protect the rights of the individual.

11. In short, this handbook offers the basic tools to equip any countries that feel the need to undertake reforms to strengthen and upgrade their civil registration system, including the incorporation of computer technology and other aids. Singapore can be cited as one developed country that does not stand to benefit greatly from the ideas in the present Handbook. Its system is closer to a population register than a civil registration system. It uses modern

technologies, and its authorities have stated that their legislation is sufficient and appropriate; that registering vital events affords legal and social benefits; that vital statistics are virtually complete, and that they therefore feel no need to reform the system or make plans to upgrade or improve its coverage. 2/

12. This contrasts with the case of Indonesia, which did not set up a civil registration system for its population of 186 million until 1977. It has 66,603 local offices, many of them hard to reach; of these, only half are staffed by government employees and the rest by volunteers. Coverage is still very unsatisfactory in terms of registering births and deaths, and registration rates in some parts of Java are less than 50 per cent of the rates estimated by indirect methods of demographic analysis. It recognizes that its chief problems are the organizational weakness of the system and lack of funding. With justified reason, the national authorities are adopting measures, such as study of a new organic law for the system, personnel training, review of documentation, and strengthening of local registration offices. However, it has not decided to provide the system with modern technology. 3/

13. In May 1995, a team of technicians from the United States Bureau of the Census and the International Institute for Vital Registration and Statistics visited the state of Uttar Pradesh, India (Lucknow, Varanasi, Nianital), to lay the foundations for a programme aimed at developing methods for improving the civil registration and vital statistics system. It is estimated that about seven million births and deaths occur in the region each year, of which only 25 to 30 per cent are registered. The team noted that the civil registration and vital statistics system had been organized primarily as a statistical data transmission system rather than an interactive civil registration system. As a result, it was suggested as a first step that a survey be conducted to identify the structure of the civil registration system, with a view to strengthening its services to the population. 4/

14. Building computing services into a civil registration system or population register is a time-consuming exercise which calls for considerable effort. Denmark 5/ spent three years planning the system it introduced in 1968 and since then has continually improved, added to and upgraded it. Finland 6/ followed a similar path: in 1973 it transferred all the information from its card-based archives to a central computer and developed and perfected the system continually until 1992. In South Africa, 7/ the registration system launched the use of computers for births among certain population groups in 1972; in 1986 it was extended to people of colour, and in 1990 marriages and deaths in the same population group were included in the system. It is thus safe to say that the incorporation of technology into civil registration systems calls for specialized personnel and careful and prolonged planning.

15. The topics covered in this Handbook have been grouped into seven chapters. The first discusses the concept of civil registration according to current legal doctrine and the international agencies. It defines the events and legal records which are the source of civil status, with special references to foetal deaths, and makes clear that from a statistical standpoint vital events correspond to those events and records, other than foetal deaths, whose nature is specified. It discusses the method of registration and the key role of the population as far as civil registration is concerned. For the reader's convenience, the United Nations definitions of vital events are reproduced. The chapter next defines and comments on the functions of civil registration and offers ideas on its structure and organization and on basic documentation. The

principal enhancement made in Chapter I is that it establishes the bases for the registration model designed for use when a country is introducing a new or upgrading an existing registration system. At numerous points, in keeping with United Nations recommendations, the chapter examines all those indispensable aspects that it is felt need to be taken into account when tackling regulation of the registration process and the data on which it relies. Starting from the concept of civil status viewed from this perspective, it lays the foundations for a gradual expansion of the events to be recorded in the civil registration system, so as to create a system that can be gradually phased in, with the ultimate goal of gathering all events and legal records pertaining to individuals that relate to their own existence and identity, as well as to the situation they occupy within the family, seen as the basic building block of society. Along the same lines, it explores in greater depth the legal function performed by civil registration in a modern society, in the sense of being the public service on which the State relies to issue individuals with the official, public papers that allow them to document, no matter how long has elapsed since the physical or legal occurrence of registerable events, the circumstances to which the registration entries refer. The statistical function of civil registration is performed simultaneously with the registration function, so as to simplify the procedure for retrieving the information required for statistical purposes, which comes from the same sources as the legal information for purely registration purposes. It is believed that full integration of the two functions is best achieved by delegating to local registrars broad powers directly bestowed by the law, without prejudice to the possibility of filing questions with the Directorate and the fact that rulings by registrars are in any case subject to review through the pertinent recourse and will be finally ruled upon for registration purposes by the Directorate, in exercise of the functions assigned to it by law as the central agency responsible for directing and overseeing ministry policy with respect to the registration service. This chapter has an annex showing model registration entries for births, marriages, divorces, and deaths, as well as complementary notations and specimen certificates.

16. Chapter II explains how civil registration helps societies to function normally in terms of family organization, demographic trends, welfare, and housing. For other uses and applications, readers are referred to related United Nations publications where they are covered in depth. It was thought appropriate to single out, as the primary contribution of civil registration, the advantages that accrue from being able to identify individuals through registration records of their existence and identity, which is done by recording essential data in the entry of birth, essentially using the traditional method followed in practice by all societies, of designating all individuals by a full name that identifies them for themselves and for other people. The individual identifying function of civil registration is seen as a priority for the proper functioning of any society, both in terms of the personal interest of individuals, whose identification allows them to have specific rights and obligations, and from the standpoint of the public interest, which requires proper identification of the population in order to ensure its full integration into the State to which it belongs or in which it lives.

17. Chapter III of the present Handbook deals with the relationship between the civil registration agency and the human rights embodied in various declarations and international conventions, and illustrates how this agency plays a decisive role in assuring a wide variety of such rights. For this purpose a distinction is made between those rights which arise precisely from the act of registration, such as the right to register priority vital events, and those other rights that

flow, directly or indirectly, from the registration of the corresponding vital events. From the standpoint of identification, singled out in Chapter II as one of the fundamental contributions of civil registration to the normal functioning of society, Chapter III includes several human rights that are linked to this primary right and are in turn dependent on the registration of events requiring registration. First, reference is made to the right to one's own identity, which is now internationally recognized in the Convention on the Rights of the Child, approved by the United Nations on 20 November 1989, and which in practice arises basically from the individual's entry of birth. The right of a child to know its parents and the right to non-discrimination on the basis of birth, both of which are recognized in the 1989 Convention, are also included as human rights which are affected by the act of registration and created when the civil registration system is operating correctly and normally.

18. Chapter IV discusses management systems from a theoretical standpoint to show that their development is driven by the evolution of the State rather than by organizational shortcomings and that they are valuable tools which make it possible to perform complex functions by pooling the efforts of two or more public agencies. Account has been taken of the detailed studies on the different civil registration and vital statistics management systems analysed in the Handbook on the Management, Operation and Maintenance of Civil Registration and Vital Statistics Systems (see the Preface). The model selected for drafting the law is predicated on the existence of a centralized civil registration and vital statistics system and assigns the various functions which each system performs to separate and independent administrative bodies. The civil registration system is entrusted to the Directorate of Civil Registration under the corresponding ministry (Health, Justice, Interior, etc.), which is designated as the agency that collects the statistical data. The task of compiling and producing statistics is assigned to the national statistical service. Interaction and cooperation between these two bodies are crucial if the system is to work effectively. The chapter also includes five diagrams showing how the vital statistics management system operates to illustrate the different ways to channel the flow of information from the registration to the statistical offices.

19. Chapter V of the present Handbook explains how to draft an organic law for a national civil registration system and includes information on several issues that need to be addressed before the articles are drafted; it describes which topics belong in the law and which in the regulations, how an organic law is created, the role of legislation in the national civil registration service, defines its objectives, and lists its functions.

20. Chapter VII contains a specimen outline of the draft law and an explanatory statement on the proposed comprehensive, nationwide legal text that follows, which is based on the approach adopted in Chapter I with respect to the administrative organization of the centralized civil registration and vital statistics system and the empowerment of the position of local Registrar, in order to ensure quality registration and statistics, which can be achieved only by prior control and screening of the data to be entered, or reported for statistical purposes. The draft law consists of 177 articles, twelve transitory provisions, and two repeal provisions.

21. By way of example, Chapter VIII of the Handbook covers the drafting of the regulations implementing the law. Given the highly procedural and mechanical nature of registration activity, it is considered essential to frame regulatory rules that embody, as a matter of intrinsic importance, the detailed, case-by-

case evolution of legal precepts. In this case, the law will be confined to establishing general principles, rather than regulating matters that because of their detailed nature are felt to belong more properly in the regulations, which are easier to reform in order to adapt them to legal changes that occur or to changes that it is considered desirable to make to improve regulation of the regulation function.

22. In short, the goal has been to establish an appropriate legal framework for fleshing out one of the options for organizing and managing the civil registration system and its interaction with the vital statistics system, to serve as a guide for countries in introducing or improving their own systems, in conformity with their own internal legal systems and their specific circumstances and needs.

#### Notes

1/ See International Institute for Vital Registration and Statistics, Chronicle, No. 103 (June 1996).

2/ See Lohman Yew and Kenneth H. Goh, Singapore Country Report on Civil Registration and Vital Statistics Systems in Indonesia (Djakarta, 1993).

3/ See Indonesia, Central Bureau of Statistics, Country Report on Civil Registration and Vital Statistics Systems in Indonesia (Djakarta, 1993).

4/ See International Institute for Vital Registration and Statistics, Chronicle, No. 102 (March 1996).

5/ See Jane Bloch, Experiences with Computerization of Civil Registration (Denmark, Datacentralen, 1991).

6/ See Finland, Population Registration Centre, Population Registration System and Vital Statistics in Finland (1994).

7/ See South Africa, Central Statistical Service, The Current Status of Civil Registration and Vital Statistics Systems in South Africa (1994).



## I. THE THEORY OF CIVIL REGISTRATION

### A. Concept

23. Civil registration is a state-run public institution that serves both general and individual interests by gathering, screening, documenting, filing, safekeeping, correcting, updating, and certifying with respect to the occurrence of vital events and their characteristics as they relate to the civil status of individuals and as they affect them and their families, and by providing the official, permanent record of their existence, identity, and personal and family circumstances. Its purpose is therefore to store, preserve and retrieve information on vital events whenever needed for legal, administrative, statistical or any other purposes. Civil registration sometimes plays a role in the creation of certain civil status records, a case in point being civil marriage ceremonies. Aggregate civil registration data produce continuous vital statistics.

24. Civil registration thus constitutes the primary source for gathering data to provide a reliable, continuous, permanent and quality system for a country's vital statistics. The information recorded in a country's civil registration system is the foundation for its vital statistics system. Other sources of data which provide vital statistics, such as the use of sample surveys and population censuses, are regarded as indirect or supplementary techniques which can be adopted on a provisional basis while attempting to introduce a comprehensive civil registration system, or as an aid in assessing the degree of coverage of the existing registration system.

### B. Concept of civil status

25. Although theoretically the notion of civil status is seen as a vague and imprecise concept, and it is generally found that positive ordinances fail to define it clearly but instead take as their starting point its traditional historical existence and the practical interest in maintaining it as a legal institution, as being the area to which registration activity relates, it is felt that an effort should be made to approximate the current concept of civil status so as to determine, as far as possible, the substantive purview of civil registration. Starting from its historical meaning, as derived from Roman Law, civil status determined the legal capacity of individuals in terms of freedom, citizenship and situation within the family. The principle that all men are equal under the law having been proclaimed with the French Revolution, the historical meaning lost most of its relevance as a set of data that could determine legal capacity, that is, a person's ability to be the holder of rights and obligations. Nevertheless, from that time on, the concept of civil status has gradually evolved and now generally refers to those qualities of a person that determine his or her capacity to act, that is, the ability to effectively perform legal acts (sex, filiation in or out of wedlock, marriage). Nowadays, legal personality and equality are recognized at the international level on the strength of the Universal Declaration of Human Rights. Legal personality and equality are now recognized internationally based on the 1948 Universal Declaration of Human Rights (articles 1, 2, 6 and 7). Now that traditional forms of discrimination on the basis of sex, type of filiation, and marital status have been overcome in the international arena and to a large degree in domestic statutes, there are proposals to modify the concept of civil status so that it continues to include situations that used traditionally to be considered civil statuses. Seen from this vantage point, civil status would comprise not

only different situations in which persons may find themselves that can affect their capacity to act, with justified gradations in that capacity (e.g., for age, disability situations), but also those situations that create specific rights and duties (marital status, relationships arising from ties between father and son).

### C. Sources of civil registration

26. Since it involves an essential service both for State purposes and for the individual, the public service of civil registration should be regulated by means of a legal statute that defines, in each country, the registration model regarded as ideal for that country. It has been said that the best guarantee of continuous, permanent registration of vital events is to enact suitable legislation. It is vital, by regulating the service entirely by law, to avoid dispersion, unsystematic procedures, and multiple regulations of varying rank, which merely lead to unnecessary complexity, confusion and contradictions in identifying what particular rules govern registration. Laws that establish or introduce improvements in civil registration should contain basic rules and principles to define the essential structure of each country's registration service. They should have a minimum technical, legal content that clearly and definitively spells out, in a systematic statute, the organic principles of the registration system selected. The civil registration law should create the civil registration service, define its organization and administrative reporting relationship, and establish its constituent bodies, as well as their respective reporting and hierarchical relationships, the composition and duties of each of the registration bodies, and the charter applicable to the personnel employed by the civil registration service. The civil registration law should similarly define, in a uniform manner, the types of vital events to be registered, making such registration mandatory and specifying pertinent time limits and the persons who are required to furnish the information of a legal nature that is to be registered, as well as the data to be compiled statistically on each vital event and its essential characteristics. The law will also regulate the registration procedure in detail in terms of the media for registering and storing the information to be entered in the civil registration system, as well as the instruments to be produced from the information recorded, and the legal value of the registration records and related certificates. The means by which the civil register may be updated and/or modified may also be established by law. Legal provision must be made for the system of remedies against rulings by the registrars, funding arrangements for the registration service, and the responsibilities of the registrars in the performance of their duties under the law.

27. Since the legislative model proposed is based on centralized management of both the civil registration and the vital statistics system, with the two functions assigned to discrete and independent public agencies, and in view of the important statistical function performed by the civil registration system, it must be remembered that not all countries that already have a mandatory civil registration system also have a functioning vital statistics system, or one that compiles and publishes vital statistics properly and regularly. Accordingly, the law regulating the civil registration system should be drafted with an eye to the country's existing national legislation on statistics or, failing that, should include provisions to cover those aspects concerned with the compilation of data for statistical purposes that properly fall within the purview of the registration bodies, leaving it for the laws governing statistics to provide general regulations on the production of vital statistics, that is, the

assembly, processing, evaluation, analysis, publication and dissemination of the statistical data compiled. The objective of having the registration function governed by its own law and regulations is to have centralized coordination between the civil registration and the vital statistics services, as entities that collect and process data, respectively, so as to ensure that both systems operate correctly and do in fact produce statistics that are based on uniform concepts, definitions and classifications which enable vital statistics to be compared both nationally and internationally.

28. The statute governing civil registration will be decidedly procedural and technical in nature, in that substantive regulation of matters relating to civil status, the focus of civil registration, will normally be found in normative provisions of civil law: regulation of filiation, marriage, capacity, nationality, etc. The connotation of a law which establishes structure, the core of a country's registration system, and which organizes it, lies in precisely what construction one places on the adjective "organic," since describing a law as organic in some countries assumes that the reference is to a kind of law flowing directly from the Constitution, as distinct from ordinary law, in that it is subject to a set formal procedure with a rigidity all its own when it comes to approval, amendment or repeal, and is defined solely and exclusively in reference to a few specific issues that are the special domain of organic law. By treating an organic law as midway between ordinary law and the Constitution, use of the adjective "organic" to describe a law, except with the preceding caveat, could give rise to confusion as to its normative value and rank vis-à-vis other kinds of legislation recognized in those legal statutes that admit a plurality of normative instruments with the standing and force of law. Nevertheless, this plurality is not generally resolved by ranking the different laws, despite differences in how they are created or the fact that some may be subject to express reservations with respect to certain subject areas, since all are recognized as having equal rank.

29. To regulate the registration system, the options are to draft a single legal text or take the traditional, two-pronged law-regulation approach. In view of the markedly procedural and technical nature of registration activity, it seems advisable and sensible to select the second option, in which the law which institutes and regulates civil registration contains general wording with respect to regulation of the subject but expressly defers to the regulations the more detailed, technical, case-by-case aspects; the regulations expand, supplement, and interpret the provisions of the law but studiously avoid any antinomies or contradictions that might imply innovation or substitutions in the law, which in any case would be resolved by the principle of hierarchical ranking. The use of regulations as an instrument for executing the law, and subordinated to it, is justified primarily by the need to give the registration system greater flexibility and sensitivity in adapting to changes in the substantive civil regulation of matters affecting civil status, since the procedures for amending the law are more rigid, whereas the regulations permit more rapid responses to bring the normative system into line with social changes. The division of topics between law and regulations will be largely determined by the country's level of development and the extent to which its population is socially and legally integrated. The lower its level of development, the greater the need for specificity in the law in order to avoid undesirable administrative practices, although the regulatory law should not get into regulating the most minute details of the registration service, since this would inordinately hamper the organization and effectiveness of the service. The contents of the regulations should be consistent with the purposes and limits set by the law, whose effect on the rights of citizens, some of them of a

very basic nature, requires that the regulations should serve as a secondary source which complements the law, on the strength of a specific authorization contained in the law. The regulations will include organizational and procedural rules that do not affect the substantive normative content of the law they implement. In view of the technical nature of the registration system, it is desirable for the law itself to provide for approval of the regulations, so that both sets of normative provisions can take effect at the same time. The formal structure of the regulations should be coordinated with the systematic structure of the civil registration agency itself.

30. The law should also specify the regulatory power vested in the Directorate of Civil Registration as the central agency responsible for the civil registration service. In this case the regulatory power of the Director-General, acting under powers delegated by the competent Minister, will be restricted to organizing and operating the register through circulars, instructions and rulings, to ensure that the procedures for registration and for issuing certificates are uniform throughout the national territory, and by resolving any incidents and inquiries that may arise with respect to the application and enforcement of the registration legislation by each of the local registrars. The broad authority entrusted to the Director-General in exercise of the regulatory power conferred upon him allows him, when he sees fit in order to improve the registration service: to reorganize the registration office; to prepare and approve official models of registration documents, the minimum content of which will be specified in the law or the regulations, but the specific wording of which will be spelled out in regulatory provisions, to ensure that they are flexible and can be rapidly amended in response to any circumstances that may arise in the practical application of the registration regulations and may make it advisable to adapt them to actual conditions; to prepare general written instructions aimed at improving the efficiency of local registrars in the performance of their registration functions; to participate as a matter of course in the preparation of statistical reports, in cooperation with the country's national statistical service, by issuing the necessary instructions in his sphere of competence in order to coordinate the legal and statistical functions performed by the registration service.

31. These organizational powers vested in the Directorate will pave the way for the gradual introduction of new technologies into the civil registration system to enhance the performance of the public registration service. In developing countries, registration activity can be expected initially to be performed strictly by hand, with records being entered in longhand, but it is desirable that at medium or long term typing should be introduced followed, ultimately, by computer-based entry methods. The regulatory power vested in the Director-General will equip him to manage the physical and personal resources needed to introduce the new mechanical aids into registration activity, as well as to issue whatever instructions are considered appropriate to establish uniform criteria in applying the new technologies, by developing training programmes for registration personnel so that they can adapt to the improvements introduced in the registration office as a result of the implementation of new technical aids. Notwithstanding the limitations of the Director-General's regulatory power, which is confined as described to the organizational sphere, the instructions or circulars he issues sometimes include criteria that interpret or clarify issues internal to the service that are not strictly organizational. In view of the principle of legal obedience in effect within the administration, these criteria will be binding upon the entities that come under the Directorate but will lack normative value for citizens and the courts. Clearly, if the civil registration regulations are a secondary statute, subordinate to the law which they can

neither contradict nor replace, the organizational powers vested in the Directorate by law or regulation may not exceed those limits either.

#### D. Principles of registration legislation

32. Before getting into the specific content of the law, it makes sense to formulate a few general principles of the registration system, so as to establish guidelines for interpreting and integrating it, by enunciating the basic thinking that underpins the planning and operation of the registration function in each legal statute, and, specifically, in the model system proposed. While by no means exhaustive, the following basic guidelines can be cited as forming the framework for the registration service selected and can be borne in mind when it comes to drafting the law regulating the civil registration system:

##### 1. Principle of legality

33. As emphasized earlier when discussing the legal function of civil registration, the basic purpose of registration is to provide reliable certification of events affecting civil status by providing effective instruments of proof of such status. This leads to the inescapable and indispensable conclusion that the way in which such proofs are generated must be expressly governed by the law. The civil registration law and its regulations must therefore be predicated on the need for civil registration to exactly reflect reality, by establishing specific rules to achieve that purpose and by making the registrar broadly accountable for ensuring and verifying that the events registered are consistent with real life: possibility of additional checks, review of original documents, etc. On the matter of checking the validity and effectiveness of the legal acts to be registered, the registrar should also be given general powers of legal validation, in the sense that his actions are consistent with the law in effect in his country. Making registration activity subject to the law should be guaranteed through appropriate mechanisms introduced by the registration service inspection authority, sanctions and a system of remedies against rulings by local registrars, as well as by subjecting them to the corresponding disciplinary and criminal responsibilities as appropriate, for improper performance of the registration duties set forth in the law.

34. With respect to the appeal system, it is clear that, if broad powers of action and decision-making are conferred upon the registrar, without the need for prior consultation with the Directorate, there is a need for such actions to be checked by means of the pertinent remedies laid down in the civil registration law, by establishing that any decision by the registrar may, within the time period established - say 30 days - be appealed to the Directorate, which will be competent to rule on the appeal filed, by exhausting the registration procedure, although in all cases the ordinary judicial route will remain open. The civil registration regulations may contain detailed instructions for processing the appeals.

35. It is necessary to establish an inspection system for the registration service to ensure that the services provided are effective. Inspection will be the responsibility of the Directorate, through officials belonging to the technical corps and appointed by the Director-General, who will have the status and powers of central inspectors, without prejudice to the more senior powers of the Director-General. The Director-General, in the exercise of his regulatory

authority, may formulate general instructions on the inspection system. The inspection function will be carried out through ordinary visits - which may be annual - or special visits - whenever deemed desirable or when there has been a report that the service has acted improperly - to verify that the registration service is performing normally and in compliance with the registration legislation. Ordinary inspections will focus on compliance by the registration personnel with the rules for longhand entries in the register and their duplication for transmittal to the central archive; verification that the data required for registration and statistical purposes are being recorded and that the corresponding statistical reports are being transmitted to the competent agency within the established time periods; filing and safekeeping of the registration documents and any original documents that are filed in the registration office; procedures for disclosing registration data through the proper issuance of certificates, while safeguarding individual privacy; verification that the registrar concerned is performing his duties, etc. Inspectors who have knowledge of any violation of the civil registration rules will be obligated to check on the irregularities, try to remedy them, report violations to the Director-General and propose the appropriate monetary penalty, identifying the registrar, official or individual responsible for the errors committed. It must be borne in mind that only those violations based on conduct not classified in the country's criminal legislation will be punishable through registration channels. Where inspection discloses conduct classified as a criminal offence, the Director-General will be notified and report the fact to the competent legal authority for a review of any criminal offences that may have been committed. When an administrative violation has been committed, the fine imposed must be paid in national currency. If the error was committed by the registrar or civil registration personnel, it may, depending on its gravity, be subject not only to imposition of the fine but also to the pertinent disciplinary sanction, consisting in suspension from employment and loss of salary for the period prescribed by the civil registration law, or even dismissal. The violator must be given a hearing so that any mitigating or extenuating factors can be taken into consideration. With respect to violations committed by private persons - failure to file mandatory reports within the statutory time periods - monetary sanctions may be imposed, even though in practice this system is not found to be very effective when trying to encourage individuals to make declarations for civil registration purposes.

## 2. Protecting the interests of individuals

36. Civil registration serves interests of a general nature, but should like any other public service respect the need to protect individual interests related to the registration function. The civil registration law and regulations should accordingly contain provisions that give individuals ready access to the service, as well as appropriate information on their civil registration rights and the regulations governing the registration function. There is also a need to protect the personal and family privacy of interested parties; the civil registration law should accordingly contain rules guaranteeing respect for such privacy by carefully regulating the necessary balance between the function of issuing certifications of registration records - the ultimate goal of civil registration in that the records in the register of vital events are intended primarily to serve as legal instruments proving the occurrence of the events registered and their circumstances - and the certification of events that relate to private personal and family matters, public knowledge of which may be annoying to the person concerned. The best option for registration purposes appears to be to establish the public character

of civil registration by recognizing that requests for certificates may be filed only by interested parties or their legal representatives, and of course at any time by authorities of the court. On the other hand, only duly authorized registration personnel may have access to archived registration records. In the case of direct consultation of registration records by the public authorities, this may be authorized by the registrar if he sees fit, when the information sought is related to the purposes of the requesting government entity.

37. With respect to the official status of the registration service, the soundest course is to adopt whatever solution will best balance the official nature of the contents of the civil register against the need to protect the registrant's right to personal and family privacy. It should be recognized that records contain certain references to identity that may well be in the public domain, so that their disclosure ought not in principle to be restricted in any way - full name, names of parents for identification purposes, sex, place and date of birth, marriage, and death. Other records may contain sensitive information that can directly impinge on the right to privacy - filiation out of wedlock, recognitions, legitimations; disclosure in these cases should in principle be restricted to the aforementioned individuals. On the other hand, in view of the principle of legal certainty which must prevail in legal matters, there are occasions when third parties may have a legitimate interest in learning about the events recorded in the register; for example, changes in the capacity to act, financial status of a marriage, etc. This is a compelling argument in favour of extending legitimate grounds for requesting the relevant certificates, subject to justification of the interest asserted. Accordingly, those acknowledged to have legitimate rights to obtain disclosure of registration records through full or partial certificates that contain restricted information can be extended to include not only the interested parties themselves, or their legal or non-contentious representatives, as well as the requesting legal authority, but also in some cases, and always subject to prior authorization, spouses, relatives or heirs, and even third parties who can justify their legitimate interest and obtain authorization from the competent authority. This suggestion takes account of the current trend in Europe regarding the disclosure of civil status registers and records, based on every person's right to respect for his personal and family privacy, as recognized in article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (Recommendation No. 4 adopted by the General Assembly of the International Civil Service Commission in Rome on 5 September 1984).

38. When it comes to certifying entries in the register, it is essential to pay close attention to the impact on the civil registration system of incorporating new technologies that use computers to store vast quantities of data on each person in different databases, which in turn permits rapid retrieval of data records and cross-matching of different sources of information. Civil registration records, whose contents are essentially legal, can potentially be linked to administrative, health, tax and other records to yield a complete profile of an individual, violating his right to personal and family privacy through the indiscriminate use of this personal and confidential information. The United Nations recommends the adoption of confidentiality criteria that do not inhibit the transmittal of personal registration data to responsible researchers who retrieve the information for scientific purposes. With respect to the statistical purposes of civil registration, it needs to be borne in mind that the legal data contained in civil registration records do not always match the information needed to compile vital statistics, such as race, religion, profession, educational attainment, etc. In these cases, the fact that both

documents - registration record and statistical report - are drawn up separately makes it easier to gather such strictly personal statistical information, since the confidentiality of statistical information is usually protected by legal guarantees in most countries, and the registration legislation itself can decree anonymity for the person filing the statistical information.

39. There are undeniable advantages to using computerized aids in civil registration systems as they help to improve the registration service for individuals; there is good reason, however, to beware of the potential dangers involved in uncontrolled use of information stored in different personal databases, both public and private. It has already been pointed out that technology, and in this specific case computer technologies, should be designed to serve the individual and seek to protect his privacy. This basic premise should guide any approach to the issue of introducing the single identification number in civil registration, which is advocated in technology circles as being a necessary measure to speed the smooth flow of data between civil registration and vital statistics systems. With this in mind it has been suggested that, to give each individual an exclusive identification to avoid errors, omissions or undesirable duplication because they distort the outcome of the vital statistics, a unique identification number be assigned to him at the time his birth is registered. The individual is thus permanently identified in the registration administration by a number, and the unique number assigned is seen as the ideal link between the registration system and the country's statistical system for the purpose of retrieving all information on file on that person. The recommendations are that use of this system of identification based on an identification number be broadened to any public agency until it becomes universal, thereby allowing easy and rapid interconnection with any database and in the process eliminating any system of control over the exchange of data. This argument is portrayed as an advantage for the individual, who can in this way easily be identified at any public agency through his unique identification number, thereby dispensing with the traditional method of identification by first and last name, as is done in most countries. The ease with which data can be transferred between different government agencies using this identification number has spawned widespread debate in some countries in view of the risks involved in introducing this system of identification, which blurs the individual's personality, turning him into a number which, when fed into a computer system, relegates his name and circumstances to the background and removes the personal characteristics that have traditionally served to establish a person's identity. Phrases like "glass man" are used, and attention is drawn to the potential danger to the individual that, through the massive data stored in different databases, which are easily accessed and communicated using his unique number, he can be observed and thus controlled from any branch of the administration. In Sweden, identification numbers are in place and follow their holders from cradle to grave. The Constitution of Portugal expressly forbids the assignment of a unique number to citizens. The debate about the usefulness, advantages and risks of the system of unique identification numbers still rages in many countries, which see a threat to privacy in the fact that a universal number is an open door to personal data.

### 3. Principle of official status

40. If, according to the principle of legal standing outlined earlier, the registrar has broad powers to ensure that the data registered agree with real life outside the registry office, the registration entities must necessarily use their official status to encourage people to register. The civil registration



law must give the registration agency the power to promote, update or correct entries in the register, as well as to establish the necessary connections between register entries referring to the same individual to ensure the integrity of the civil registration system.

#### 4. Compulsoriness of registration

41. If civil registration is to be complete and, viewed from its legal function, to provide the official record of a person's existence, identity and personal and family situation, and, from the statistical viewpoint, full and reliable information on the vital events registered, registration must be compulsory. The civil registration law must contain rules spelling out the obligation of particular persons to file the relevant reports and to present the documents needed as a basis for making the corresponding entry. The fact that registration is compulsory does not mean that it is constitutive, in the sense that it involves a necessary and integral requirement for the effectiveness of the legal act itself. The general criterion is that, in accordance with the legal function entrusted to civil registration, entries constitute the preferred and only official source of civil status, which does not mean that the event or legal act cannot take place unless entered in the register. Obviously, births and deaths - as decisive events in the acquisition and loss of juridical personality - take place outside the confines of civil registration; similarly, domestic laws will generally construe declarations of divorce, annulment and separation as being effective between parties upon signature of the pertinent court order; recognitions of filiation, or associated legal rulings, will also be deemed to be effective between the parties as soon as they have been formalized in accordance with the requirements of the relevant legal statute, etc. Even though registration of these events is not constitutive in character, there is no denying that there is a powerful incentive to register them, since civil registration has a unique role to play in creating proof of the events affecting civil status, and then becomes the standard means of proving the events registered, taking precedence over all others. At all events, as an exception to the general rule, the civil registration law may expressly stipulate the need for prior registration as a prerequisite for proving the act vis-à-vis third parties and even, in some specific cases, for using the record to constitute the act. The unparalleled probatory effectiveness that entries in the register have for third parties thus explains why individuals feel compelled to register if they wish subsequently to avail themselves of the probatory force of the registration system. This will prove to be the real incentive behind the effectiveness of the principle of compulsory registration, rather than the prescription of penalties for an individual's failure to comply with his duty to file, penalties which in any case will be exclusively monetary and need to be strictly regulated in terms of their amount.

#### 5. Simplification

42. The registration legislation should seek to ensure that the service operates smoothly through rules that allow the registration mechanism to be streamlined and simplified as much as possible, devising formulas for securing clear and concise entries that avoid a welter of useless data. Uniform models should be prescribed for the relevant declarations and medical certifications and for the entries relating to each registrable event, as well as models for issuing the corresponding certificates. Simplifying procedures and standardizing the processing of entries will make it much easier to computerize

the service later. To speed up processing, steps should also be taken to facilitate direct, official communications both between the different registries, local as well as consular, and with the central archive. As a necessary part of simplifying the service, provisions should generally be included to empower the registration entities to correct errors in registration, which, given the nature of registration methods, tend to be common; they can be blamed at times on the individuals reporting the registrable events and at others on procedural mistakes made by the officials responsible for entering the data. Since the contents of the civil register are of paramount importance to individuals for the purpose of establishing their civil status and in terms of recognition and exercise of their fundamental individual rights, regulating registration procedures to allow entries to be corrected directly by registry offices would greatly simplify procedures, since going to court to have registration errors corrected would inordinately hamper and slow down the registration service, which needs instead to be provided to individuals promptly and at reasonable cost. As for the possibility of registry offices correcting entries themselves, as is done when updating data on file in the civil register, it is not felt to be necessary to place time limits on such authority, since the civil register ought by definition to be a dynamic record that reflects data on any change in a person's civil status, regardless of when it occurs. Similarly, the civil register should aim at being a truthful and accurate record, so that if it is found that a registration error has been made it should be corrected at once.

43. No limitations or restraints should therefore be placed on options for correcting records or making relevant additional notations on the pretext of ensuring that entries are kept stable for microfilming or archive reduction purposes, since this would run counter to the basic purposes of civil registration by subordinating it to the use of technology, which is inappropriate. One of the difficulties that arises before a possible switch to computer processing of civil registration files is precisely the consideration that it involves a "living" register that needs to be continuously updated owing to the variable nature of the subject matter. It must be borne in mind that the content of birth entries can be modified throughout the life of the registrant, through complementary notations relating to filiation - voluntary recognitions, court rulings on filiation based on suits to claim or impugn filiation, adoptions, legitimations, etc. - or changes in the registrant's capacity to act, which it is felt should also be recorded in complementary notations that it is compulsory to enter in the birth record of the party concerned. Even after the death of the party, if his birth was never registered, this can be done in order to obtain the necessary proof that the deceased existed. Similarly, the vicissitudes involving marital status - annulment, judicial separation or divorce - as well as those relating to the financial regime of a marriage, can trigger complementary notations to the marriage entry as long as it is current. After the death of the party and after the death has been entered in the register, even though legal personality has been extinguished, which obviously means no further notations can be made on the strength of events subsequent to death, there can unquestionably be persons - for example, heirs - with a legitimate interest in correcting possible registration errors in any of the birth, marriage or death entries. The essential case-by-case and variable nature of civil registration prevents time limits from being placed on entering new data in the register. A separate issue is whether the law should provide for entries to be stored in a special archive, with the status of historical documents, upon expiry of a predetermined period long enough for it to be safely assumed that there will be no further change in entries because there are no longer any interested parties; this implies that such a period, which could be

established in the regulations, should take account of the average life span of individuals and of the parties directly concerned, such as relatives and heirs.

#### 6. Free service

44. Civil registration being a public service that serves both general and individual interests, most countries tend to have a mixed system as far as funding is concerned: as a general principle, the service is free for the principal entries - births, marriages and deaths - and for complementary notations to these; by way of exception, individuals pay for disclosure, that is, for the issuance of any kind of certificates, as well as for those registration acts specifically provided for in the law that benefit only the individual. Charging fees for registration acts should be viewed as an exception to the general principle of free service, which ought to gradually extend to all registration activities in view of the public and compulsory nature of the institution, which requires individuals to go to the civil registration office and subsequently to obtain the pertinent certificates vouching for their civil status. Accordingly, when the service is first introduced, and in view of budget difficulties in funding its operation, it may be necessary to impose certain charges, the amounts of which will need to be spelled out in detail in the regulations; however, as the system evolves, registration should become entirely cost-free to users. This will help to elicit citizen cooperation and enhance the integrity of the register. In any case, it is felt that regulation of funding should be simplified by establishing general guidelines based on the concepts upheld by the United Nations, without becoming embroiled in lengthy case-by-case lists which, in any event, can be spelled out in greater detail in the regulations.

#### E. Legal events and acts

45. From the legal standpoint not all events which occur have the same meaning or scope. Those that do not have legal consequences are simple *physical events*, for example, whether it rains or is sunny, walking or jogging for exercise, etc. Those that do have such consequences are called *legal events* and are classified into two groups: legal events as such, if intention plays no direct role in their occurrence, for example a death due to natural causes, and *legal acts*, if intent must be directly involved for them to occur, for example a marriage or legitimation. In the area of vital statistics, *statistical units* that can be counted, described and analysed are the vital events or *vital occurrences* which correspond precisely to those civil status events and acts that are relevant to the legal purposes served by the civil registration function. They are thus two terms for the same events, depending on whether they are viewed from the legal or the statistical standpoint. The definitions of each vital event or occurrence on which registration information is to be gathered should as far as possible be aligned with the definitions prepared for statistical purposes by the United Nations, which are reproduced later. The concepts, definitions and classifications used strictly in the areas of registration and statistics should therefore be coordinated and standardized, to ensure the effectiveness of the civil registration and vital statistics systems, even though the basic topics are not exactly identical in both areas. This will be decisive in selecting what type of statistical document to use, that is, whether the statistical report is the same as the registration form, or whether it is decided to use two separate documents with different contents to achieve the legal and statistical

purposes pursued by the use of the civil registration method. This question will be taken up again later.

46. It has been found that the vital events which interest most countries and are recorded for legal and statistical purposes are essentially live births, marriages, deaths, foetal deaths, annulments of marriages, divorces, judicial separations, adoptions, legitimations and recognitions. There are other events which, though relevant for statistical purposes, can nevertheless be left out of the register, at least in the beginning until the civil registration system becomes more sophisticated: migratory movements, changes in nationality, and changes of name. It is a desirable registration goal that all the vital events mentioned earlier should be recorded, but not all countries have yet reached the necessary level in their registration and statistics systems, so that, when establishing or improving civil registration systems in developing countries an order of registration should be assigned to these vital events. Top priority should be given to live births and deaths because they are basic to assessing the natural growth of the population. General priority should be given to live births, deaths, marriages and divorces. Recording information on foetal deaths should have lower priority. Finally, the registration of adoptions, legitimations, recognitions, annulments, and judicial separations should be given lower priority in establishing registration systems and classifying the type of vital events to be recorded.

47. The nature of civil status, based on the concept described above which places it outside the realm of free will, means that the events requiring registration are admittedly very limited, whether they are physical events, such as birth or death, or judicial acts affecting civil status that have already been circumscribed by substantive laws - filiation rulings in or out of court, adoptions, marriages, etc. In specifying events subject to registration, one option is to have the civil registration law state broadly: "the purpose of civil registration is to collect, store and certify events relating to civil status", or alternatively provide a more or less exhaustive list of those events and judicial acts. With respect to the latter option, it is desirable for the law to list the principal events to be registered, thereby establishing a minimum and necessary content for the events that are most relevant in terms of people's existence and personal and family situation. It should be recalled in this connection that the vital events were originally defined by the Statistical Office of the United Nations in the Principles and Recommendations for a National Vital Statistics System. 1/ Those definitions were later reproduced, with slight changes, on pages 18 to 20 of the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects. 2/ For the reader's convenience they are reproduced below.

#### 1. Live birth

48. "Live birth": the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached; each product of such a birth is considered live-born. All live-born infants should be registered and counted as such irrespective of gestational age or whether alive or dead at time of registration, and if they die at any time following birth, they should also be registered and counted as a death."

## 2. Foetal death

49. "Foetal death": death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy. The death is indicated by the fact that after such separation the foetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles." There are three major categories of foetal deaths: "early foetal death," at less than 20 completed weeks of pregnancy; "intermediate foetal death", at 20 but less than 28 weeks of gestation; and "late foetal death", at 28 completed weeks or more of gestation.

## 3. Death

50. "Death" is the permanent disappearance of all evidence of life at any time after live birth has taken place (post-natal cessation of vital functions without capability of resuscitation). This definition therefore excludes foetal deaths.

## 4. Marriage

51. "Marriage" is the act, ceremony or process by which the legal relationship of husband and wife is constituted. The legality of the union may be established by civil, religious or other means as recognized by the laws of each country.

## 5. Divorce

52. "Divorce" is the final dissolution of a marriage, that is, the separation of husband and wife which confers on the parties the right to remarriage under civil, religious and/or other provisions, according to the laws of each country.

## 6. Annulment

53. "Annulment" is the invalidation or voiding of a marriage by a competent authority, according to the laws of each country, which confers on the parties the status of never having been married to each other.

## 7. Judicial separation

54. "Judicial separation" is the disunion of married persons, according to the laws of each country, without conferring on the parties the right to remarry.

## 8. Adoption

55. "Adoption" is the legal and voluntary taking and treating of the child of other parents as one's own, in so far as provided by the laws of each country.

## 9. Legitimation

56. "Legitimation" is the formal investing of a person with the status and rights of legitimacy, according to the laws of each country.

## 10. Recognition

57. "Recognition" is the legal acknowledgement, either voluntarily or compulsorily, of the maternity or paternity of an illegitimate child.

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58. Once the civil registration law has defined the required minimum content of events to be compulsorily recorded in the civil register - which in accordance with the United Nations recommendations would comprise those listed above, although such content may be imposed gradually - it could include a general clause to provide for the possibility of subsequently extending the list of events to be registered, by means of a provision in the law or even in the regulations, to make it easier for the country's registration system to evolve in stages by achieving more ambitious goals than those established in the beginning. Typical wording in the law could be: "Any other events relating to civil status previously prescribed by the law or the regulations shall also be recorded in the civil register." This general clause allows the initial, required minimum, list to be gradually expanded later, if appropriate, by extending the registration system to other fields that are also concerned with civil status but can initially, depending on each country's level of development and the extent to which a registration system already exists, be omitted from the register.

59. An issue of great importance, which it has been felt should be left out of the civil register in the model proposed, relates to *filiation*. Even though recognitions of filiation, legitimations and adoptions are regarded as items that should be registered as complementary entries in the birth record - though with a lower priority than live births, deaths, marriages, divorces and foetal deaths - the general regulation of the filiation issue was seen as one of the more complex subjects in each country's family law; the connection between filiation and civil registration will therefore be determined by substantive regulations on the matter in accordance with the country's internal law, which will establish the methods for determining filiation, in or out of wedlock, and in or out of court - which in some countries include the information provided to the civil registry at the time the birth is entered. Because of the variety of legislation in this area, it was decided that the draft law would keep proof of filiation separate from the entry of birth. It should of course be borne in mind that the relationship of biological filiation, at least on the part of the mother, regardless of marital status, is usually established initially, whether in or out of court, by the actual entry of birth, on the general principle of *mater semper certa est* that applies in most countries, since the identity of the mother appears on the medical certificate issued at delivery. Thus, the identity of the mother based on the verifiable physical fact of childbirth assumes a clear connection for registration purposes with the maternal filiation of the registrant, irrespective of whether the mother is married and independently of paternal filiation, whether in or out of wedlock. On the other hand, for purposes of identifying the registrant, it is considered essential to state on the entry of birth the name and surname of the registrant's parents, save in exceptional instances where filiation has not previously been

established, in which case the record should state the names given by the informant or those imposed by the registrar in his official capacity. Moreover, the law establishes the mother's obligation to report the birth to the civil registration office and request that it be entered. Recording these data in the entry of birth thus bears a close relationship to filiation, even though the actual entry of birth may not be recognized as having probative value with respect to filiation, which should be accredited by other probatory means, complementary to the entry of birth, that are usually also based on registry actions: certification that the marriage of the parents was registered prior to the birth would accredit the fact that filiation was in wedlock. Filiation out of wedlock and the means for determining it will be subject to each country's substantive regulations on the matter, depending on whether legitimation takes place through the subsequent marriage of the child's parents or through voluntary or court-ordered recognition.

60. Civil registration should aim at creating an integrated record that proves the existence and identity of individuals, as well as those circumstances that affect their legal situation in terms of their position as members of a marriage-based or de facto family: relationships of marital or extramarital filiation, parental relationships, marital ties, etc., all of which were listed earlier as constituting the required minimum content of civil registration records. Seen from a broad perspective, the content of the civil register should also include *circumstances that alter a person's legal capacity*, which may affect the capacity to act - emancipation, court rulings declaring incompetence, degree of incompetence, guardianship and legal representation agencies, restoration of capacity. It is unquestionably important that these different circumstances that determine an individual's capacity to act should be recorded in the register to protect the integrity of judicial proceedings and public and individual interests; they should therefore result in complementary entries in the birth record of the individual concerned or, where appropriate, in the inclusion in the register of a special section devoted to general situations of capacity.

61. There is another circumstance which - though seemingly closely related to civil status and traditionally and historically identified with it - has been excluded from the proposed civil registration system, but whose importance and links to the registration function are nevertheless worth noting. We refer to *nationality*, viewed as a legal and political tie that links each individual to a particular State, which is reflected in his being subject to a specific set of laws that impose on the individual a series of rights and duties, both private and public. With respect to nationality, it is the responsibility of the State to establish in the constitution or by law who are its nationals and to determine the criteria for attributing, acquiring, losing or regaining nationality. In the international sphere, nationality constitutes a fundamental individual right, as can be clearly seen in the Convention on the Rights of the Child, approved by the United Nations on 20 November 1989; articles 7 and 8 include nationality as an integral part of a child's identity and establishes a direct connection between the entry of birth and the right to acquire a nationality. On a private level, nationality constitutes an essential civil status in that it determines an individual's other rights and obligations in terms of his ties to a particular State. With the relevance of nationality thus established, it is clear that civil registration, given its content and objectives, is the appropriate instrument for recording nationality, whether native or acquired, as well as the loss or restoration of nationality. Registration legislation should therefore regulate the procedural framework for recording nationality in the register and make it easier to obtain probatory

evidence of status as a national, in that it represents one of the basic items to be recorded in the civil register despite the difficulties and complexity that arise in many cases, which will require, in this as in other areas covered by civil registration, the necessary qualified personnel with broad powers for the legal assessment of the registrable events.

62. With respect to proof of nationality, it is noted that most countries do not have a specific document that is used to prove nationality, determination of which seems to be intimately related to the entry of birth, from which in most cases it is derived, either directly through application of the principle of *jus soli* or, indirectly, through the presentation of additional registration documents, such as the birth records of the parents. This link between nationality and civil registration in the matter of proof is subject to any substantive regulations on the subject in the legislation of the country concerned, but, notwithstanding the probatory weakness that may in some legal systems result from the nationality/civil registration link, it is desirable that civil registration should be seen as an important instrument of proof with respect to nationality, because civil registration gives credence to some of the basic requirements for the initial attribution of nationality, as noted earlier, through the actual entry of birth of the individual concerned, since it records his place of birth - *jus soli* - and his filiation - *jus sanguinis* - which, although not based solely on the entry of birth, will usually be accredited upon presentation of the pertinent record, together with any complementary notations, in cases of delayed determination of the ties between parent and child - recognitions, legal declarations, adoptions - or, alternatively, upon presentation of the marriage certificate of the parents. And also, with respect to suppositions of acquisition, loss and restoration of nationality, because it establishes the compulsoriness of registering such events, either by a complementary notation on the birth record, to ensure a better cross-linkage, or by creating a specific section within the civil register for all events relating to a person's nationality. It might be desirable, for registration purposes, to introduce a precept that would stipulate the presumption, barring proof to the contrary, that children born within the national territory to parents possessing its nationality are themselves nationals of that country. Such a precept would encompass the vast majority of cases where initial nationality is attributed by a combination of the principles of "*jus sanguinis*" and "*jus soli*," without in principle interfering with the substantive regulation of nationality in accordance with the law of the land.

63. As far as the "name" is concerned, its intimate link to the birth record - raised to international prominence as a right of the child and hence of every human being, including the right to one's own identity - presupposes that this primary means of personal identification is initially registered as an inseparable part of the birth record, on which it is a key item - subsequent name changes should also be registered to ensure the necessary safeguards and controls with respect to the identification of persons, an area in which private and public interests are intertwined. Although substantive regulations concerning full names are subject to domestic law, the civil registration law should establish rules on initial naming to avoid discriminatory situations among persons that may indirectly reveal an undetermined filiation should any of the compulsory references to identity be missing from the record - first names and surnames of the parents of the registrant - for purposes of subsequent accreditation for the purpose of obtaining the identification document used in the country concerned. Moreover, even though the name should as a general principle be immutable, domestic law may provide for the exceptional possibility that changes may be made at any time at the request of the individual concerned



as a highly personal prerogative. In such cases, the judicial organs, or the administrative agencies, should be designated as competent to rule; in the latter case, the very direct relationship which exists between the name and civil registration implies that the civil registration law may confer powers on the registration agencies to authorize a change in the name originally entered, carefully specifying the circumstances in which requests for a change in name may be entertained, as well as the registration procedures for processing such requests, and the competent agencies to process and rule on them. It would be compulsory to note the corresponding administrative ruling in the birth record of the individual concerned.

#### F. Situation of foetal deaths

64. Registration is compulsory only for live births, since birth marks the beginning of personality. The expulsion, spontaneous or induced, of a dead foetus from the mother is not a matter for civil registration since it does not in any sense affect civil status; it does not lead to the acquisition of personality and therefore lacks relevance as a depository of rights in terms of the legal function performed by civil registration. However, registering all miscarriages or foetal deaths as physical events is certainly important statistically for public health purposes to establish: the cause of foetal death, whether natural or induced, authorized or unauthorized; the time at which the pregnancy ended; the term of the pregnancy; and the social and medical situation of the mother. To facilitate the gathering of these data by the statistical services, foetal deaths should be recorded, although not in the form of main entries; the civil registration law should accordingly make it compulsory to report foetal deaths so that they can be registered and stored, for essentially statistical purposes, in a special section, book, card file, etc. In connection with the United Nations definitions of live birth and foetal death, it should be borne in mind that domestic laws on this subject may not coincide precisely with international definitions based on medical and biological criteria; for example, one might refer to perinatal deaths, which would include so-called late foetal deaths, which refer to births after a specified gestation period regarded as a limit for foetal viability, usually linked to a period of more than 28 weeks; this would mean considering as a foetal death a foetus which died after six or more months of gestation, which, in some legislations, implies that it would be compulsory to report only these foetal deaths for registration and hence statistical purposes, but not those occurring before the periods defined earlier. Perinatal deaths would also include those babies born live but dying within a specified period defined in the internal legislation of the country, whose birth it is not compulsory to register as they are considered to be aborted creatures. Irrespective of the legal concept of foetal death in the country concerned, the solution for registration and statistical purposes, if it is to be complete, should provide for the reporting of all foetal deaths regardless of gestation period, based on the United Nations concept of live births, in order to effect the corresponding entries of birth, without prejudice to the possibility of subsequent premature death.

#### G. Registration method

65. To accomplish its essential purposes based on the concept used as our starting point, that is, the collection, storage and retrieval of information on vital events and their characteristics for legal, statistical, administrative

and any other purposes, civil registration uses the registration method in its work. The registration method is defined as the continuous, permanent, compulsory recording of the occurrence and characteristics of vital events. This definition yields three characteristics: continuity, permanence and compulsoriness, which have been analysed in other United Nations publications. In summary, their meanings are as follows:

#### 1. Continuity

66. Continuity implies that use of the method cannot be interrupted. Once created, civil registration should be at the disposal of the community like any other government agency. Vital events can be registered as they occur, and statistical data should be collected at the same time as the events are recorded. This enables vital statistics to reflect the changes that are continually occurring in the physical condition (age, sex, fecundity, fertility, cause of death) and civil status (profession, education, occupation, civil status) of the population, which neither censuses nor surveys can do, except periodically, in the best of cases. This characteristic is almost entirely dependent on the population, since if it does not collaborate vital events are registered late or not at all. This collaboration is in turn heavily dependent on the efficiency of the registrar and the facilities available for recording the events.

#### 2. Permanence

67. Permanence entails the existence of an organizationally stable agency whose operation is not limited in time. This is dependent on the pertinent provisions of the organic law. It would be extremely unusual, however, for a law to create a state agency and at the same time limit its existence to a specific period. It has been emphasized that permanence can only be consolidated when registration officials are professional people who have had specific training for the job.

#### 3. Compulsoriness

68. Compulsoriness is an essential adjunct to the previous two characteristics in ensuring that the registration method runs smoothly. The registration of vital events should be made compulsory by law; accordingly, there should be provisions establishing what persons are required to provide the information to the registry office, the time allowances for registration, and the penalties for not complying on time. Without these, the compulsory aspect of civil registration becomes meaningless. However, penalties have been found to be counterproductive. It is preferable that they be monetary and of legally regulated amounts. In any case, it must be clear that the rules on compulsoriness and penalties are to be enforced within the country's boundaries to all population groups and for all vital events that occur.

#### H. Role of the community

69. The civil registration model selected should obviously offer a quick, efficient technical service that provides citizens with ready access to the civil registry offices, but proper and efficient operation of the registry

service relies on cooperation from the people, which will depend largely on each country's social, legal and administrative structure, and even on its geographical characteristics, as well as the way the service is organized within the territory. On the other hand, however, the practice of voluntarily registering civil status events and acts seems, according to sociologists, to be an indicator of how well individuals and groups are integrated into the legal and social system in effect, or, put another way, the extent to which the population is part of the country's social life. The law thus gains social validity because its rules are applied, instead of falling into disuse after repeated violations. Conversely, if the legal rules are not complied with, marginal groups would spring up that might become the focus of tension. Such marginality might be voluntary, if it depended solely on the position of persons or groups; or induced, if it was due to deficiencies in the running of the civil registration system or to legal difficulties in performing the registration function. It is also important, therefore, to keep civil registration up to date.

70. Although the civil registration law should make registration compulsory, while regulating the time allowed to make the necessary entries and the penalties for failure to comply, the fact remains that such penalties - even if exclusively financial and even if previously regulated by law - have not proved effective in view of the administrative area in which the registration function is carried out. Citizens should be encouraged to perform their registration obligations, and this encouragement is closely related to the functions assigned to civil registration and the purposes it accomplishes in society. It is likely to be hard to encourage anyone by citing the statistical or cooperative goals of civil registration, since its objectives, though of vital importance at medium or long term to the rational development of society, are not usually things that people are concerned about in their daily life. However, the legal function of civil registration as an instrument for creating probatory records of civil status events and the superior value of such proof compared with other ordinary means of proof, given the presumption that exists as to the accuracy, veracity and legality of the records, will encourage people to fulfil their registration obligations, since in their dealings with third parties they would otherwise forfeit the ability to accredit the data relating to their own existence, identity and personal and family situation easily, quickly and with appropriate guarantees of authenticity. In tandem with the smooth and effective operation of the civil registration system, and the regulations needed to facilitate individual compliance with registration obligations and ready access to the service, the legal function of registration should be better publicized as this will serve as an incentive to community participation and integration, thereby avoiding the creation of marginal groups in society.

71. The Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects, 2/ lists the principal advantages of registering vital events from the standpoint of both individual rights and society itself. Chapters II and III of the present Handbook review some of the commonest uses of civil registration records and certificates. The main incentives for the individual lie in being able to prove the occurrence of vital events and their circumstances in order to establish identity, accredit parentage and inheritance rights, prove eligibility to collect pensions and social benefits, enrol in school or join the workforce, apply for weapons or driving licences, establish nationality, be issued a passport or credit cards, collect insurance, etc. Introduction of a new, or improvement of an existing, civil registration system requires active participation not only by the population, which needs to receive information on ways to access the register

and on the benefits which accrue from complying with its obligation to register, but also by all public and private organizations, which should similarly recognize the important work done by civil registration in society, by requiring and admitting civil registration records as legal documents that constitute normal probatory evidence of vital events. Such a relationship between the people at large and the different public and private agencies and institutions is the only way to ensure a registration service that operates properly, normally, continuously and permanently.

### I. Functions of civil registration

72. The principles advocated by the United Nations give civil registration two basic functions of roughly equal importance: (a) a legal function, which consists in registering the legal events and records that constitute the source of civil status and form the basis of family organization; and (b) a statistical function, which assumes that the registration offices have been legally charged with collecting additional statistical data on each of the events and acts to be entered or reported, as input to the country's vital statistics. However, unlike in other public administration services, the civil registration system is called upon to lend its cooperation to help other agencies achieve their own objectives. It is important to ensure that it is organized and funded in such a way that it is able to offer such collaboration to enhance its overall value to society. Once it becomes an ongoing, routine activity, this collaborative function can be seen as another basic function of the registration system, together with those mentioned earlier.

73. The first task is to decide what public and personal interest goals or purposes it is proposed to achieve through the registration service. After the objectives have been outlined and specified, the corresponding authority and powers to achieve them are assigned. With the purposes defined and the powers assigned, the final step is to organize the civil registration service functionally and by geographical area. In speaking of basic civil registration functions in a United Nations context, we are referring to the fundamental purposes which civil registration fulfils or should fulfil in society: legal purposes - basically concerned with the creation of official instruments proving the civil status of individuals; statistical purposes - the collection of data for use in compiling vital statistics; and, finally, cooperation - in so far as the civil registration function can provide data to other agencies to equip them to meet their own objectives. Once the objectives have been defined, the powers, authorities, competencies or functions that each registration organ should be given in order to achieve those objectives will be legally established. Purposes and competencies are thus closely interrelated, and it is not always easy to draw a clear dividing line between them.

#### 1. Legal function

74. Taking civil registration and the registration method as the primary and most valuable source of data on civil status, the essential purpose of civil registration is to furnish legal instruments of direct interest to individuals. Societies today, even the least developed, show considerable complexity in interpersonal relations and increasing bureaucratization in dealings between individuals and the State; hence the importance, to ensure certainty in legal matters, of providing the individual with special probatory instruments that allow him to prove, with iron-clad certainty, the facts relating to his

existence, identity, and personal and family situation. The main *raison d'être* of civil registration, its basic purpose, and the purpose which must be facilitated by the State, is to be an institution for disclosing facts relating to civil status based on technical legal principles, through which individuals can be assured of the legitimacy and authenticity of civil status facts in order to accredit them to other individuals or the administration itself, by means of public registration documents known as certifications. The purpose of registration activity, and of the registration method - which consists in the collection and compulsory, continuous and permanent recording of civil status data for storage - is precisely the possibility of its subsequent use in any eventuality and at any time when there is a need to prove its veracity and legality authentically and with the necessary guarantees.

75. To be effective, the legal function of civil registration as an instrument for creating proofs - one of the basic functions of registration - requires that the events recorded in the register first be legally validated by the registrar to guarantee, as far as possible, that only truthful, accurate and legal events and acts are entered. For civil registration to accomplish its essential legal purposes in terms of certification, statistics and collaboration, it is therefore not enough for it simply to compile and accumulate data indiscriminately and without checks; it is rather a prerequisite that there be checks on the entry of such data, through the exercise of critical legal judgement which must necessarily be performed by the registrar, in order for those data to be subsequently converted, through the medium of registration, into facts covered by the public authority to attest and into data which are essential for the statistical and collaborative purposes that civil registration also serves. To this end, the registrar must be given broad legal powers to check and verify that the events and legal acts it is intended to register actually happened and are in conformity with the legislation in effect in the legal system concerned. This is the only way in which entries in the register can become authentic public documents with preferred probatory status that will make it unnecessary for the individual to resort to other ordinary probatory means to accredit his civil status.

76. The probatory instrument issued by the civil registration office presupposes that the original document, on processing by the registration method, becomes, through registration, a preferred form of proof which takes precedence over any other proof, including the original document, except in the case of timely correction following the correction procedures expressly set forth in the law. In other words, once an entry has been made in accordance with the relevant act of registration, it enjoys the presumption that the record is accurate, legal and valid, a status which may be rebutted only by following the established registration or judicial procedures. In the light of the probatory force attaching to registration records, which makes them the only admissible means of proof for accrediting an individual's civil status, it is clear that legal measures need to be devised to effect entries that have been omitted, regardless of how long has elapsed since they ought to have been made, as well as to regulate the admission of complementary evidence with respect to proof, for registration purposes, of those assumptions on which it is not possible to obtain the relevant registration certification, either because the pertinent entry was not registered on time - which would be deemed the fault of the informant whose duty it was to provide the information to the civil registration office - or because certification is impossible for other reasons - destruction of registration archives, etc. Moreover, it is if the issue relates to the actual validity of the record in terms of the veracity or legality of the data officially on record, which are to be disclosed in the form of

certificates, it will be necessary to correct the record by appropriate judicial or administration means.

77. The legal function of civil registration does not necessarily end with the conversion of original documents by recording registrable events in registers and storing them for purposes of producing official and permanent means of proof as to the civil status of individuals, but in some cases, depending on the country's domestic legislation and based on a broad view of the registration service, the registrar, in his capacity as public attester, may be assigned other legal powers to enable him to assist in creating certain legal documents in the capacity of public attester. A typical case in point is civil marriage, where most countries authorize registrars to process the relevant file in order to accredit the capacity of the contracting parties, as well as to authorize the celebration of the marriage. Similarly, in accordance with the country's legislation, registrars may be given a variety of powers, in their capacity as public attestors, to assist in framing other legal documents based on declarations of intent, as in cases where recognition of filiation out of wedlock is permitted if an express declaration by the interested party is formalized in the presence of the registrar. Moreover, in view of the inescapable link between the entry of birth and the record of the registrant's name, in the sense that the initial identification in the register is one of the key data in the birth record for purposes of individualizing and identifying the child, it is considered sound practice to give the registrar powers, before actual registration, to check the application of the pertinent legislation in effect on the imposition of names and surnames. As regards the possibility of securing subsequent changes in the name and surnames initially given, the civil registration law may give the registrar express powers to authorize such changes, by laying down suitable registration procedures in conformity with the country's domestic legislation. Whether or not these and other non-registration functions are assigned will largely depend on how broad the content of the registration service is conceived as being, and on the legal qualifications of its personnel; they can be introduced gradually as each country's legislation becomes more sophisticated, but are seen as facilitating and simplifying the entry into the civil register of data that it is compulsory to register and that can be formalized in the presence of the registrar himself, who, by acting as a public attester, authenticates them, which undoubtedly enhances the responsiveness and integrity of the registration service.

## 2. Statistical function

78. As stated, this consists in collecting, at the time vital events are registered, the data needed to compile vital statistics, which are part of demographic statistics. The dynamic nature of vital statistics arises not only because they can be compiled as events occur and are registered, but also because the basic data needed to meet the requirements of the compiling agencies can vary. This is arguably the chief advantage of the fact that the statistics are not derived from the registers themselves but comprise the data which are collected at the time vital events are registered or entered. It is difficult for a government nowadays to plan, carry out and evaluate social and economic development programmes without access to continuous vital statistics from the civil register. Censuses at best provide periodic, 10-year estimates, and sample surveys are representative only at the national level and for large regions. The principal demographic studies that can be carried out using vital statistics, both nationally and for regions and localities, always assuming the right data are collected, can be grouped as follows:

(a) Population estimates: number of inhabitants and their composition and distribution, for use in programmes concerned with public health, housing, labour, transportation, and the production and distribution of agricultural products and trade and consumer goods;

(b) Population projections: number of inhabitants and their composition and distribution at a future date to determine the need for housing, schools, teachers, hospitals, medical and paramedical personnel, and so forth.

(c) Special analytical studies: analysis of situations and trends with respect to the absolute and relative incidence of causes of death, fertility, nuptiality, legitimacy, adoptions, etc.

79. Chapter II of the present Handbook reviews some of the basic advantages of civil registration, in terms of a smoothly functioning society, that have been analysed in other handbooks, such as the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects. 2/

80. Besides its essential legal function, civil registration has already been singled out as an invaluable source for collecting vital statistics data. Although there are other ways to compile data for statistical purposes, such as enumeration (censuses and surveys), the information recorded in the civil registration system constitutes in the United Nations' view the very backbone of a country's vital statistics system. In keeping with this premise, when implementing or overhauling a country's registration system advantage should be taken of the opportunity to address the statistical objectives set at both national and local levels. From the data collected by the civil registers when entering each of the vital events subject to registration statistics can be compiled on natural population movements - related to births, marriages and deaths, the basic vital events registered - which will enable the country's economic and social development programmes to be planned in such areas as public health, housing, urban development, labour, transport and communications, education, social protection, services, culture, exercise of political rights, military obligations, consumption, fertility indexes, social and family structure, etc. To accomplish these planning purposes the statistical reports should encompass all vital events that have occurred in the registration area during the period covered by the report and provide the data needed to compile national statistics.

81. Since many of the events and legal acts that are the stuff of civil registration - vital events - are identical to the data used in compiling vital statistics - statistical units - it is obvious that one of the basic objectives of registration activity should be to gather data for statistical purposes. Since it is compulsory to register vital events, it is thus possible to use these records directly to gather the data needed to accomplish the proposed statistical purposes. Doing this through the public civil registration service avoids pointless and costly duplication of the steps involved in collecting vital data for statistical processing, and makes it collection easier because individuals are obliged to register; the basic information is thus provided only once - simultaneously, and usually very close to the time the registrable event occurred, which assures the accuracy and veracity of the information provided - and to a single agency, which avoids conflicting data. The purpose of civil registration is thus to assist in the collection of data when registering or entering vital events by recording them in two ways: first, by preparing the registration document, register entry or registration record of each vital event, which accomplishes the legal purpose of civil registration; and secondly

through the corresponding individual statistical report, bulletin or document generated by each entry in the register, which will be submitted to the competent agency for subsequent statistical processing of the data provided by the registration system, which ensures that the data have been pre-screened since they have already been checked for accuracy and truthfulness. Under the model administrative system for vital statistics adopted in Chapter IV of this Handbook, civil registration is not involved in the compilation of statistics in view of the complexity of the statistical process, but, as the collecting agency, it is required to participate in the screening of the data collected, as one of the functions assigned to it in connection with its legal purpose, by endeavouring to ensure the integrity and quality of entries in the register, which necessarily means that the statistical information to be provided by the civil registration function will possess the same integrity and quality. Under the registration method, the local registrar is required simultaneously to prepare an individual statistical report for every vital event recorded and to submit them regularly to the agency that compiles the vital statistics. The civil registration law should expressly provide that registrars must periodically submit to the statistical agency concerned, and through established administrative channels, the statistical documents on births, marriages, deaths and foetal deaths, divorces, and other registrable events.

### 3. Cooperative function

82. The shared goal of all agencies that make up a country's public administration is to serve the people. From this standpoint, civil registration should assist other agencies to accomplish their respective purposes. It should accordingly be provided with the human and physical resources it needs. Its cooperation will then be effective, and the information it provides will not lead to errors. In other words, it is important to ensure first that the civil registration service is equipped to achieve its own goals, notably the integrity and quality of its birth and death records and of the statistical data it collects. Provided it achieves these goals, civil registration can provide means of proof to accredit the age, civil status, parentage, nationality, and date of death of individuals, and thereby enable such services as social insurance, social security, military recruitment, voter registration, social welfare and civil identification, issue of passports, visas, etc. to function efficiently.

83. The important data-gathering function of civil registration in pursuit of its legal and statistical purposes implies that as an institution it is, if properly run, an invaluable source of the high-quality data needed for other administrative and judicial entities to fulfil their own objectives, thereby avoiding overlapping administrative efforts in the same field. This cooperative function is achieved by probatory function which civil registration performs with respect to events affecting the civil status of individuals. To promote such cooperation, the civil registration law and regulations should establish the obligation for civil registration systems to forward to official agencies, free of charge, the data of interest to them in connection with the business of their respective functions - identification service, social benefits, military service, voter registration, judicial proceedings, etc. These data may be listed by the registration service according to the needs of the requesting agency: age, sex, nationality, date of birth, identity, date of death, civil status, etc., either in a single document or by issuing individualized certificates, without prejudice to its observing the principle of respect for personal and family privacy. Moreover, even without the need for a prior



request, the civil registration law may establish the obligation to submit periodically to official agencies any data previously identified by law, regulation, or the Director-General himself.

84. As a complement to the registration service's cooperative function, administrative agencies of all kinds, as well as judicial authorities, should also lend the civil registration systems the cooperation they need in order to perform their functions effectively. In this respect, the civil registration law may provide that judicial and administrative authorities which rule on matters that are related to civil status and are subject to registration, be officially required to communicate such rulings to the local civil registry offices where entries whose content has now been changed are recorded; for example, a judicial authority that decrees a divorce, annulment or separation must send an authenticated copy of the final court ruling to the local civil registry office where the marriage in question was previously entered so that it can be noted in the register. By the same token, any public instrument affecting the civil status of the registrant - recognitions, legitimations, adoptions, or restrictions as to capacity, changes in registration data, changes of name or surnames, etc. - must be forwarded to the civil register by the competent authority.

#### J. Structure and organization

85. In many countries of the world, civil registration does not yet have its own structure and organization, which means that the governments concerned have not recognized the importance of its functions. In the administrative field, structure and organization always go hand in hand. The former is the organic skeleton of the institution, which enables it to be given shape and features. The latter is the systematic arrangement of its human and physical elements, whose purpose is to permit and facilitate the transmittal of instructions, inquiries and responses. Both are based on two fundamental principles: the division of labour and the hierarchical arrangement of the resulting functions. Only through enactment of an organic law can a public agency be given its own structure and organization. Laws of this kind always provide for the method of funding, and the body that administers the State, that is, the Executive Branch, is implicitly deemed to be authorized to allocate the agency its budget and provide it with the personnel and resources it needs to operate.

86. It should be stressed that the fact that a country has a registration system does not necessarily mean it also has a vital statistics system or that the existing system is complete in terms of registered data. Regardless of whether the kind of organization chosen for the registration system is centralized or decentralized, the United Nations suggests adoption of a centralized statistical organization so as to coordinate the country's different statistical services, thereby ensuring that the registration and statistical system operates effectively by producing statistics based on uniform concepts, definitions and classifications, so as to avoid duplications or omissions that would invalidate the statistical findings. The system favoured in the present Handbook is a nationwide administrative organization, with responsibility for assembling and compiling national vital statistics assigned to discrete and mutually independent agencies. Under this administrative division of areas of responsibility, the data gathering function is assigned to civil registration and the task of compiling the data for statistical purposes is assigned to a different agency within the central administration, the national statistical service. Both public agencies should work together. Consistent with adoption

of the centralized system, in connection with the flow of data between agencies, it is broadly recommended that the local civil registration offices should periodically send statistical data from all vital events registered to a national agency responsible for compiling and publishing the vital statistics of the entire country. The local registry offices thus act exclusively as data gathering entities and play no part whatsoever in compiling statistics.

87. As the pros and cons of adopting centralized as opposed to decentralized civil registration systems have been discussed in other United Nations studies, it has been recommended that in countries organized along unitary lines civil registration should take the form of an agency with the following characteristics, which are identical to those used as a starting point in preparing the legal framework presented in the present Handbook:

(a) It should be nationwide, because its activities should in theory and practice cover the entire territory and population of the country, state or province, as the case may be;

(b) Without prejudice to its being attached to a ministry, it should be independent of any other agency at the same level of government;

(c) It should be administratively centralized, in the sense of having a central organ that directs, guides and supervises the performance of its functions;

(d) It should at the same time be functionally decentralized in terms of the registration of events and acts that constitute the source of civil status, and the corresponding statistical data should be collected directly and exclusively at local registration offices conveniently and strategically located throughout the territory; this means that the entire national territory should be divided into areas for civil registration purposes. As a general rule, use has initially been made of the political or administrative division carried out for other purposes, and its subdivisions then became "registration areas". It has therefore sometimes been necessary to make adjustments, either by combining two or more of these parts into a single area or by splitting them into two or more areas.

(e) Entries should be made in duplicate so that a local and a central file can be created, whether they are processed by hand or computer-assisted, which improves the security and efficiency of the service provided to the community;

(f) In countries organized along federal lines, these characteristics could be adapted to suit each state, province, etc., covered by a civil registration law.

88. Where a State is based on the separation of powers and has a planned structure of agencies and functions, the public administration, as an organizational vehicle created to serve the community, serves broad interests and, in the field of registration, accomplishes specific purposes that, in accordance with the principles advocated by the United Nations, find their expression in the assignment of two basic functions to civil registration: a legal function and a statistical function, in addition to that of cooperating with other agencies. The administrative tasks involved in the registration function can be entrusted to the administrative organs themselves, and in this case civil registration will be an agency which is organizationally part of the public administration; since its specialized field falls within the sphere of

private law, it seems logical that the Ministry of Justice should assume overall management of the service.

89. Despite the statements made concerning the autonomy of the service, the registration function can also be assigned to institutions that perform other functions assigned to them under the constitution or by law: notaries' offices, courts, municipal services, social services, etc. Experiments with placing the function under such institutions have not been found to work well because they have inhibited the technical development of the civil registration function, since for them it represents only a secondary task and one handled by staff who have other jobs to perform at the same time. The budgetary reasons usually invoked are not valid, because, properly managed, civil registration is an institution which can cover all its operating costs from the funds it collects. Although it is desirable for civil registration to be entrusted to agencies reporting directly to the administration and governed by the principles of a hierarchical chain of command and self-organization, which normally leads to a more efficient and uniform system, the possibilities and advantages that can sometimes result from the options mentioned earlier should not be dismissed out of hand, to the extent that they involve taking over a functional infrastructure within the country that is already up and running. This is commonplace in countries where the registration service is already organized using the functional and geographical organization and structure of such agencies, which in addition to their own functions have been entrusted by law with that of registration. An assessment of the importance of this function will largely depend on how much weight the responsible authorities in each country attach to its role in the judicial system; the State should take the necessary steps to ensure that such agencies acquire the requisite specialized skills as an additional, and not subordinate, task to those they already carry. In these cases, the registration legislation will need to be coordinated with the rules regulating the functions already assigned to the agencies that are in addition being entrusted with the registration function. For example, if civil registration is in the hands of the judicial organs, the law regulating the organization and operation of the Judiciary should expressly assign registration to the courts as a function distinct from their judicial functions. The necessary specialization and training of judges and law offices in the field of registration would then need to be arranged by both the Judiciary and the administration itself, since institutions independent of the administration would be performing essentially administrative functions. If a country is introducing a registration service for the first time, there will be an obvious temptation to superimpose the registration function on other functions entrusted to other agencies that already have their own structure and organization - notaries' offices, courts, city councils - which will lower start-up costs for the specialized personnel and physical resources needed to perform registration work with the necessary guarantees. The option of assigning the registration service to other institutions may yield advantages, without this precluding the possibility of civil registration being self-financing.

#### 1. Directorate of civil registration

90. The functional organization of civil registration should cover a country's entire territory uniformly and should therefore ideally be nationwide and, even in countries organized along federal lines, be exclusively a State responsibility in so far as registration activity is concerned with the management of public registers and instruments covered by private family law. In view of the civil nature of registration matters, it would seem advisable for

civil registration to be placed under the Ministry of Justice - in some countries civil registration comes under the Ministry of the Interior or appears linked to public health departments - which will operate in this area through a Directorate of Civil Registration, which will be the central organ of the service, responsible for managing all matters relating to civil registration and headed by a Director-General, who must possess extensive legal knowledge of private law; at the least he will need to be a professionally qualified lawyer. The civil registration law will define the responsibilities of the Directorate in the sphere of registration, as well as the method of appointing the Director-General, his personal status, and the responsibilities assigned to him with respect to the registration service.

91. As the management centre, and in accordance with the provisions of the current legislation (principle of all acts of the administration being subject to the law), the office of the Director-General will be the organ charged with applying the legislation on registration to issues related to private law and the authority to attest public documents. To this end, the Director-General will be assigned by law certain responsibilities aimed at accomplishing the objectives pursued by the country's registration and statistical service, including: (a) management and inspection of the registration service; (b) resolution of any incidents and inquiries that may arise with respect to the application and execution of the registration legislation; (c) participation in all preliminary drafts of the law and any lesser-ranking rules that affect matters within his sphere of competence; (d) selection of, and staff rules for, the personnel employed by the civil registration service; (e) management of the personal and physical resources needed to run the registration service; (f) resolution of any appeals that may be filed in the area of registration by interested parties; (g) preparation of general instructions on the operation and organization of civil registration; (h) assessment of the degree of coverage of the registration system; (i) promotion of public information programmes on registration requirements and procedures and the benefits of registration that are of direct interest to individuals and to society; (j) capacity to implement new technologies in the civil registration system to optimize its efficiency, by providing the physical and personal resources to use them in the registry offices; (k) authority to enter into interinstitutional agreements with other public agencies for the exchange of information; (l) responsibility for the safekeeping and preservation of registration archives, ensuring their safety and the confidentiality of the records they contain; (m) authority to establish the territorial boundaries of each local civil registration office; (n) authority to set up secondary civil registration units in response to special competing circumstances, while clearly demarcating their jurisdictional boundaries; (o) promotion of training programmes for the personnel in charge of registration offices, etc.

92. The Director-General will be assisted in carrying out his functions by a technical cadre composed of personnel with high legal qualifications, the size and organization of which will depend on the needs of the service - areas of competence with respect to registration activity can be divided: physical and personal resources management section; incidents, inquiries and reports section; inspection section; personnel section; continuing training section; financial management section; legal section; statistical section, etc. These should form an integral part of the service, reporting technically and administratively to the office of the Director-General. The civil registration law will accordingly spell out the technical organs which are to make up the Directorate, without prejudice to deferring to the corresponding regulations on the organization and operation of the Directorate decisions with respect to the structure, functions.

and areas of competence of those technical units. These units which make up the Directorate do not preclude the Director-General from obtaining advice from outside experts on the strength of their high legal qualifications in particular areas. In addition to the technical units, it will be necessary to attach to the management centre appropriate administrative support personnel, who will come directly under the Directorate in terms of selection and administrative and disciplinary rules, and will be tasked with the physical handling of management activities: processing of appeals, incidents, documentation, etc.

## 2. Central archive

93. Under the Director-General, the registration service will include another centralized organ known as the central archive, with jurisdiction extending over the entire national territory. Depending on the volume of work and the areas of competence assigned to it, this agency will be headed by one or more registrars - with the same rank and with none being hierarchically superior to any other. Where there are several registrars responsible for the service provided by the central archive, it will be up to the Director-General to establish the internal division of labour. The areas of competence of this agency should be clearly spelled out in the civil registration law. The main function of the central archive is to create a centralized civil register to store all the civil status data entered in any local register in the national territory. To this end, every entry in any of the local registers must be made in duplicate so that one of the original copies can be sent to the central archive, where it will be stored in accordance with the internal organization established for the registry office - births, marriages, divorces and deaths - and with the way the registration service is divided geographically - land unit selected, province, municipal district, local office, kind of registration. The archive can thus be kept up to date and complete. This duplication and centralization are instrumental in keeping the documentation safe and providing a public service that is dynamic, which is necessary given the mobility of the population; moreover, they are an ideal tool for subsequent computerization of the registration service. This central archive will need to be dynamic in character, in other words, will need to be continuously updated with any complementary notations made to entries in local registers to ensure that it is fully and accurately consistent with the local archives. The sphere of competence of the registrar in charge of the central archive should not be limited to the receipt, classification, filing and safekeeping of the duplicates sent in by the local registry offices and to issuing certificates based on the records he receives. His duties should be similar to those assigned to local registrars in terms of checking and legally validating registrable data, as well as assisting in the creation of civil status documents. The function of the central archive should thus not be confined to simply receiving data and issuing registration certificates.

94. In keeping with the scope of the functions assigned to the central archive in the civil registration law, this registration agency can provide the link needed between the national consuls and registration entries made abroad in respect of the country's nationals. The consuls could send directly to the central archive for storage the consular entries made, or the data needed to make them, depending on what registration responsibilities have been assigned to the country's consular service. This would serve to centralize records of events affecting nationals that occur abroad, which in turn would ease the problem of territorial jurisdiction over registry and simplify subsequent record searches. Moreover, in the event that the country's registration system has

authority in the field of nationality, the central archive might be the ideal agency to make the corresponding naturalization entries in cases provided for in the ordinary domestic legislation on the acquisition of nationality, thereby producing a centralized register on naturalized aliens. Assigning the central archive these two functions - centralization of data on events affecting nationals that occur abroad, and sent in by the consular service, and centralization of data on naturalized aliens - would mean expanding the responsibilities entrusted to the registrar of the central archive, who would then be on an equal footing with local registrars in terms of being able to verify the accuracy, truthfulness and legality of the data to be registered. The division and organization of the central archive would be decided upon on the basis of the responsibilities assigned and the volume of entries made in the national territory, its primary function, as well as the number of naturalizations registered in the country, and the number of nationals residing abroad in the event that responsibilities are assigned in both these areas.

### 3. Local civil registry offices

95. The centralizing effect of having a central archive, with the advantages that accrue from having data all in one place, in terms of ease of search and disclosure of the records, safety in the preservation of documents, ease in future introduction of computerized procedures, and improved possibilities of personnel training and management of physical resources, should definitely be combined with arrangements to give the people ready access to civil registration, and to have registrable events reported promptly and nearby, which ensures that the data will be truthful and accurate. Taken in combination, these factors mean that, irrespective of what kind of nationwide administration is established, registration activity should be decentralized through local civil registration offices, even where the advantages afforded by a distributed system are offset by drawbacks due to the difficulty of adequately staffing and equipping a large number of registry offices. This is accomplished by having local civil registration offices, which, within the geographical boundaries of their areas of competence, known as primary registration areas that demarcate their jurisdictions, will operate in accordance with principles of geographical divisions - that is, they will cover all the vital events occurring to all the country's inhabitants within the national territory, according to the zoning system adopted to suit the particular characteristics of the population in each area, since vital events are registered by place of occurrence and can include events relating to non-nationals - and of legal personality - that is, they will include all the country's nationals even though they may be located outside the national territory. In establishing the geographical districts that define the jurisdictional boundaries of the local civil registration offices and ensure that due attention is paid to building a complete and effective register, account must be taken of both the number of inhabitants in each area and the average distance that will provide citizens with easier access to the registry, allowing for the country's geographical features and existing means of communication. Assessment of these factors necessarily means reviewing the status quo before the civil registration law is enacted, taking into account real needs in terms of the size of the population in each area and any special physical features in each geographical district, which are certain to have an impact on the way the territory is divided. Other factors to be considered in determining the number of local offices include the availability of physical and human resources, training for the staff in charge of the registers, educational level of the population, simplicity of registration procedures, etc. The establishment of the local offices and their number and location represent

important decisions for the efficient functioning of the civil registration system as a whole. The decision adopted will depend, therefore, on the needs of the population and the need to provide a responsive and effective public service that will make it possible to accomplish the goal of creating as complete a civil registration system as possible. The division of the registration function will generally coincide with the country's actual political and administrative divisions, but this does not preclude giving each registration office its own geographical area for jurisdictional purposes, and the Director-General will be authorized to do this.

96. Regardless of the approach used in deciding the geographical areas, in cases where local registry offices cannot be established because they cannot be staffed appropriately, and there are residual areas which, because the land division adopted covers such a large area and communications difficulties prevent ready access to the nearest registry office, remain cut off from the registration service, the civil registration law may provide for the establishment of branch offices so that those affected do not have to travel. Establishing and running such branch offices for the commonest entries represent additional duties assigned to the Director-General, in the exercise of his registration functions, that can also take into consideration questions of timeliness in special circumstances. These registration areas are called secondary registration units. One example of such secondary registration units would be to set them up in hospitals, provided that their jurisdictional boundaries are clearly defined. In exceptional cases, arrangements can also be made for mobile registration offices, to make it easier to register vital events that occur in places at great distances from the local civil registration offices.

97. A central data storage system based on duplicates sent to the central archive and operating side by side with a large number of local civil registration offices is regarded as the most desirable registration system in terms of the purposes to be achieved, since it seeks to strike the necessary balance between the advantages and disadvantages of having registration systems based entirely on centralization or exclusively on decentralization. The civil registration law will establish the staff rules for local registrars to ensure they are technically qualified in law, arrangements for replacement and conflicts of duty, and tenure. Local offices are one-man operations in most countries; it is therefore necessary to take care in establishing arrangements for replacements in cases where the incumbent is unable to work - illness, vacancies, vacations, etc. To solve the problems raised by the one-man nature of the position, it is desirable, whenever possible, that the land divisions adopted should have at least two local offices to permit standing substitutions between equally qualified personnel, with the same areas of competence and the same reporting relationships, and to allow a division of labour in more populous areas with heavier registration volumes. Where such an arrangement is not feasible, the vacancy could be filled by the local registrar from the closest office. Moreover, it will be up to the Director-General, based on the size of the population in particular urban centres, and to facilitate the work, to set up several local offices to provide registration service within the same population group, divided for jurisdictional purposes into registration districts or zones. If the aim is to avoid dispersing registration data relating to the same group, another option might be to create a single local office covering the entire urban nucleus and have it run by several local registrars under an internal load-sharing arrangement to be established by the Director-General in the light of the needs of the service.

#### 4. The local civil registrar

98. The local civil registrar has been defined as the official authorized by law to register the vital events occurring within his jurisdiction and vested with the legal authority of the central management of the civil registration system. Since practices vary in different countries, it has also been recommended that the local registrar should be a full-time employee, possess the same status as civil servants employed by the public administration, and be decently paid. In establishing the sphere of competence of local registrars, the civil registration law should clearly define the functions to be performed in connection with the registration service, by reference to the principles of geographical division and legal personality which define their jurisdiction in their assigned land divisions. It is not considered desirable that there be lower-ranking local registrars, that is, with restricted areas of competence in terms of registration duties, since this splitting of responsibilities would unnecessarily hamper and complicate the registration function by making one rank subordinate to the other. Even in cases where branch registry offices are operated as secondary registration units, the persons in charge of them should have identical responsibilities to those assigned by law to local registrars in charge of their own land divisions, who are hierarchically subordinate only to the Director-General.

99. The duties of civil status registrars will be assigned to them without any restriction as far as the registration service is concerned: (a) to make the primary entries for births, marriages, deaths, and divorces and to authenticate them with their signature; (b) to make and sign any relevant complementary notations: adoptions, recognitions of filiation, court rulings on filiation, legitimations, annulments of marriage, judicial separations, restrictions or changes in the capacity to act, etc., to ensure the integrity of the register; (c) to verify the personal capacity of the contracting parties and to perform civil marriages; (d) to store and keep safe the documents in their care; (e) to prepare the statistical documents based on the registration records and forward them to the competent agencies for subsequent analysis, compilation and disclosure; (f) as an essential function inherent in their capacity as public attestors, to issue certifications of the records entered in the local register in their charge, taking the necessary steps to ensure respect for registrants' privacy; (g) to forward periodically to the central archive duplicates of each of the primary entries or complementary notations made in the local register, at the intervals stated in the civil registration law or its regulations; (h) to comply with the instructions of the Directorate with respect to the organization and operation of the registration service; (i) to inform the public that it is both compulsory and to their advantage to register vital events in the interest of exercising their rights as individuals, and to inform them of the procedures for registering; and (j) to comply or ensure compliance with the individual statistical reports on each vital event registered, and to forward those reports regularly to the agency responsible for compiling vital statistics at the national or regional level.

100. In keeping with the broad view that should be taken of the registration function when plans are made to introduce or improve an existing registration service, the civil registrar should be given broad powers in the interests of ensuring that the civil register is accurate, truthful and in compliance with the current laws, so that it can fulfil its legal and statistical purposes with respect to the authority granted to issue certifications of registration records. The guarantee that allows civil registration to be invested with the probatory effectiveness it enjoys under the registration model we have selected



as ideal, and which sets it apart from an approach limited to simply storing unchecked data, lies precisely in the fact that local registrars are assigned both the power and duty to subject registrable events and acts to legal scrutiny before registering them. To this end, and to streamline registration procedures, local registrars must be given broad powers to check the veracity and accuracy of the identity of informants, as well as of the declarations and documents submitted to the registry office for the purpose of having entries made, by making, within the time allowed in the civil registration law or regulations, such further inquiries as they see fit to complete or verify the data reported, and may for this purpose seek the assistance of other administrative authorities and agencies, which must be required to cooperate with the civil registration function.

101. With respect to the issue of whether the act to be registered is in conformity with the laws in effect, it is an essential requirement that the local registrar be able to make a critical legal judgement on this matter. On the strength of this strictly legal assessment concerning registrable events, the local registrar will have the decision-making power to agree to or deny registration, while the individual in such cases has a legitimate right to appeal such a denial to the Directorate, which is the competent organ to rule on appeals filed through registration channels until they are exhausted, without prejudice to guarantees that the administration is subject to the law by virtue of the individual's option to appeal to the ordinary courts to obtain a ruling on the right impugned at registration. Unless this authority to make assessments is recognized as inherent in the powers a registrar wields in the performance of his duties, the entire registration process would be rendered extraordinarily difficult by his having to consult with the Directorate in any cases that raise doubts. The counterpart of conferring such broad powers on local registrars is that they necessarily bear matching responsibilities in the performance of their duties, and that a system of inspection and penalties be set up for instances in which it is documented in the pertinent administrative file that the registrar has failed to comply with his registration duties, without prejudice to any criminal liabilities he may have incurred in the performance of his registration duties.

102. Even though local registrars are given broad powers to review and screen the declarations and documents used as a basis for entering data on individuals' civil status in the civil register, their role as public attestors can obviously guarantee only compliance with the extrinsic legal formality of the act - celebration of a civil marriage, declaration of recognition of filiation, declarations relating to births or deaths made by those legally obligated to file them, or by witnesses in cases where medical certificates are unavailable, etc. - but not the veracity of the actual declarations themselves. Moreover, with respect to the obligation to examine, as far as possible, the capacity and identity of informants, and whether the act conforms to domestic legislation, for the purpose of registering only legally valid acts, registrars cannot be held liable for fraud committed by individuals who assert false identities or present falsified or irregular documents. It will be up to the courts, based on criminal offences generally classified in domestic legislation under the heading of uttering a false public document, to rule that fraud has been committed and to punish the offence, in which case the final criminal ruling will serve as a public document of sufficient standing to correct the entry made on the strength of a declaration or activity ruled to have been fraudulent. On the other hand, in cases where there is no criminal responsibility, the act may also be declared legally void by following the appropriate procedures; for example, when a court ruling annuls a marriage celebrated and entered in the register, for any reason

provided for in the country's legislation, the final court ruling may constitute a public document of sufficient standing to cancel the entry in the register relating to the annulled marriage. In either case, it should be borne in mind that, until such time as the false act is impugned and the entry based on falsified data has been modified or cancelled, the probatory force of the entry based on the presumption of accuracy, truthfulness and legality, which constitutes the guarantee underlying public trust in the registry, will remain in full effect. We have been referring up to now, of course, to instances of fraud not imputable to the registrar or to personnel in charge of civil registration; were this not the case, however, such conduct would give rise, as appropriate, to the corresponding criminal or administrative sanctions.

103. In conclusion, it should be borne in mind that countries are increasingly concerned at the growing incidence of fraud in the area of civil status, committed by individuals and mostly involving the celebration of so-called marriages of convenience for the purpose of acquiring the nationality of certain countries or obtaining entry and residence permits; there is also the possibility of false recognitions of filiation for purposes of conferring nationality on the person being recognized, or facilitating the restructuring of families to capitalize on preferences in the granting of entry and residence permits; other cases of fraud which have been discovered involve changes in the identity of individuals. The fact that different kinds of registration-related fraud have been found, basically consisting in the utterance of false declarations to the registrar by the parties concerned or the submission of falsified or irregular documents, is one more reason that justifies giving registrars broad powers, wherever feasible, to check that only truthful and legally valid data find their way into the civil register.

104. To simplify the registration process, while offering individuals better and more effective service, local registrars should also be given general authority to alter the content of the register in their care by following legally established procedures, without the need to resort to non-registration proceedings - the ordinary courts - to correct records, which would inordinately prolong the correction process and result in unnecessary costs to the individual. Experience shows that most registration errors can be attributed either to the low educational level of the informants, who mistakenly give data that can be directly checked against the original documents, or to errors committed by registration personnel themselves when making the entries. In either case it seems excessive to have to go to court to have errors corrected. Nevertheless, to ensure that the administrative procedure for correcting errors in records is legally valid, the civil registration law or its regulations should specify those cases in which corrections can appropriately be made through normal registration channels. Moreover, in keeping with the principle of official status that should permeate the registration function, local registrars will be authorized by reason of their official status to add to, correct and integrate records in their charge, as well as to cancel entries in cases provided for by law. With the same goal of simplifying bureaucratic procedures, the principle of direct, official communication should be established between the various local offices, so that data needed to integrate different records can be forwarded; the same applies to the principle of direct communication with the central archive for the purpose of forwarding duplicates of the entries made in each local office. The importance of conferring authority to correct registration records on the registrar of the local office where the record to be altered is located makes it worth devoting a separate paragraph to the issue.

## 5. Consular services

105. Express mention should be made of the country's consular service and its important links with events and legal acts that affect its subjects who live or at times travel abroad. Since the registration model adopted is based on the principle of legal personality as a registration criterion, making it compulsory to register any births, marriages and deaths of nationals that occur abroad, there is an obvious public and private interest in establishing suitable regulations to cover consular work as it relates to the registration function. In some countries, the civil registration law gives consuls identical duties to those of local registrars in terms of making entries - to ensure that registrable events are entered in the civil register; to participate in creating civil status records, by giving them powers as public attestors, for example, by performing and authorizing civil marriages held abroad by subjects of the country of origin; and to issue certifications of records on file in the consular register. In these cases, where it obviously becomes easier for nationals residing abroad to meet their obligations and obtain their rights arising out of civil registration, the consuls act in their capacity as registrars - irrespective of whether the corresponding entry has been made in the local register where the events occurred - by making the entries, on the strength of the declarations and documents submitted to the consulate, directly in the consular register, where, for certification purposes, a copy of the registration document will be stored and kept safe, and from which a duplicate will in all cases be forwarded to the competent organ in the country of origin, which, as discussed earlier, can most appropriately be the central archive, given its jurisdictional authority over the storage, safekeeping and disclosure of duplicates from all registry offices, which in this case would include consular registers. With respect to completion of statistical reports on vital events affecting nationals living abroad, it should be borne in mind that the country where the registrable events occurred will usually have its own mandatory civil registration and vital statistics system, so that there will be a legal obligation to register the events at local registry offices and to prepare the corresponding statistical report for forwarding to the agencies that compile the country's statistics. This does not prevent consuls, when entering vital events data - or when gathering such data from documents for registration purposes - from also completing the relevant statistical reports for forwarding to their home country, in order to generate the necessary statistical data on nationals resident abroad. This duplication of statistical reports on the same events is seen as necessary to meet the need for statistical coverage of the countries involved in vital events registration, in keeping with the principles of territoriality and legal personality used as a starting point in the model civil registration system proposed in the present draft law.

106. Notwithstanding the unquestioned benefits and advantages of such a consular registration system, its introduction should take into account each country's domestic legislation and how it defines the duties assigned to its diplomatic employees abroad, as well as any reciprocity guidelines that may exist between the country of origin and the country of accreditation. In view of the variety of different laws regulating the registration functions of consuls, the civil registration law proposed here does not recognize consuls as registrars. For registration purposes, they are considered exclusively as public attestors in respect of any documents they help to legalize, and are tasked with transmitting the corresponding local certificates to their home authorities, duly legalized. From this standpoint it must be emphasized that this entails underutilizing a country's consular service, since in practice and in most countries the service usually performs registration functions involving the country's subjects as it

is the closest and most direct link between nationals and their respective States. Introducing or improving a country's registration system provides an opportunity to address the general issue of the link between consulates and the registration function; as far as possible, the registration duties given to consuls should be broadened to permit them to make entries in the register using the same procedures as local registrars. If they are authorized only to forward the data for the entry to the competent agency so that it can do the actual registration - which in all cases requires that certification of the earlier entry in the local register be presented, itself a foreign document that will need to be duly legalized by the consul in his capacity as legal attester - it hardly needs stressing that the procedures for forwarding must be simplified; the document can be forwarded directly by the consul to the registrar of the central archive or to the registrar of the office deemed to have jurisdiction, for purposes of legally validating the data so that they can finally be registered. The civil registration law or regulations will define direct reciprocal communications between the consulates and the central archive and their frequency, waiving legalization by the Ministry of Foreign Affairs in cases provided for in the civil registration law, which may take into consideration the fact that the documents are being forwarded through official channels - i.e., directly - without this preventing any registrar who has doubts as to the authenticity of a document from carrying out whatever checks he thinks appropriate, including, among other steps, having the document legalized through normal channels, that is, having the authenticity of the signature of a public document officially verified. In the exercise of his duties, the registrar in charge of the central archive will examine the data received from the consulate for registration, verifying as far as he can that the foreign register is regular and authentic in terms of the safeguards required by the country's legislation, as well as whether the registrable event is consistent with the country's legislation, and will decide to accept or reject such registration in whatever terms he deems appropriate; this decision will be subject to appeal, to be ruled upon by the Director-General of Civil Registration and, if appropriate, to judicial oversight. At all events it is felt that failure to record a registrable event in the appropriate local register abroad should not prevent its being registered in the home country of the individual in question, provided that proper documentation is presented either at the consulate or directly at the central archive itself.

#### K. Jurisdictional principles governing civil registration

107. Ideally, the civil registration law should set out, in clear and simple terms, general jurisdictional principles that equip each country's civil register to set about achieving universal coverage in terms of the entire national territory and all different groups that make up its population. To achieve this objective, two basic principles are commonly used in combination: (a) that of jurisdiction based on the fact that the events registered relate to nationals of the country, whether by origin, naturalized or dual nationals; and (b) the principle of jurisdiction based on the compulsoriness of registering all civil status events occurring within the national territory, irrespective of the population group to which they relate, and regardless of whether they are nationals or aliens, resident or otherwise. The civil registration law should broadly state these jurisdictional principles in order to forestall lengthy and case-by-case recitals of the events subject to registration, since it need only be established that the event occurred on national soil or affects a national for it to be compulsory to register it.

108. In accordance with these principles of legal personality and territoriality, the following must be recorded in the country's civil register:

(a) All events affecting its nationals whether occurring within the national territory or abroad - in the latter case, it makes sense for registration to take place through the consular service accredited to the country in which the event to be registered occurred, which will depend, as discussed earlier, on what powers the consul has been given vis-à-vis the registration service; as a result, either consular records are created the duplicates of which will be forwarded to the competent agency, or the data for the record are forwarded for registration by the competent authority in the home country, which does not preclude the fact that identical entries may have to be made in the appropriate local register in the country of residence, nor that such registration may be compulsory and a prerequisite in order for the consul to forward the corresponding foreign documentation as a basis for the entry to be made in the home country. With respect to such events pertaining to nationals and occurring abroad, since there is no territorial link to determine what local office has jurisdiction for registration purposes, it will be necessary to establish by law which will be the competent office; this can be the central archive, to which consuls can forward directly the entry, its duplicate or the data to be used in registering the event - depending on the duties assigned to them;

(b) All registrable events that have taken place within the national territory even if they affect aliens - in these cases, registration can be made conditional on whether the alien is in the country legally and has proper documentation. Where the registrable events involve non-national elements, bearing in mind that personal status is internationally recognized as a key component of civil status, the registrar must take into account the way in which the national law of the party concerned applies to the act; for example, in the case of a marriage celebrated within the national territory between two foreign subjects, the record will vouch for the fact that the marriage is valid for registration purposes, according to the law governing the contracting parties as individuals. Another common case where the applicable personal law has to be checked in advance concerns the registration of the birth of a foreign national within the national territory, where the registrant's name and surnames will similarly be governed by his or her national law. The interested parties must therefore document the fact that the event or document is in compliance with the foreign law governing their personal status, which is normally done by means of a certificate issued by the consular representative of the country of which the contracting parties are nationals. If it is not possible to find out what foreign law is applicable, the registrar will apply the law of the land. There must be provision for a registration record issued in this way to be changed later, by means of a simple procedure generally consisting in documenting, at any subsequent time, the national civil registration law applicable to the registrant, provided that the latter is not objectionable for security reasons.

109. For statistical purposes it may be relevant to distinguish between registering events affecting legal residents and those affecting non-residents. Some countries, like Canada and the United States refer to resident population when compiling their total population series. As a rule, residence is legally irrelevant for civil registration purposes; if one wishes, when calculating population rates, to refer to events occurring within the national territory to residents of the country, as distinct from events occurring to non-residents while they happen to be in the country, this can be done by inserting a code in the statistical report to denote data relating to usual place of residence. The

problem arises when the object is to obtain statistical information on events occurring to residents while they are temporarily outside their country of residence, since neither the principle of legal personality based on nationality nor that of territoriality would be applicable in such cases, which would therefore remain outside the scope of the registration system. Nevertheless, if it were felt necessary to calculate these events for estimates of total resident population, they could be included by making it compulsory by law for residents abroad to report the occurrence of vital events to a consul with a view to their registration or, at last, to preparation and forwarding of the corresponding statistical report to the competent compiling office in the home country.

110. Once the overall jurisdiction has been established for civil registration, each country should also establish the specific jurisdictional criteria that will determine at what registry office within the territory covered by the service registration is to take place. Two criteria are generally used to determine at what local office a vital event should be registered: the place of occurrence or the place of residence. The need to put civil registration within reach of the people, so as to provide ready access and make it easier for them to comply with their obligation to register, coupled with the registrar's ability to check promptly on the data being entered, argues in favour of assigning jurisdiction for registering the principal civil status events to the local office closest to where the registrable event took place. This is the principle followed in the registration model proposed. Births, marriages and deaths should therefore be registered at the office in the place where they occurred, regardless of domicile. Divorces will be registered at the local office where the divorce decree was issued. The civil registration law should thus clearly and in broad terms state the principle of territorial jurisdiction, without prejudice to the possibility of exceptions, defined in the law or the regulations, in cases where it is difficult to make the necessary territorial connection between the event and a specific local office, e.g., when the event occurred during a vacation, when it is not known where the event occurred, or when for some reason it is impossible to reach the competent registry office to register the event because of, say, topography. With respect to complementary notations to primary records, the principle of connection should be established to maintain the integrity of the record pertaining to one and the same individual. Notwithstanding the option chosen for registration purposes, place of residence reflects demographic changes in the resident population better than place of occurrence. Although in practice the two criteria usually coincide, if the two places are different the place of residence should be a mandatory data item in the information to be compiled in the statistical report, in accordance with United Nations recommendations.

#### L. Basic documentation

111. The kind of organization and method of operation chosen for a civil registration service has a direct bearing on the documentation it uses, on which its efficiency is heavily dependent. However, as a general rule, countries have paid little attention to this. The documentation is often antiquated in design and contains unnecessary data that create extra work and slow down responses by the public. The draft law outlined in this Handbook embodies the distinction, built into the legislation of many countries, between data gathering and data compilation. Accordingly, the registration document and the statistical report are separate. For other options for registering and collecting data for statistical purposes, see paragraphs 174 to 252 of the Handbook of Vital

112. There are three basic civil registration documents: (a) the original document (documentary evidence); (b) the registration record (entry, item or civil status registration document); and (c) the statistical report. Before each of these is discussed, the following points are stressed:

113. With respect to foetal deaths, the current trend is not to register them for legal purposes, that is, not to have a registration record for these vital events, because they do not constitute either an event or an act affecting civil status; at the same time, however, the obligation to report them should be framed in the strongest possible terms, so as to collect the statistical data needed to quantify them and study their characteristics and circumstances. Information on these deaths is especially important for public health purposes.

114. With marriages, there may or may not be an original document, depending on who is performing the marriage and who is registering it for legal purposes. There is no need for documentary proof when a marriage is celebrated and registered at one and the same time; but it is indispensable when one official is performing the marriage and another registering it, as in the case of religious ceremonies with civil standing, because the two events are separated in time. In these cases, an authenticated copy of the entry of the religious marriage serves as an original document for entry in the civil register.

115. The original document or documentary evidence of divorces, annulments and judicial separations is the relevant court decision. In the draft law proposed, divorces have their own register. Once the divorce has been entered at the competent local office, the local registrar will officially forward a certificate of the divorce to the local office where the dissolved marriage is recorded, for entry of the pertinent complementary notation, so as to establish the necessary registration link between the marriage and its dissolution on the grounds of divorce. With respect to annulments and judicial separations, they result only in a complementary notation against the relevant entry of marriage. This serves to permanently link both acts, thereby saving a substantial amount of work.

116. The original document or documentary evidence of recognitions, voluntary legitimations and adoptions is a legal instrument or court ruling recording the conferral of these benefits, which result simply in a complementary notation to the corresponding entry of birth, with the same advantages as described in the preceding paragraph. However, in countries in which adoptions are treated as confidential, a new entry of birth will be required to include the names of the adoptive parents, while keeping the original strictly confidential, so that certifications will always show the names of the adoptive parents. In some legislations, so-called *ipso jure* legitimations do not have an original document either, because they serve by operation of the law to fulfil legal requirements. It is not within the scope of this Handbook to comment on the particular feature of national laws on legitimations, adoptions and recognitions, but when drafting a national civil registration law it is vital to take them into account to ensure that they are consistent.

117. For all the vital events mentioned, whether or not they involve an original document and whether they result in a registration record or a complementary notation to an entry, an individual statistical report should be compulsory as a prerequisite for ensuring that vital statistics reflect the true situation.

118. The basic legal and statistical functions of civil registration are achieved through the compulsory entry and documentation in the civil register of data pertaining to the existence, identity, and personal and family situation of individuals so as to provide reliable proof of the events registered. The practical question then is how to establish the means or instruments by which the various events and legal acts affecting civil status should be entered in the civil register and how data relevant to both areas should be documented for registration and statistical purposes. The issue is therefore how to decide what basic documentation is involved at each phase of the registration process. The answer to the first question lies in what are termed *original documents*, which refer to the various means of proof that establish the necessary link between physical reality - birth, death - and legal reality - court rulings, public documents, etc. - and the way they are reflected in the register. Once the original documents have been validated and duly checked by the registrar for accuracy, truthfulness and legality, the next step is to prepare the corresponding *registration record* (act of registering the vital event or entry), which consists in entering in the civil register the data on events occurring outside the registry office by the act of registration, which converts the original documents into official, permanent and ordinary proof as to the factual elements of civil status; this confers on the record the presumption of being accurate, legal and valid, a presumption which can be rebutted only by resort to established legal procedures through registration or judicial channels. Independently of the registration records, though based on the same source, namely, the original document - as an instrument or means of proof with respect to an event affecting civil status - the act of registration also produces the *statistical record or report*, the purpose of which is to collect and record a series of data on each vital event subject to registration and thereby fulfil the statistical purposes also assigned to civil registration; since there is more than one purpose, the data are not strictly identical, and the statistical document should ideally be more flexible, so that it can be adapted to any new situations which it may be desirable to monitor, it is recommended that totally separate documents be used even though their preparation is entrusted to the same agency, namely civil registration.

#### 1. The original document

119. When a vital event occurs anywhere in a country's territory, the question arises: who has an interest in knowing? It is no longer in dispute that the interest of the State, representing as it does the population as a whole, outweighs that of the individual. But there is a need to specify how the State learns of the occurrence of each vital event and how its occurrence is documented. Births, deaths and foetal deaths are registered on the strength of specific evidence prescribed by law. Marriages, divorces and complementary notations all require their own particular means of accreditation in order to be registered. International recommendations and the legislation of many countries use the term informant or declarant to denote the person required by law to notify the competent authority of the occurrence of a vital event and its main characteristics so that the event can be registered. This authority is the local civil registrar, specifically appointed to enter in a permanent document, the registration record, the occurrence of all vital events that take place within his jurisdiction or registration area. The informant is the person designated by law to supply accurate information for the legal purposes of registration, as well as the data required for statistical purposes, which is why the obligation to report vital events is generally placed upon those persons who are best placed to know of the occurrence of the event and its circumstances.



by virtue of their closeness to or relationship with the individuals concerned. The law should designate informants for each vital event in accordance with the United Nations recommendations. One way is to adopt the principle of restricted legitimacy, whereby one and only one person is designated as primarily responsible for providing the information needed for registration and for statistical purposes, while at the same time establishing a strict order of substitutes, so that each of the parties designated as an informant can assume his or her responsibility; another option is to take a broad approach to legitimation in order to make registration as easy as possible, by designating a series of persons, in no particular order of priority, who can serve as informants on the strength of their certain knowledge of the occurrence of each vital event to be registered. The proposed draft law adopts this latter approach. The United Nations proposes a circle of individuals as informants, based on their close association with the occurrence of the event being registered. For example, in the case of births, those called upon as primary informants will be the mother, the father, or both, and the mother's nearest relatives. For deaths, the informants are stated in general terms to be the decedent's nearest relatives, who are presumed to be close to and to have direct knowledge of the death. In any case the informant should be duly identified by the established means, and his data and signature must appear on the pertinent record, as a guarantee in the possible event of criminal liability for uttering false statements.

120. However, at the time the oral or written declaration is made by the legally designated informant, he must be reliably accredited before the local registrar, since registration of the event constitutes legal proof of its occurrence. Of course, no proof is needed for marriages performed before the local registrar since he is a participant, but the procedure is different for religious marriages with civil standing, the celebration of which will need to be documented by the corresponding certificate from the religious authority. With respect to the registration of births and deaths, apart from the obligation of the designated informant to seek to have the events entered in the appropriate register, the declaration is accompanied by the medical certificate on the live birth or the cause of death, foetal or otherwise. The law must provide that the doctor, nurse, obstetrician, midwife or equivalent who was present at the birth or death is obligated to issue a certificate attesting to its occurrence, characteristics and circumstances, to serve as proof to the local registrar when taken in conjunction with the declaration. There may of course not have been any medical assistance, in which case the law should devise alternative ways to verify the events declared. Documentary evidence is of course preferable to that of a witness, and the latter should be accepted only in the absence of the former.

121. We have already alluded to the many different events and legal acts which need to be recorded in the civil register, which might lead one to believe that they all present different features and are not documented in any standard fashion. One is faced with a variety of events, each of which is outwardly different so that the means or instrument by which it is recorded will be different, and the characteristics of each one will need to be taken into account:

(a) There are, on the one hand, purely physical events, like birth and death, the occurrence of which will normally be documented on the basis of a declaration stating knowledge of the facts made by the legally designated informant, together with the corresponding medical certificate on the birth or death;

(b) There are some legal acts that the local registrar himself may be involved in legally documenting, since he authenticates them by his presence as a public attestor: cases in point are civil marriages or voluntary recognitions of filiation, the existence of which for registration purposes is based on the declarations made by the interested parties at the very registration office which is to record them;

(c) There are legal acts affecting civil status that arise out of court rulings of a constitutive or declarative nature: court decisions on adoption, determination of filiation, annulments, etc.;

(d) There are also notarized legal instruments: marriage agreements, recognitions, etc.;

(e) Legal instruments of a religious nature: certificates documenting the celebration of religious marriages recognized by the State;

(f) Certificates from registers abroad, where the documentation relates to the occurrence abroad of an event or legal act affecting a national of the country in which it is to be registered, etc.

In view of the above list, which is not exhaustive, it is just as well to be aware of the issues raised by the variety of so-called original documents - so as not to focus exclusively on medical certificates issued by professionals who may have assisted at the birth or given medical care to the deceased, as original documents accrediting the physical facts of birth or death - since original documents also include others categorized as public documents, since private documents are in principle outside the scope of civil registration.

122. When registering births and death - physical events that define the beginning and end of legal personality - the primary evidence in both cases is the compulsory declaration of knowledge of the events made by the individuals deemed by the civil registration law to be the best placed to have direct knowledge of their occurrence, based on their relationship or their attendance by reason of their occupations. At all events, and even though the law places restrictions on the persons authorized to make declarations of scientific fact, it is obvious that any person having certain knowledge of a birth or death can report it to the civil registrar, provided that such declaration is accompanied by the requisite medical certificate or, failing that, by whatever steps are deemed appropriate to verify it. The starting-point in the model proposed is that the legal relationship of those required to make the declarations should not presume any order of precedence, the understanding being that, within the time limits established in the civil registration law, any of the persons listed may report the event in question. Births and deaths should be reported within the legally prescribed time periods, and clearly the time allowed for reporting a birth may be longer to allow informants time to get to the registry office - usually 30 days. However, because of the intrinsic nature of the event and for public health reasons, deaths should be reported as quickly as possible, since until the death has been entered in the register, the burial permit will not be issued, except in exceptional circumstances where the usual regulations are waived on instructions from the health authorities or the Director-General himself; in addition, any necessary verification should take place within the established time limit, which should not exceed 48 hours from the time death occurred, although here too a minimum period for burial should be established to provide assurance that death has actually occurred; this time limit might be set at 24 hours, since a 12-hour limit would not be easy to comply with because

prior registration is required in all cases. Notwithstanding the strictly oral nature of these statements of fact, entry in the register would be expedited, without impairment of the necessary safeguards, if they were documented in questionnaires requesting the same information as that needed for registration and if they were signed and stamped by the registrar, or staff delegated for the purpose, since this would provide a public document that, together with the medical entry, would constitute the basic documentary evidence needed for subsequent recording of the entry of birth, which in turn would allow time for any necessary verification. In this case, the duplicate entries in the register would also be signed in person by the informant, or by legally established substitutes, without this preventing the registrar from signing them later when the full entry is made, and not at precisely the same time as the relevant declaration is received, which in practice would be physically impossible, especially in large urban centres where the registrar is unlikely to be present at all times waiting for informants to appear.

123. Although reporting is compulsory, most countries do not regard the report itself as sufficient evidence to register a childbirth or death; for registration, they require a proper medical certificate issued by the authorized medical professional who attended the birth or examined the deceased. The certificate issued by the professionals on the basis of their attendance at a birth, death or foetal death is one of the most important original documents, or documentary evidence, for use in documenting the occurrence of the vital event to which they relate. With respect to these original documents it should be made clear: (a) that they can only be prepared by the professionals authorized to issue them by the law of each country; (b) that only doctors can intervene and issue certificates for births, deaths and foetal deaths and that nurses and midwives can almost never play a part in or issue certificates related to deaths and foetal deaths; and (c) that their purpose is to serve as proof vis-à-vis the civil registrar and not third parties. They are thus the link between the occurrence of the vital event and its entry in the civil register. After registration the vital event can be proved only by the corresponding entry or by copies or certificates of it.

124. These medical details constitute the compulsory declaration made in respect of those events by the health professional involved in them and must be set down, free of charge, in a single, official document that is uniform throughout the country and, to avoid irregularities, is available exclusively to health professionals; after signature by the professional they are handed to the individual for presentation at the registry office, since it is usually the informant himself who takes the medical certificate with him when he goes to the registry office, without the professional having to appear in person, except at the request of the registrar if the handwriting or content is unclear. The duty to issue the medical certificate, and at no charge, should be covered in the general rules on penalties for failure to comply with registration obligations. The truthfulness of declarations about events and circumstances documented in medical certificates is guaranteed by virtue of the criminal liability incurred by uttering false public documents, since that is what gives medical certificates their official standing. Medical certificates must contain the personal and professional identification of the physician signing them, as well as the essential circumstances of the events being certified. The birth certificate should be issued by the physician who attended the birth, since he has certain knowledge of the childbirth; otherwise it should state that he has knowledge of the event from subsequent examination. The certificate should state, in addition to the time and date of birth, data on the mother's identity and the sources for such identity. As original evidence documenting the basic

events of birth and death, medical certificates and declarations by interested parties should be stored and kept safe in the civil registries of the place where the corresponding entries were made, since in these cases there are no other archives for keeping them.

125. Death certificates, which with minor variations are also used for foetal deaths, have special features that call for additional comment. They are extremely important from the public health standpoint because they collect direct information on many of the variables used to study the mortality risks to which the population is exposed. The World Health Organization (WHO) has paid considerable attention to this, especially with respect to the heading: causes of death. The classification of causes of death is a complex issue, not only because the range of possibilities expands as medical science advances, but also because more often than not two or more pathological processes may be involved in a person's death. Following the Sixth International Conference to Review the Classification of Diseases and Causes of Death (1948), WHO agreed to designate the cause for tabulation as "the main cause of death", defined as the disease or injury which initiated the chain of pathological events that led directly to death. At the same time, it recommended a model medical death certificate designed to facilitate identification of the main cause when two or more nosological entities are involved, and formulated a set of rules whereby the main cause of death could be identified using uniform criteria in all countries. The International Classification of Diseases and Causes of Death is revised at 10-year intervals to keep abreast of continual advances in medicine. The tenth and most recent revision was approved by the World Health Assembly in 1989 and is currently being phased in throughout the world to promote and ensure international comparability.

126. The medical portion of the death certificate should contain information on the personal and professional identity of the physician who by his official declaration is documenting the existence of unequivocal signs of death, the main cause of death, as well as the immediate cause, and the circumstances which must be stated in the registration record with respect to date, time and place of death, identity of the deceased, if known, and how it can be documented. If there are signs of violent death, the physician will immediately notify the registrar, who will suspend issue of the burial permit and report the facts to the competent judicial authority in criminal matters. The physician required to issue the certificate will be the physician who attended the deceased during his last illness, even if he was not present at the time of death; if death did not occur in a public or private health centre, death will be certified by the district physician or by a physician who at any time attended the deceased for his disease; finally, if the deceased did not receive any medical care, the certificate will be issued by the coroner or, failing that, by any doctor living within the registration area in which the death occurred, at the request of the registrar or on his behalf. Especially in this latter case, where there is no medical certificate, the registrar may in his official capacity make such checks as he considers appropriate before registering the death as described above, and is even authorized in his own right, with help from the requisite physician, to verify the circumstances of the death. The medical death certificate gathers both the main and the immediate cause of death. These data are essential for the statistical purposes accomplished by civil registration as they relate to public health. The cause of death is not an essential data item for legal purposes of registration, and, because of the obligation to safeguard the privacy of the deceased and his family members, it is therefore not necessary, nor even desirable, that it be recorded in the entry; accordingly, it should be recorded only in the statistical report, which should be a separate document

from the registration record. The medical death certificate, together with the duly documented declaration of death, should be stored and kept safe in the same registry office where registration took place, as original documentary evidence of an individual's death, so that corrections can be made later in the event of registration errors or investigations into liability for falsification, and so that parties who have a legitimate interest can, subject to prior authorization by the registrar, obtain certification of the cause of death.

127. As far as foetal deaths are concerned, attention has already been drawn to the importance of their compulsory registration, irrespective of length of gestation, for purposes of public health statistics. The individuals who are required to report a birth are also required to report the delivery of a dead foetus. Reporting a foetal death does not generate an entry in the civil register as it is not of interest for legal purposes, but it is covered by the general rules on deaths in the sense that the physician who attended the mother is required to certify the foetal death and to report it directly to the registrar so that the statistical report can be prepared. In this case, issuance of the permit to bury the remains is made dependent not on registration, which is not compulsory, but on preparation of the statistical report. As far as possible, the declaration should contain the approximate time of foetal death and whether death occurred before or at delivery, together with any other circumstances that may be relevant to the death of the foetus. Notwithstanding these provisions, the fact remains, as already discussed in connection with the general issues surrounding foetal deaths, that the lack of uniformity in the different countries regarding the legal concept and the gestation period after which it is compulsory to report foetal deaths, as well as the absence of medical attention in many cases, especially those occurring in the first few months of gestation, are all factors which distort the system for collecting data on these deaths, which hampers the production of reliable statistics since it is difficult in practice to enact measures to compel declaration of these events. The least that can be done to ensure foetal deaths are registered wherever possible is to require the physician to issue a certificate documenting the foetal death and forward it to the registry office, irrespective of gestation period - although, as reflected in the draft law, this can apply only to cases where medical assistance was provided - it being unrealistic to expect the parties concerned to furnish this information, because their expectations have been dashed and they usually leave the remains at the hospital.

128. It should be borne in mind that it will sometimes be impossible to obtain a medical certificate to document the occurrence of a delivery or death. Absence of the usual documentary evidence may be traced to specific situations, for example the existence of marginal population groups, or to geographical remoteness, which makes it hard for people to reach hospitals or to receive proper medical care. Less commonly, there may be a contradiction between the declaration and the data on the medical certificate issued. In both these cases, giving the local registrar authority to verify the facts empowers him, within the time prescribed in the civil registration law or regulations, to arrange for whatever steps he feels are needed to confirm the facts, or supply those that are missing, and thus fill in the blanks or resolve discrepancies. For these purposes, the registrar should have access to the necessary auxiliary medical personnel, assigned to the local office, to carry out such checks and supply or complete the missing data. If no medical personnel are available to the registrar, he may seek assistance from the coroner attached to the law enforcement authorities, or to the physician living nearest the place where the registrable event occurred, who will be required to lend such assistance. In

the absence of medical assistance of any kind at the time of or subsequent to the occurrence of the registrable event, the civil registration law will set out alternative evidentiary measures, usually based on statements of knowledge by two persons who were present at or have certain knowledge of the events reported -- birth and death. For both births and deaths it may be necessary to make additional checks in order to properly document the event and its circumstances, and for this reason the event reported may not be entered immediately until such checks have been made.

129. Probatory evidence documenting the celebration of a marriage will vary according to what forms of celebration a country's laws admit. In the case of a civil marriage authorized by the registrar in full compliance with the civil registration law, none is required because celebration and registration are performed in a single act; the registration record is prepared at the same time as the marriage is performed and contains all legally required data, although there is a need for some prior formalities to establish that the contracting parties are marrying of their own free will and legally able to marry -- these usually have to do with mental fitness and the absence of prior marital ties, as well as specified impediments due to being closely related, and should be settled with the competent registrar in advance so that the marriage can take place legally; they should also be documented for subsequent storage and safekeeping in the registry office. The formalities must take place before the registrar of the registry office in the domicile of one of the contracting parties, which is considered the only registry office competent to authorize the celebration of the marriage. With respect to the venue, it makes sense to provide that as a general rule marriages can take place only at the registry office itself, on the day and time appointed by the registrar, even though marriages may on an exceptional basis take place outside the registry office. The reason for allowing exceptions is that in large cities the number of marriages to be held outside the location of the registry would prevent the registrar from performing his normal work. Thanks to the principles of territoriality and legal personality that govern the civil registration function, it is possible to perform and register both civil marriages between nationals held within the country or abroad, and civil marriages between foreign subjects that take place on national soil.

130. In the case of religious or any other form of State-sanctioned marriages, registration is restricted to those that comply with State norms based on agreements with the respective religious denominations or conform to the cultural characteristics of particular ethnic groups; it will therefore be necessary to review the provisions of such agreements in order to establish what civil standing is accorded to marriages celebrated in conformity with the norms of the State-recognized religious denomination or the cultural characteristics concerned. In such cases, the original documentary evidence of a State-sanctioned religious marriage will be the religious certificate issued by the celebrant, which must be forwarded to the registry office of the place where it was performed for registration, either by the religious authority or by the contracting parties in person. These certificates, which constitute the original documentation, must contain the data required for registration purposes in terms of identifying the contracting parties and any individuals who may have taken part in establishing their capacity, and the power of attorney if used, as well as the witnesses, place, time and date of the ceremony, documentation of consent as prescribed by law, the identity of the celebrating authority, and his signature. These original documents should be stored and kept safe in the civil registry where registration took place. For jurisdictional purposes, all

religious or legally recognized marriages celebrated on national soil between nationals or aliens must be registered.

131. Similarly, marriages celebrated abroad by nationals in any civil or religious ceremony accepted by the host country may also be recorded in the civil register, under the principle of legal personality, through the corresponding consulates, who must vouch for the fact that all local legal formalities have been complied with and that the essential requirements for marriage in terms of capacity, absence of impediments to the union, unlawful relationship, etc. and mutual consent are consistent with the marriage regulations of the parties' home country; this will usually be documented in the certificate issued by the competent local authority vouching for the valid celebration of marriage pursuant to local law - which will generally also be accredited by entry in the local register where the marriage took place - as well as in the corresponding certificate issued by the authorizing entity. These documents will be presented to the consul for forwarding to the central archive, or directly to the consular registry, for registration, after it has been verified that the documents are authentic and the act conforms to the country's internal legislation. The original documents will be stored and kept safe in the central archive. In all cases, a ruling denying entry of a marriage which has already taken place may be appealed to the Director-General, without prejudice to resort to the ordinary courts to have a marriage declared valid, in which case the final court ruling to this effect should be registered as original documentary evidence of the marriage, the appropriate place for such registration being the civil register where the marriage took place or, if the marriage took place abroad, the central archive, provided that it is legally authorized to register events affecting the civil status of nationals resident abroad. As for registering marriages abroad between legally resident aliens, there would seem to be no interest, in terms of the legal purposes pursued by civil registration, to record them since they do not meet either the territoriality or the legal personality criterion which ought, as discussed earlier, to govern the registration function - whatever their relevance may be for statistical purposes, for which legal provision can be made to make it compulsory to declare such events for registration or, at least, to complete the corresponding statistical form. Should such marriages not be registered, the parties concerned can prove to third parties that they took place by producing the documentary evidence in accordance with the legislation of their home country. This is different from the case where an alien acquires the nationality of his country of residence; here, a marriage celebrated abroad in accordance with the law of an individual's home country should be registered since it affects a naturalized person. Any validly performed marriage should be registered at any time, even after the death of the contracting parties, at the request of an interested party upon presentation of the corresponding documentary evidence that it took place.

132. Reference must be made to the traditional practices found in many countries, mostly in Africa and Asia, which have forms of marriage with unusual features based on deep-rooted customs. These are described variously as consensual, traditional, sociological or customary marriages. Many marriages performed according to religious or tribal ceremonies are not recognized by the civil laws of the State and are therefore not registered; as a result, the registration method yields no reliable data on these marriages that take place outside the law. Although these consensual forms of marriage are not required to be registered, ways can be devised to have them reported for statistical purposes so as to provide the information needed for demographic and sociological studies. This would mean making it compulsory for contracting

parties to report a customary marriage at the civil registry solely for the purpose of completing the statistical report, such as is done for foetal deaths.

133. As an exceptional case, reference should also be made to marriages celebrated in imminent danger of death. Based on the general rule that marriages should be celebrated after the corresponding file has been processed to document the capacity of the parties to contract marriage, at the registry office in the domicile of either party, it should be understood that, in order for it to be lawful for a marriage to be performed in this fashion, as an exception to the general rules - no prior file is required, and the marriage of an individual not residing in the locality may be authorized - simple illness is not sufficient; there must be a bona fide grave reason, documented by the parties concerned, or a reason that presupposes a risk of imminent death. Assessment of whether or not the circumstances are compelling will be left to the discretion of the registrar, who may request submission of a medical certificate attesting to the risk of death. Once the urgency of celebrating the marriage has been established, and the possibility of appearing in person at the registry office has been ruled out, the pre-marriage formalities can be reduced to a minimum; the registrar should appear at the place where the contracting party at risk of death is located to proceed with the marriage in the ordinary manner, in the presence of two qualified witnesses as required by the country's legislation; in all cases, there must be a record of the mutual consent of both spouses, which may on occasion require that the mental capacity of the sick party be verified, possibly with the help of a physician to assess the mental state of the contracting party in terms of consenting to the marriage freely and consciously. The registrar is required to perform these marriages even if it has not been documented beforehand that the parties are free to enter into marriage, and they are deemed to be valid civil acts immediately afterwards. Documentation of the act of marriage must be based on a record or statement of the essential data and requirements on a printed model identical to that used to register a marriage; this documentation will be signed by the contracting parties, the attending witnesses and the registrar and will constitute the original documentation that will in due course lead to registration, since it does not have to be registered until it is documented that the marriage meets the criteria required for any marriage to be held valid according to the law of the land - capacity, absence of impediments, etc. Once these formalities have been documented, and even if the contracting party who was ill dies, the registration of the marriage will be entered, together with an express reference to the fact that it was performed in imminent danger of death and that the union was subsequently verified as valid. In all cases, the marriage will be valid from the time it is performed.

134. Although registering vital events supported by the corresponding original documents converts the registration record into the pre-eminent form of documentary proof, as a general rule, and with respect to the original documents pertaining to entries of births, marriages and deaths based on declarations by the interested parties formalized at the registry office or in certificates issued by the relevant authorities or medical personnel, it is vital to make it compulsory for the civil registries themselves to store and keep them safe for the purpose of making entries. However, the rules on the safekeeping of original documents can differ from those on the complementary notations that have to be made to the corresponding entries of births and marriages, since in these cases, specifically enumerated in the civil registration law, it should be recognized that the original documentary evidence underpinning those records that have to be annotated in the civil registries in which the relevant entries reside, is public in character since it was issued by the competent judicial,



notarial or administrative authorities: court rulings on adoption, determination of filiation, divorce, annulment, judicial separation, etc.; legal instruments of recognition, marriage agreements, etc.; administrative rulings on name changes, nationality, etc. Accordingly, and only in cases where the corresponding archive is available, it will be sufficient to present an authenticated copy of the original document for purposes of making the complementary notation, without it being necessary for the civil registry where the notation is being made to store such documents, since their originals will be on record in the court, notarial or administrative files, as the case may be, where they can be consulted at any time at the request of interested parties or, ex officio, by the registrar, regardless of how much time has elapsed since they were recorded.

135. It should be borne in mind that, even though the civil registration law makes it compulsory for informants to provide information on the principal civil status events within specified time limits, imposing penalties for non-compliance, the fact that those limits pass without triggering registration can under no circumstances prevent the events from being registered at a later date if the register is to reflect the outside world as accurately as possible and accomplish its mission. The management of the civil registration system and the public at large must work together to reduce late registration, for which there are a variety of contributing factors: at times, it is attributable to structural or physical deficiencies in the registration system itself; at others to the individual's indifference or ignorance of the immediate, as well as medium- or long-term advantages of civil registration, both to the individual himself and to society. The complexity of the cases which arise in real life and the existence of marginal population groups dictate that registration legislation should devise the necessary measures to ensure registration of events not entered on time. For example, after expiry of the 30-day time limit following a birth, which under the civil registration law is the normal time allowed for the designated informants to report it, no constraints or time limits should be placed on requests to register unreported births, although it is necessary to follow the prescribed registration procedures since a simple declaration and the corresponding medical certificate will not suffice in such cases; indeed, it will be necessary to make a number of checks on the truthfulness and accuracy of events reported after the allotted time. The registration process should facilitate such late entries but not neglect the necessary safeguards to avoid duplicate entries in the register for one and the same event, which can result in multiple references to identity for purposes of concealing the true identity, and to avoid the registration of events that did not occur on national soil, which may have repercussions in terms of the regulations governing the attribution or acquisition of nationality of the country in which such entry is attempted. With this in mind, and to streamline the processing of such entries, the registrar of the local office at which the missing entry ought to be made should be given full executive and decision-making powers and may in his official capacity investigate the facts through the competent public agencies, notably the law enforcement and identification services. The necessary coordination between civil registration and the identification services requires that this service must provide the corresponding identity card based on a registration certificate issued for this sole purpose, and that its issue be compulsorily annotated on the birth record. The decision by the registrar to accept or deny the missing entry will be open to appeal through the regular appeals system.

## 2. Registration record

### (a) Vital event record

136. Once a vital event has occurred and the original document (documentary evidence) has been issued, or, failing that, once the evidence of witnesses has been presented to the local registrar to vouch for its occurrence, the State takes official note of it by recording it in a specially designed document, the registration record, which is permanent and intended exclusively for legal purposes. The data it contains come partly from the original document and partly from the informant. If there is no original document, the witnesses vouch for the event and assist the informant in providing the data needed.

137. Preparing civil registration records is the essential legal function of civil registry, since its entire arsenal of documentation is held up as customary proof of all vital events registered. Apart from the universal effectiveness of such proof, registration legislation may opt to provide that entries are merely declarative in character, or to construe entries as integral components in the effectiveness of legal acts which are documented by registration. In the case of live births, deaths and foetal deaths, it is obvious that, as physical events of legal significance, they occur whether registered or not, so that registering them is of only declarative value anyway. In the other cases, such as the celebration of a marriage in a legally approved manner, court rulings on divorces, annulments or separations, adoptions and recognitions of filiation, the fact that entries are invested with constitutive standing can be seen as an incentive for enhancing the integrity of civil registration. In other words, the legal acts in question will have no legal validity between the parties or vis-à-vis third parties until they have been registered in the legally prescribed manner. Entry in the register thus endows them with constitutive value and is construed as a further element consolidating the legal act concerned.

138. A registration record is legal proof of the occurrence of vital events and legal acts and is central to the legal system by which families are organized. It should therefore be kept permanently and always contain the identity and signatures of the informant and the local registrar. There should be one for each vital event, and they should be uniform throughout the country. It can take the form of a book, individual sheet (loose-leaf) or card, on which the local registrar enters the occurrence of vital events and acts for legal purposes. Registers can therefore be of three kinds: book, individual sheet, or card. The first is still used in many countries, apparently for historical reasons, because the immediate precursor of the civil register is the parish register, which has always used books. However, this preference does not mean it is best suited to the modern age, especially with the technology available today. The chief advantage of cards over other kinds is that simply arranging them alphabetically produces an excellent index of entries, at no extra cost and without errors in transcription. This solves once and for all one of the most irksome problems facing registration systems: the inability to retrieve a particular entry quickly and reliably in response to requests for copies and certificates.

139. There are many international recommendations on registration records, but none specifically on what kind to adopt. This choice has been left to the countries, so that they can take into account all the factors involved, such as political and administrative subdivisions, degree of sophistication of civil registry, educational attainment and technical skills of employees, etc.

However, the most influential factor appears to be each country's family law. In countries where family legislation harks back to the Napoleonic Code, or was influenced by it or by the age-old laws of Spain or Portugal which have so much in common with that Code, possibly because of their geographical proximity, civil registration was first developed as a means of organizing the family, a function later expanded to the gathering of vital statistics data. The same situation is found in the territories that used to be colonies of those countries, like Angola, Mozambique and others, because by and large they took over, en bloc and virtually unchanged, the legislation of the colonial power. Conversely, Anglo-Saxon countries, uninfluenced by French legislation and with their own well-established traditions, were initially moved by the need to quantify and identify the characteristics of their population using vital statistics, and, although they used the registration method, civil registration was not developed as an agency as such. Eastern countries, for their part, with their centuries-old traditions in matters of family and names, have kept their customs and forms of organization, which differ from those of the western world. The most viable approach is therefore felt to be that each country should gradually develop its own system, rather than abandon the organizational approach rooted in its own traditions and legislation in order to adopt that of another country.

140. The Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects, 2/ paragraphs 194 to 252, describes the registration record and compares its three types in terms of: space and storage; safety; and cost and flexibility of handling. It is recommended that it be consulted. Its findings can be summarized as follows:

(a) The three types are much the same as far as space and storage and safety are concerned;

(b) In the long run, cards may prove less expensive than book registers or loose-leaf binders;

(c) It is easier to handle cards and loose-leaf forms than a book register, an aspect dealt with at length in the Handbook. An added factor is the electronic forms available with computer technology.

141. Although the loose-leaf or card systems are considered advantageous for the easy retrieval of data, as the records can be filed alphabetically by name, and for their greater ease of handling, it should not be forgotten that both systems have the drawback that it is easier to commit irregularities by substituting or falsifying the cards or sheets, as well as to simply misfile them, making subsequent searches difficult. Compared with the obvious mobility and speed associated with systems based on cards and loose-leaf forms, books provide better assurances that records will be more closely tied to the dates on which entries were made, making it more difficult to mislay them, although the time-worn, rigid method based on handling books has serious drawbacks when modernizing the civil register, not to mention the difficulties it poses when the civil registration function is computerized. Be this as it may, despite its undoubted drawbacks, most countries tend to stick to the system of books, divided according to the vital events registered, which, if used in conjunction with a suitable card system based on card indexes for each basic entry - birth, marriage, death, divorce - enables the registration record to be looked up in indexes. These cards will include the name as the main distinctive element for purposes of alphabetization, the date of the event to which the entry relates,

and information on where it is registered - book, page, etc. These cards should be uniform in format and officially printed.

142. Whatever system is chosen to record the events that the State acknowledges as official by virtue of their entry in the civil register, the main thing is to establish the formal rules governing the way events are documented. The primary choice is between the transcription system, where at least the substantive portion of the registration record is a literal copy of the original document, and what is known as the entry method, where the substantive data are taken from the original document and transferred to a series of boxes on the official forms prepared and distributed by the Directorate. The general principle of simplification which ought to apply to administrative work argues in favour of dispensing with the transcription and opting for the entry method, which unquestionably makes it easier to record the essential data on the event or act being registered, since the entry of data is predetermined by the arrangement of the boxes. Designing official printed forms for entering the data in the various boxes will also make it easier to incorporate new technologies. The entries thus become the registration records used to certify vital events, consistently and as the preferred form of proof; accordingly, although different terms may be used when referring to entries and complementary notations, the content of both kinds of entries should be understood to refer to the substantive aspects of the event they document, and both are equally valid as evidence of the event in question. It is therefore advisable to use the term register entries to describe both entries and complementary notations. By the same token, both kinds of entry are intended to be consistent and permanent, although both may subsequently be modified following the appropriate procedures should this be necessary. In any event, civil registration will use only the official forms approved and distributed by the Directorate, which should be printed on good-quality paper in the interests of long-term storage; security measures can also be taken to make the paper used in registry offices difficult to falsify or tamper with, which is especially important if it is decided to use the card or loose-leaf system. The registration forms for each register - births, marriages, divorces - will be identical throughout the country and should be numbered consecutively by year for control purposes.

143. Registration records will be in the custody of the registrar, who will notify the Directorate of any imminent danger to them - risk of fire, flooding, etc. - so that appropriate measures can be taken. The records will be prepared in duplicate, and registrars of local offices will be required to forward periodically to the central archive one of the copies for storage and safekeeping, which must then remain in the custody of the head or registrar of the central archive. Steps must therefore be taken to make sure both copies are identical. This will be done by using photocopies that faithfully reproduce the essential data on the entry and must be signed by the informants and the registrar. If photocopies are unavailable, the entry may be made on copying paper to produce a single additional copy of the entry, and finally, if both copies are written out separately, they must be checked for any discrepancy that alters the content of either, both copies being read to the informant and where appropriate to the witnesses, who then sign both copies. Although both copies have the same evidentiary value, in the event of any discrepancy between them, the one sent to the central archive is deemed by the draft law to be the original. Since there may be several complementary notations to the same main entry, it will be necessary to arrange to have more than one page on which to make them; the number of this page should similarly be keyed to the entry to which it is being added, or duplicate documents should be prepared in a binder for easy entry of all complementary notations, without creating space problems

or extra loose sheets that might be mislaid. As a further aid to uniformity of entries in the register, the Director-General should also prepare models or stencils of the complementary notations provided for in the law, so that with the aid of stamps it is possible to fill in only the spaces left blank to capture the specific data for each notation; this is then dated and signed by the registrar based on the public document submitted. This speeds up and standardizes the making of notations and avoids mistakes.

144. Other formal rules for preparing registration records could include the requirement that they be written in a clear hand using indelible ink, assuming that they are prepared by hand to begin with in the absence of mechanical aids that make for improved legibility and longer preservation of the record. Since the registration record is used as proof, it should be safeguarded from changes, which means that the law or its regulations should ban erasures, additions, insertions between the lines, etc., although, to allow for the possibility of errors when making entries, formal rules should be enacted to make exceptions for such mistakes in the record itself, for example, by providing that the word that is wrong or superfluous be underlined, the error or omission then being noted at the end before the record is dated and signed by the registrar and informants. No entry will be signed by the registrar unless the informant is personally aware of its content or unless, if he is unable to read, the registry employee who physically made the entry has read it to him. Once registration records have been signed, no change whatever may be made to them other than by court action or by following the prescribed registration procedures. If the mistake is too serious to be salvaged, the sheet should be withdrawn from use but not destroyed, for example by crossing it through in ink so that it cannot be reused, even if its contents are still legible, or by stamping it "void" or "cancelled". Similar action will be taken if a registration record is cancelled, but in such cases a notation should be made referring to the judicial or administrative ruling authorizing cancellation; for instance, a judicial decree annulling a marriage means that the relevant registration record is invalid and must be cancelled. All unused or cancelled records must be kept in numerical order and also forwarded to the central archive.

145. Whatever system of registration is adopted, filing conventions must be followed for purposes of storage and subsequent retrieval for certification. The book system allows each local office to keep files by different types of official books, made by binding together the forms for each section of the register - births, marriages, divorces, and deaths; entries in these will be made in chronological order, and the system is rounded out with an alphabetical index at the end of each book and a card index system kept in alphabetical order, stating the date of the entry, as well as the registration area, volume and page number in the book to facilitate retrieval. If books are used, they are kept in duplicate so that one copy can be forwarded to the central archive once all pages have been used; the general rule in such cases is that they may not be removed from the registry office unless they are otherwise in danger of being destroyed, e.g., because of flooding, fire, rodents, etc. This ban, which is protected by the custodial duty incumbent upon the registrar, implies that registration work that has to be performed outside the registry office, for example, marrying an individual in imminent danger of death, will be documented on a form that will become the original document on the basis of which entry will subsequently be made in the register, once it has been established that the legal prerequisites for the validity and effectiveness of the marriage have been met. Card and loose-leaf systems based on official printed forms, duly numbered by year, can be filed alphabetically and chronologically according to the different main entries. With the loose-leaf system, acts which have to be

performed outside the registry office can be documented directly and in duplicate on the official form, which will then be filed and stored at the registry.

146. The draft law presented in this Handbook does not specify any particular type of registration record, so as to leave the Director-General of Civil Registration at liberty to recommend and adopt the one that best suits the country at a given time. However, it does suggest that an alphabetical index be prepared for each type of vital event, within each registration area, to help the registrar to locate records or entries quickly for certification purposes or to provide other services to the public. This index is extremely useful both for an archive kept manually and for one that uses computer aids or other modern storage tools. The index will normally be built around an individual's given name and surnames. The way names are formed varies from one region to another and from one country to another. In Latin America and some European countries one or more given names are used and, if possible, the surnames of the mother and father, the idea being to show descent. In China, the names used are traditional, going back more than 2,000 years, and are in reverse order, that is, the surname first followed by one or more given names; the written language consists of characters, and given names and surnames are usually made up of three characters, the first being the surname and the second and third forming the given name. The surnames are not derived from the parents' names but may be freely chosen. In Sweden, surnames do not necessarily come from the parents and, within certain limits, can be changed, for example, on the occasion of a marriage. In some countries of Asia and Africa, and also in some indigenous communities in Central and South America, the father's and mother's surnames do not form part of the structure of the surname; and in the Arab countries, people traditionally use several names, but not surnames. The upshot of the foregoing is that, whatever the convention may be, everyone has a name that identifies him or her. If the register is based on cards, registration records can be filed and stored by name in an alphabetical or equivalent index. It is worth noting that the same difficulties will need to be addressed if it is planned to use electronic means to compile the alphabetical index. The key is to use a uniform method at all the country's local civil registries so as to keep the records properly arranged and filed both locally and in the central archive. The central archive will need to provide input to the civil registration database (and the vital statistics database if desired) if and when computer and other technologies are introduced into its operation.

147. As far as the handling of registration records is concerned, the following precautions, which are also written into the draft law, should be observed:

(a) Whether they consist of cards, loose leaves or books, the registration records are printed and numbered consecutively for administrative purposes and to permit strict control. This number should not form part of the entry, but can be placed, for example, in the lower left-hand corner, preferably outside the margin. This enables a record to be kept of how many and what kind of documents are issued for use by each local registry office;

(b) Under no circumstances may the local registrar destroy any record, which is a punishable offence. If he skips one by mistake, he must cancel it and send it along with the rest (if it is a card or separate sheet, or write "cancelled" on the page if it is a book) in his periodic batches;

(c) Both in the local registry and the central archive, records must be filed in accordance with the procedure adopted by the Directorate of Civil

Registration for use throughout the country. It should be recalled that, if cards are used for the register, simply filing them alphabetically by name of registrant, type of vital event, and local registry office, will facilitate their immediate retrieval; cards on marriages can be arranged by name of either husband or wife, depending on each country's tradition, provided the same procedure is followed at all local registry offices and at the central archive. In the case of books, these will be arranged by type of vital event, in chronological order of registration, and by registration area. Loose leaves offer more flexibility for filing: in alphabetical order, by date of occurrence, etc. For additional details on ways to prepare and store civil status and vital event records, see the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects, 2/ paragraphs 194 to 230;

(d) A space can be reserved at the top right-hand corner of the records to print the serial number the record is to be given in the archive. This also serves as an administrative check that can be used in the local office and the central archive at the end of each calendar year; if cards are used, the number will be added after they have been arranged alphabetically. The number shows how many records have been produced each year and thus how many the central archive and the local office have in their care. In addition, if cards are used, the number will help in managing the archive better, which greatly facilitates orderly upkeep of the card index;

(e) Registration records should be filed each day in alphabetical order and by type of vital event, if they consist of cards or loose leaves, both in the local offices and in the central archive. Books are automatically arranged by registration date and type of vital event.

148. We discuss below a series of special cases involving the registration of vital events, in order to examine selected features of the registration records produced by the civil registration method designed in the draft law.

149. The proposed draft assumes that the main records will be for live births, deaths, marriages and divorces, and that the other vital events that the United Nations recommends be registered, i.e., legitimations, recognitions, separations and annulments, will be recorded as complementary notations, except in the case of adoptions, as we shall see below. In cases of filiation, however, there is nothing to prevent making a fresh entry of birth recording the new data on the registrant's filiation, while ensuring the necessary link between the two entries.

150. When it comes to registering adoptions, account must be taken of the social sensitivity surrounding this legal construct, which means that registration should be handled according to special procedures that always take account of the country's regulations regarding the institution of adoption, the kinds of adoption recognized, and the civil consequences of each. The original document used to inform the civil registry of an adoption should be a legal instrument issued by an authority recognized by the State as competent to issue it, which usually means a court ruling or notarial document. Following submission of these original documents to the civil registrar, the act can be registered by either of two methods: (a) simply by making the corresponding complementary notation on the adoptee's entry of birth, without the need for any further action by the registry, such as making a new entry of birth based on the information resulting from the adoption, and imposing the rules on restricted disclosure by legally determining the only persons authorized to obtain the

corresponding registration certificate; or (b) in what is seen as the best way to safeguard the right to personal and family privacy of those directly involved in the adoption, by making the complementary notation concerning the adoption on the adoptee's original entry of birth, except that this notation will void the latter, and a new entry of birth will be made recording only the data on the adoptive parents and other registrable circumstances reflecting the manner of adoption, for example, whether it involves a change in the adoptee's surnames. This new entry will still be subject to the general rules on certification set out in the civil registration law, so that those with legitimate interests may obtain full or partial certificates based on the entry. With respect to the original entry that was cancelled in accordance with any applicable formal rules established by law or regulation, and to ensure the adopted status is kept strictly confidential, no certificates may be issued other than at the direct request of a judicial authority. Notwithstanding the foregoing, it might also be considered desirable for adoptees, upon reaching their majority and subject to prior authorization by the registrar, to be given direct access to the original entry in order to guarantee their right to learn their own biological identity. When the original entry is cancelled and the new entry made, appropriate reference notes will be written on both to establish the necessary concordance between the two records. The reference note on the new entry of birth will under no circumstances appear on any certificate, in order to ensure that the interested party does not learn of his or her adoptive status from the data appearing on that record. It is stressed that this is the most suitable procedure for safeguarding the right to personal and family privacy of those involved in an adoption, but it is emphasized that if it is to be used it must in all cases take into account what effects the institution of adoption has under the country's internal legislation and whether an adoption is considered to be full and irrevocable, in the sense of constituting the complete severance of all ties to the biological family, since not all international adoption arrangements have the same legal effects.

151. With respect to the issues that arise when registering so-called international adoptions, where an alien child is adopted by nationals and the adoption takes place abroad pursuant to the rules in effect in the place of adoption, the first step is to establish what registration organ has jurisdiction over the corresponding entry; in keeping with the organizational structure described earlier, this can be the central archive, assuming it has been given jurisdiction over the entry of vital events affecting nationals and occurring abroad. For purposes of making the corresponding entry of birth in the register to reflect the adoption abroad by adoptive parents who are nationals, it must first be ascertained whether adoption, as a legal institution, is essentially the same in terms of its regulations and effects as in the home country. The original document to be presented in these cases will be the relevant decision by the foreign authority competent to formalize adoptions and the foreign birth certificate of the adoptee, as a means of ascertaining the essential data on the birth. After these foreign documents have been authenticated and the act of adoption has been found to be legal under internal law, the entry of birth of the adoptee will be made; it will contain only the data relating to the adoption and exclude reference to any biological data concerning the adoptee that may appear on the original birth record. The original documents on which the adoption is based will be stored by the registration organ competent to register the new entry of birth, to accommodate any interest the adoptee may later have to learn his or her biological origins, either directly, if this option is selected, or by establishing the requirement that the original documents which led to the new entry of birth as a result of adoption may be accessed only at the request of a judicial authority.



152. To register the dissolution of marital ties by reason of divorce, it is considered desirable, in line with the relevant international recommendations, to create a separate, special register exclusively for divorces. After the final judicial decree documenting the divorce between the parties has been submitted to the civil registry, two entries will be made in the register:

(a) First, the divorce will be entered separately in the corresponding register of divorces, using the official printed form prepared for that purpose according to the system selected for the written registration of events - card, loose-leaf or book. This record will contain the basic data on the identity of the contracting parties, the essential circumstances of the marriage being dissolved, with a reference to the pertinent registration record, as well as substantive data relating to the judicial authority granting the divorce decree, and its date. Jurisdiction for making this independent entry will rest with the local office in the place where the divorce decree was handed down. Because of the tremendous importance, in terms of certainty in legal dealings that attaches to the dissolution of marital ties and to the change in the financial status previously applicable to the marriage, there are grounds for broadening the circle of persons with a legitimate interest in obtaining certification of a divorce, and not restricting it exclusively to the spouses themselves or their legal representatives. The necessary balance between the interests of third parties and the right of those affected to personal and family privacy requires that, if a certificate is requested by a person other than the interested parties, the registrar may authorize its issue if it can be documented that it is requested for a legitimate reason;

(b) In addition to preparation of a separate registration record documenting the divorce, the original document containing the decree will also be the subject of a complementary notation to the corresponding entry of marriage in order to make the necessary link between the marriage and its dissolution by reason of divorce. If a partial certificate or extract of the marriage is requested, it must always contain a notation of the divorce, which must include particulars of the authority which issued the decree and its date, as well as appropriate references to the divorce record; for this reason, this record must be made first, so that the corresponding notation may subsequently be made in the civil register of the place where the marriage was registered.

(b) Certificates

153. Once the contents of the original documents have been duly noted, giving rise to either entries or complementary notations, as the case may be, the act of registration transforms this non-registry evidence into registration records that carry the pre-eminent probatory force conferred on them by law through the establishment of the presumption that the civil register is accurate for purposes of truthfulness, accuracy and legality, thereby providing individuals with official and permanent means of documenting the occurrence of vital events affecting their civil status. However, registration work involves more than mere note-taking following prescribed procedures. The primary purpose of civil registration - to furnish legal proof - means that individuals with legitimate interests can obtain from the civil register registration records that reflect its contents. The basic way of extracting data from the register is by a certificate, which can also be regarded as a registration record in that it is the normal means of disclosing information contained in the register; it consists of a copy or transcript, full or partial, of entries in the register, authenticated by the local registrar or the registrar in charge of the central archive, or by persons with delegated authority to sign - in large cities the

number of certificates issued daily makes it advisable to devise ways to delegate signatory power to qualified registry personnel in order to facilitate and expedite the issue of certificates. Authentication implies confirmation that the certificate being issued faithfully conforms to the registration record to which it relates and which, in the event of discrepancies in the content of both documents, is referred to as the master copy.

154. With respect to persons entitled to apply for certificates, there is a duty to safeguard the right to privacy, but this right must be balanced against the need to grant authority, through the civil registration system, to issue certifications of the registration records of events that may affect third parties, based on the principle of certainty in legal dealings. It is therefore advisable that the circle of those eligible to seek disclosure of records be widened to include not only the interested parties themselves, or their legal representatives, but also spouses, ascendant and descendant relatives, and heirs, and even third parties able to prove a legitimate interest. In these cases the registrar can authorize the issuance of certificates after satisfying himself as to the relationship to the registrant or the legitimacy of a request for a certificate.

155. Certificates can be full or partial. Full certificates involve the literal transcription of the registration record to which they relate, including all items of the record. In cases involving adoptions, which in most countries are subject to the utmost social sensitivity, the guiding principle is to observe strict confidentiality by opting for a registration system that cancels the original entry and creates a new entry of birth containing references only to the identity of the adoptive parents and not to the fact of adoption. There is no problem in issuing certificates based on this new entry to those legally eligible to obtain them, since in no case would the adoption be shown. In any case, as already explained in the discussion on how adoptions should be registered, account must be taken of the country's regulations on adoption and the types of adoption recognized, notably whether or not all ties with the adoptee's biological family are severed. Certificates relating to original entries of birth cancelled by reason of adoption may be issued only at the request of, or on prior authorization by, the judicial authority, although provision should be made for interested parties, upon reaching their majority, to personally obtain a certificate of the cancelled entry to satisfy their basic right to discover their biological origins.

156. Partial certificates will refer to the essential data in each item of the record, bearing in mind that, if there are complementary notations that alter the substantive content of the entry, this must be stated on the partial certificate; thus, in the case of a partial certificate of a marriage, if there are complementary notations referring to marital agreements or to a judicial decree of divorce, annulment or judicial separation, they must always be stated. Similarly, in partial certificates of birth, even though the entry of birth does not in and of itself prove the registrant's filiation, any complementary notations involving changes in name or surname pursuant to the country's legislation on the establishment of filiation, and its repercussions on the data relating to the identity of the person legitimated or recognized, must also appear on any partial certificate that is issued.

157. The issuance of certificates will need to be tailored to the technical sophistication of the registration system in place; if it is rudimentary and lacks photocopying facilities, full certificates will have to be handwritten or typed; as a practical matter this will slow the procedure down, increasing the

demand for partial certificates. Conversely, in registration systems with better technical facilities it will be easier to reproduce entries by issuing full certificates in the form of photocopies of the actual records. Both kinds of certificates should be issued on the official forms approved by the Directorate, duly numbered and on suitable paper which will also be supplied by the management centre. Full certificates, regardless of how they are reproduced, will invariably be issued on official paper, stamped, chronologically numbered, and sealed.

158. The law should establish a period within which full or partial certificates are to be issued, say five days; if a request is denied for reasons of restricted disclosure, denial should take place within the same period. If a request for a certificate is denied, the applicant may appeal the decision to the Directorate, which is competent to rule on appeals filed through registration channels. The certificates issued are public documents which attest vis-à-vis third parties to the occurrence of the event and the circumstances certified to; they are thus held to be the ordinary instrument of proof of vital events. If there is any discrepancy between the certificate and the entry to which it relates, the latter version is deferred to as the original registration record. In addition, it must be borne in mind that, since the population is apt to move, individuals may on occasion need to prove their civil status when abroad; to accommodate this, the Directorate is empowered to prepare official printed forms in several languages for each type of event registered. To make civil registration more readily accessible to individuals and achieve the goal of making the civil register as complete as possible, funding of the registration service should be based on the general principle that entries and complementary notations are free and a charge is made for certificates, except for those issued at the request of public authorities for official purposes, which should be issued free of charge and marked as official to prevent improper use by individuals.

(c) Family book

159. Although the draft is predicated on each country's freedom to regulate "family books", internal legislation on filiation should make allowance for them since they may have a direct bearing on proof of descent. It is worth referring to these books because they can represent an important instrument of proof, often deeply rooted in society, with respect to the family, marital or otherwise, seen as the natural and fundamental building block of society. In the European context, the International Commission on Civil Status prepared Convention No. 15 on the International Family Book, signed in Paris on 12 September 1974. The family book should be an official book, compiled by the Directorate and uniform throughout the country, and consist of a series of printed, consecutively numbered sheets, depending on the format adopted, to record, with the same legal standing as certificates or extracts, a marriage contracted by two persons, in whatever valid form pursuant to State law, together with the birth of all common children in or out of wedlock. The book will also record, in the form of partial certificates, subsequent events in the marriage - divorce, separation, annulment - and the applicable financial regime. Where there is no prior marriage, the family book will record, in extract form, the births of any children common to the de facto couple who have been jointly recognized. In the case of single-parent families, that is, when filiation has been legally established only in respect of the mother or father, the family book may be issued to the parent with whom filiation has been documented. A family book may also be issued in cases of adoption. Family books can similarly be used to record the deaths of their holders. The practical usefulness of

family books is that they constitute a kind of summary of the family structure and are equivalent, for purposes of proof, to an official certification of each event recorded, which will sometimes obviate the need to present the relevant certificates. The registrar normally hands the book to the couple immediately after their marriage has been registered, and it serves as a partial certificate; if any children have been legitimated by the marriage, once their entries of birth have been proved and annotated to reflect the marriage between their parents, they will also be entered in the book. If there is no marriage, the family book will be handed to one or both of the parents, after filiation has been documented by means of the relevant entry of birth and the complementary notation of the recognition. In the event of any discrepancy between the family book and the registration document, the latter will govern.

160. Given the general nature and broad potential readership of this Handbook, the ideal registration model should incorporate all features that have led to proven improvements in countries with longstanding experience in operating registration services. One of the primary goals of this volume is to bring about, through the preparation of model forms, some harmonization of official registration formats so as to standardize the basic work of registration, as far as is possible, in the various countries currently engaged in introducing or upgrading their registration service. We begin therefore with the premise that there are items considered essential in most countries in making registration records for births, marriages and deaths; these are the identity of the interested party and the essential circumstances of the event - name and surnames, name of parents for identification only, place and date of occurrence, sex. With respect to these items of identity, which may be the subject of partial certificates, it is safe to say that there are no grounds to restrict disclosure since they are data which may be of public interest. In any case, it is up to the internal legislation of each State to define the scope and limits of protection for personal and family privacy, and the ways in which the content of records may be disclosed. On the other hand, there are data of an administrative nature which it is mandatory to place on all registration records, in terms of the place and date of issue of the registration record, as well as the identity of any registrars involved by reason of their jurisdiction; in the case of marriages, for example, there may be a distinction between the registrar who makes the entry of marriage and the registrar present when the future couple officially consented to marry. Provision must also be made for subsequent changes to entries in the form of complementary notations; the official forms should therefore always contain a blank portion, if possible on a separate sheet from that containing the essential items, to allow room for notations pursuant to a country's internal legislation. Designing the official forms with boxes and leaving blank spaces on the reverse of the main entry to accommodate later complementary notations is very important if it is planned to use technological aids in issuing certificates. Photocopying undoubtedly facilitates their issuance, but makes it difficult to avoid reproducing restricted information covered by embargoes on certificates under each country's internal legislation, relating, for example, to filiation, grounds of divorce, separation or annulment, etc. As a general rule, therefore, entries should wherever possible be made on official forms designed to accommodate partial reproduction to cover the essential data in the record, while reserving the back of the forms for any complementary notations. Model civil registration forms and certificates are presented as examples at the end of this chapter.

### 3. The statistical report

161. The data presented to the registry office as a basis for the main registration record, which, as described, is used for legal purposes, are also used to compile the statistical reports, as one of the functions assigned by the law that makes the collection of data for statistical purposes the responsibility of the civil registration function. Because of the intrinsic characteristics of this report, the contents of which are more flexible and may vary depending on the statistical coverage desired, it is recommended that a separate form be used, containing data on each vital event registered. The way these reports are completed, using the appropriate official forms which should be uniform throughout the national territory and different for each vital event to which they relate, will be determined by the national agency responsible for the statistical compilation of the data supplied from the registration offices, although the need to coordinate the work of the different agencies responsible for the collection and subsequent statistical compilation of the data makes it essential that the Directorate be involved in approving the layout and content of the statistical reports, since the nature of the statistical objectives pursued is such that the scope of the statistics may be broadened to include other data not identical to the substantive data needed for the legal purposes of registration. The blank statistical reports will be supplied by the competent statistical compilation agency in the centralized vital statistics system to which it belongs - national statistical system, national health system, etc. - directly to the local registries, or alternatively through the Directorate itself, in which case one of its official functions will be to supply the forms to all local offices.

162. To ensure data are accurate, statistical reports should ideally be completed at the same time as information is provided to the civil register for completion of the registration record. To make sure they are filled in properly, statistical reports should be completed by the civil registration personnel where they refer to registration data proper: date of entry, number of entry, etc.; in view of the variability and personal nature of the other data, these can be completed by the individuals legally required to make the corresponding declarations of birth, marriage or death, since they are the best placed to provide the information required, or otherwise by the same registration personnel to the extent that the data needed are available. With respect to the statistical information relating to such complementary notations as recognitions of filiation, legitimations, adoptions, etc., it will be easier to have it filled in by the staff of the registry office, since it will for the most part involve quantitative data that are available when the notations are made. If the aim is to secure citizen assistance in completing the statistical forms, careful attention should be paid to the way the forms are designed. In any case, to ensure high-quality data, individuals should be given assistance in completing the report, and the registrar is obliged to provide the necessary instructions for the form to be completed by the same informant who is reporting the vital event being registered. To make matters easier, it is advisable to use reports formatted in boxes and listing questions that can mostly be answered by placing an X in the appropriate box. At intervals prescribed in the law or regulations, the local offices will forward the statistical reports, either directly or through the Directorate, to the compiling agency, which can address any queries on the data in the reports directly to the registry offices.

163. As a rule, the statistical function of classifying, analysing, evaluating and publishing population data, that is, the production of vital statistics, is not entrusted to the civil registration system but assigned to other

administrative agencies - either national, in the case of a centralized vital statistics system, or regional, in a decentralized vital statistics system, which is common in countries organized along federal lines. In decentralized systems, the local registry offices forward the statistical reports to the regional registry or statistical offices for compilation at the local level, and at a later date a national statistical office compiles the regional data and publishes the national vital statistics. Both administrative systems have advantages and disadvantages, which have been analysed in other United Nations documents. 2/ It has been recommended that the statistical data items on vital events should be collected centrally by the agency responsible for compiling the statistics. In either case, it is clear that, in view of the intimate link between the collection of data and their compilation for statistical purposes, the different agencies involved should coordinate their efforts, for the sake of the smooth performance of their respective legal duties, by striving for uniformity in concepts, definitions, classifications and forms and by avoiding any duplication that distorts the vital statistics system. This coordination can be achieved by setting up a permanent national committee on interinstitutional coordination, as well as by a variety of other measures, notably the enactment of law and regulations that guarantee uniformity in the civil registration and vital statistics systems.

164. The design of the statistical report should proceed hand in hand with that of the registration record or form, since the data it requires are taken immediately from the civil registration records. However, only data essential for statistical purposes should be collected so as not to burden the record with unnecessary data. The data to be included in the statistical reports will be driven by the country's statistical needs, as well as by the desirability of achieving regional and international comparability. Design of the content of statistical reports should also take into account the data on which truthful and complete information can be obtained from the informant, who should be given easy-to-answer questions. Moreover, there may be statistical data that are not precisely the same as the basic registration information, for example, those relating to birth spacing, gestation period, number of the birth, occupation of the parents, etc. The United Nations has recommended a minimum but sufficient content for legal purposes, for use in civil registration records of live births, deaths, and marriages, as well as the data to be included in the statistical report forms for the same vital events, which would also include foetal deaths and divorces (see the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects 2/). As far as the recommended content of the statistical reports is concerned, a series of priority questions has also been drawn up to represent the immediate goal in gathering vital statistics; they will be reproduced later. Comparison between these two lists of recommendations underscores the disparity between civil registration records and vital statistics reports in terms of what each should ideally contain. This lends added weight to the conclusion that the individual statistical report should be flexible, so that it can be recast in response to changing statistical needs; this clearly sets it apart from the registration record which, by reason of its legal character, requires a guarantee of permanence that can be changed only by following procedures expressly stipulated in the law; it is therefore not advisable that the statistical form be a reproduction of the registration form; rather, the two should be separate and distinct documents, although naturally, in view of the need for coordination between the registration and statistical services, the Director-General should be involved in the design of the statistical forms, and the law should expressly provide for this. Moreover, keeping the two forms separate allows the information collected to be processed differently in recognition of its

confidentiality, based on the general precept that statistical information is confidential and is normally protected by statistical laws, whereas civil registration records usually contain information that can be provided directly to the individuals registered, their proxies, or authorized public agencies which need to receive copies of registration records in order to perform their assigned functions.

165. With respect to births, apart from the data items it is compulsory to register, which are essentially legal in content, such as the identity of the registrant and the place and date of occurrence of the vital event, it is customary for statistical purposes to include a wide variety of other data that may be irrelevant from the point of view of the legal function of civil registration. The United Nations has recommended 12 priority items for live births: attendant at birth, date and place of birth, date of registration, legitimacy status, sex, weight at birth, age of the mother, date (or duration of) marriage (for legitimate births), number of children born alive to the mother, and place of usual residence of the mother. Collection of these data will enable the medical, as well as the sociodemographic and economic, characteristics of the birth to be studied. In the case of marriages, most registration data will coincide with the United Nations' 7 priority data items in that they relate to the place and date of the marriage, type of marriage - civil, religious, etc. - marital status of the bride and groom at the time of marriage, and date of registration. However, other data of statistical importance can be omitted from the civil register, e.g., age of the bride and groom, place of usual residence of the couple, etc., and will therefore need to be gathered in the corresponding statistical report. With respect to deaths, there are similarly 9 priority items for statistical purposes: date and place of death, date of registration, age of the deceased, marital status, sex, certifier and cause of death. The greatest source of controversy is the cause of death, which must be stated in the medical certificate of death and be considered for statistical and health purposes even if it does not appear on the registration record for the death. The cause of death can in general be regarded as falling outside the scope of civil registration, which is basically to prove death; to do this, it is necessary only to verify the identity of the deceased and the place and date of death. Out of respect for the deceased's personal and family privacy, therefore, it does not seem advisable to have the registration record state this cause, which need only be collected for statistical purposes. This is a further argument for using separate forms for registration and statistical purposes. For legal purposes, in the event that the relatives or heirs of the deceased need access to the cause of death record, the law should expressly declare them eligible to have the registry office disclose it to them; since it does not appear on the record but must without fail be stated on the medical certificate of death, it is the civil registrar who should be responsible for storing and permanent safekeeping of this original document. With respect to foetal deaths, which it is not compulsory to register but which must be declared for statistical purposes, there are 11 priority items for the compilation of vital statistics: date and place of occurrence, date of registration, type of birth (single or multiple issue), gestational age, legitimacy, sex, age of the mother, duration of marriage (for legitimate pregnancies), number of children born alive to the mother, and number of previous foetal deaths to the mother. In the case of divorces, the priority data items for statistical purposes relate to the date and place of the divorce, date of registration, age of the divorcees, duration of the marriage, number of dependent children of the divorcees, and place of usual residence. It also needs to be borne in mind that the statistical data items required to track natural movements in the population should respect the interested parties' right

to privacy; it is therefore advisable that the statistical report prepared should preserve anonymity, since the statistical purpose pursued is served merely by the quantitative collection of the data concerned, without the need to identify the informant first.

#### M. Amendments to the civil register

166. Special attention must be drawn to the need for the civil registration law to provide, through registration channels, for amendments to registration records if they can be shown to contain erroneous data. Practical experience in registration has shown that upholding legal precepts which dictate that entries are immutable - other than by court order handed down in an ordinary civil proceeding - is an unduly rigorous approach incompatible with the dynamic nature of the public service that civil registration is intended to provide. As discussed earlier, referring all changes in the civil register to the courts means slowing down, dragging out and raising the cost of registration work. To place registration on a more realistic footing, there should be a simple procedure for amending entries, especially when day-to-day work in registry offices shows that mistakes creep in quite often, since registration work in many instances results in erroneous transfer or transcription of data in the original documents used as a basis for registration. The need to maintain the principle of legality as the guiding principle behind registration work means that the procedure for amending the civil register, and the cases in which this can be done, must be spelled out in detail in the civil registration law and regulations. The basic principles for defining amendment procedures as part of the normal powers conferred upon local registrars would be arrived at by analysing what cases are eligible for amendment, subject to the fundamental principle that, even if appropriate registration procedures are devised to permit amendment through registration channels - by virtue of an administrative decision by the organs responsible for registration management, which may be challenged through ordinary court proceedings - this does not in any event preclude the corresponding court ruling, arrived at following the correct procedure, from constituting a legally valid public document to justify making whatever change may be needed in a registration record. The individual interested in the civil register being factually correct would be free to opt for either procedure - registration or judicial - to secure the amendment he wants made. It is safe to assume he would select the one that is the easiest and most straightforward.

167. Of the many possible kinds of registration errors, those which can be corrected at the registry office should include those listed below, since they are the most common and obvious; they may be due to individuals providing the wrong data for registration or bringing in erroneous documentation, or to clerical errors, where registry office staff incorrectly copy the data provided by individuals. In all the cases discussed below, the correction is made simply by substituting the correct information for the erroneous data that have been entered for different reasons:

(a) Errors in registration data which can be compared with other entries that have probatory value; for example, if a person's entry of birth shows the wrong date of birth or marriage for his parents, it is clear that simply bringing in a certificate showing the relevant entry of birth or marriage - since the data on the certificate have probatory value for registration purposes - will reveal the mistake, which can then be corrected by a simple registration procedure;



(b) Errors in registration data which can be compared with the documents used as a basis for making the entries; for example, if an entry gives the wrong date for the dissolution of a marriage by court decree, simply bringing in the original document, i.e., the divorce decree, will reveal the mistake made in making the entry, so that it can be corrected immediately at the registry office. In these instances of clerical errors that can be checked against the original documents used in making the original entries, the former must obviously be kept to allow subsequent correction of any errors made. Whether or not the document is stored at the registry office or in the appropriate archives of the competent organs will depend on its nature: judicial, notarial or administrative documents will probably be stored in the corresponding judicial, notarial or administrative archives, but, in the case of declarations made to the civil status registrar and documented at the registry office: recognitions of filiation or declarations of birth or death reported in writing on the corresponding forms, medical certificates, etc., it is obvious that the registry office itself should be responsible for storage and permanent custody of the original documents for the period prescribed in the law or regulations;

(c) There are other errors which are due not to clerical miscopying from the original document but to errors contained in the original document used as a basis for making the entry. Provided this original document is duly corrected later by the appropriate legal procedure and this fact is verified at the registry office, the registration record may be amended; for example, if a particular prenuptial agreement has been recorded in the civil register based on an erroneously executed notarial document, the notation in the register may be corrected only after it has been verified before the civil registrar that the original or master copy of the notarial protocol has itself been corrected by the appropriate legal procedure;

(d) Other, more sensitive, errors are those involving an individual's identity. When such mistakes are made in entries of marriage or death, there is usually no difficulty in that references to the identity of the couple or the deceased, as the case may be, can be checked against the respective certificates or birth of the parties concerned, which give the names and surnames, date and place of birth, names of parents, etc. For example, if the entry of death gives the deceased's civil status as married, his widowerhood can be documented on the strength of his wife's death certificate. However, correcting references to identity on the actual entry of birth poses greater difficulties, since they constitute essential data in the entry, and the utmost care should therefore be taken to substantiate that the error is confined to references to a person's identity and does not refer to the person himself or herself, which would create a problem of dual personality that could obviously not form the basis for any correction to a registration record. It is essential to prevent an action taken to correct a record from creating changes in the identify of individuals. However difficult such cases may be to prove, it is vital to uphold the jurisdiction of the registrar to correct them wherever possible, since there is no reason why the evidentiary rigour required in a judicial proceeding should be any greater than that required in registration work, and, in the final analysis, the outcome will be based fundamentally on documentary evidence, whether it involves original documents used as a basis for the entry made or registration records documenting that the data item was incorrectly entered, and will have the probatory force conferred on it by law.

168. Besides the cases of registration errors as such, discussed above, it is possible to visualize other instances of corrections to records that can be handled at the registry office and that may give rise, among other things, to

the deletion of entries improperly made because they relate to non-existent events, that is, events which did not actually occur in the real world; for example, if an entry is made for a birth which did not take place or in connection with a foetal death. It is also legitimate to delete an entry made improperly because it does not involve a matter for registration and there is therefore no legal requirement to register it, or because it was made without reference to the documentation legally required as a basis for registration; for example, a birth entry made beyond the prescribed time period on the strength of documentation prepared for registration within the legal time limit, without following the legally prescribed procedure for late registration. There are also cases where records are corrected that do not involve errors or the deletion of entries, but instead involve completing entries with data not known at the time they were first made; the data are then added to the existing record by a simple registration procedure to complete the entry; for example, where an entry of death has been made without the identity of the deceased being known, it will need to be completed when his identity becomes known. Another case where an entry is cancelled would be the new entry of birth when an adoption takes place, although appropriate cross references must be recorded to establish the connection between the cancelled entry and the new one, for purposes of subsequent disclosure at the request of a judicial authority or the adoptee himself after reaching his majority. Finally, this recital of instances of corrections to records should include a reference to those cases where, owing to the total or partial destruction or disappearance of the entries made in a civil register, they need to be reconstituted.

169. The procedure for correcting records for any of the reasons listed above can be initiated by individuals or ex officio by the registrar, who has oversight over the integrity and accuracy of the civil register. Authority to process them and resolve issues should be conferred upon local registrars in the exercise of the duties entrusted to them as part of their registration work. Decision-making authority will be vested in the local registrar of the office where the record to be corrected resides, and the correction will be made on the strength of the ruling issued by the registrar in accordance with the prescribed registration procedure. The guiding principles underlying this registration procedure should be spelled out in the law: initiation ex officio or at the instigation of a party; official prosecution of the procedure; ex officio investigation into the accuracy of the events, and broad decision-making powers vested in the preparing agency to verify and carry out the necessary proofs; lack of undue formalism in handling the procedure, which will normally follow written rules of procedure; flexibility of the procedure where not subject to prescribed periods for filing claims, presenting evidence, etc.; cost-free; guaranteed notification to interested parties that the procedure is being processed; to allow them to assert any claims they consider appropriate; decision by the competent registration agency to terminate the procedure; and agreement, where appropriate, to the pertinent amendment; notification of the decision to interested parties, with express reference to available remedies, agency and period for filing an appeal, and indication of the body responsible for ruling on it. In conclusion, note should be taken of the considerations discussed earlier with respect to the undesirability of placing time limits on the correction of entries, or making it onerous because of undue red tape.

170. In all cases where entries are corrected or cancelled by court order or administrative action, the best course, to avoid confusion in the registration record and in the data covered by the probatory force of the civil register, is to suppress the amended or cancelled entry, following the formal rules prescribed for the purpose, by drawing an ink line across the page making sure

it is still legible, or simply stamping it "cancelled", and keeping it on file and making a new corrected entry. It is necessary to make the necessary cross references between the cancelled page of the register and the new entry so that, when a search is made, one entry will pull up the other. Any amendment to registration records should be notified to the central archive so that it can make the necessary changes to the original documents. It is extremely important that both the records kept in the central archive and those in the local files be identical, to safeguard the legal interests of the individuals; both offices are authorized to issue certificates and perform other functions, so that the reliability and truthfulness of the information are paramount.

#### Notes

- 1/ United Nations publication, Sales No. E.73.XVII.9.
- 2/ United Nations publication, Sales No. E.91.XVII.5.

**EXAMPLES OF ENTRIES**

**EXAMPLES OF COMPLEMENTARY NOTATIONS**

**EXAMPLES OF CERTIFICATES**

<b>REGISTER OF BIRTHS COUNTRY</b>	<b>1A</b>
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<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>REGISTRATION NUMBER</b>

<b>CHARACTERISTICS OF THE CHILD</b>
<b>FIRST SURNAME:</b>
<b>SECOND SURNAME:</b>
<b>NAME:</b>
<b>DATE AND TIME OF BIRTH:</b>
<b>PLACE OF BIRTH:</b>
<b>SEX:</b>
<b>NATIONALITY:</b>
<b>NAME OF FATHER:</b>
<b>NAME OF MOTHER:</b>

<b>PLACE AND DATE OF REGISTRATION:</b>
<b>IDENTITY, SIGNATURE AND SEAL OF REGISTRAR</b>

REVERSE

CHARACTERISTICS OF FATHER	
FIRST SURNAME	
SECOND SURNAME	
NAME	
PLACE AND DATE OF BIRTH	
NATIONALITY	
IDENTITY DOCUMENT	

CHARACTERISTICS OF MOTHER	
FIRST SURNAME	
SECOND SURNAME	
NAME	
PLACE AND DATE OF BIRTH	
NATIONALITY	
USUAL PLACE OF RESIDENCE	
IDENTITY DOCUMENT	

CHARACTERISTICS OF INFORMANT	
FIRST SURNAME	
SECOND SURNAME	
NAME	
IDENTITY DOCUMENT	

CHARACTERISTICS OF PHYSICIAN	
FIRST SURNAME	
SECOND SURNAME	
NAME	
IDENTITY OR BOARD CERTIFICATION NUMBER	

IDENTITY OF WITNESSES	
FIRST SURNAME	FIRST SURNAME
SECOND SURNAME	SECOND SURNAME
NAME	NAME
IDENTITY DOCUMENT	IDENTITY DOCUMENT

SIGNATURES OF INFORMANTS	
	REGISTRAR

<b>REGISTER OF BIRTHS COUNTRY</b>	<b>1B</b>
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REGISTRATION AREA	LOCAL OFFICE	REGISTRATION NUMBER

<b>COMMENTS<sup>1</sup></b>
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<b>COMPLEMENTARY NOTATIONS<sup>2</sup></b>

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Where appropriate, state that the entry is being made after expiry of the time allowed and give the date of the filing and the authority. In cases of adoption, give the registration data on the entry of birth being cancelled. Each complementary notation made should contain the date on which it was written and the signature of the registrar.

**REGISTER OF MARRIAGES**

2A

**COUNTRY**

REGISTRATION AREA

LOCAL OFFICE

REGISTRATION NUMBER

**CHARACTERISTICS OF THE GROOM**

FIRST SURNAME

SECOND SURNAME

NAMES OF FATHER AND MOTHER

DATE AND PLACE OF BIRTH

DATA FROM REGISTRATION OF BIRTH

IDENTITY DOCUMENT

MARITAL STATUS

USUAL PLACE OF RESIDENCE

NAMES AFTER THE MARRIAGE

**CHARACTERISTICS OF THE BRIDE**

FIRST SURNAME

SECOND SURNAME

NAME

NAMES OF FATHER AND MOTHER

PLACE AND DATE OF BIRTH

DATA FROM REGISTRATION OF BIRTH

IDENTITY DOCUMENT

MARITAL STATUS

USUAL PLACE OF RESIDENCE

NAMES AFTER THE MARRIAGE

**COMMON PLACE OF RESIDENCE OF THE BRIDE AND GROOM**

PLACE AND DATE OF MARRIAGE

FORM OF MARRIAGE

PERSON AUTHORIZING THE MARRIAGE

REVERSE

CHARACTERISTICS OF WITNESSES	
FIRST SURNAME	FIRST SURNAME
SECOND SURNAME	SECOND SURNAME
NAME	NAME
IDENTITY DOCUMENT	IDENTITY DOCUMENT

CHARACTERISTICS OF REPRESENTATIVE OF HUSBAND/WIFE	
FIRST SURNAME	FIRST SURNAME
SECOND SURNAME	SECOND SURNAME
NAME	NAME
IDENTITY DOCUMENT	IDENTITY DOCUMENT

CHARACTERISTICS OF INTERPRETER OF HUSBAND/WIFE	
FIRST SURNAME	FIRST SURNAME
SECOND SURNAME	SECOND SURNAME
NAME	NAME
IDENTITY DOCUMENT	IDENTITY DOCUMENT

THE CONTRACTING PARTIES CONSENTED TO THE REQUIREMENTS IN THE MANNER PRESCRIBED BY DOMESTIC LAW
PLACE AND DATE OF REGISTRATION
COMMENTS <sup>1</sup>

SIGNATURES OF THOSE PRESENT
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IDENTITY, SIGNATURE AND SEAL OF REGISTRAR PERFORMING OR REGISTERING THE MARRIAGE
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<sup>1</sup> State if the marriage was celebrated with either party in danger of death, or for any other reason outside the registry office. Also indicate whether it was registered outside the prescribed time period.



<b>REGISTER OF MARRIAGES</b>		<b>2B</b>
<b>COUNTRY</b>		
<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>REGISTRATION NUMBER</b>

<b>CHARACTERISTICS OF CHILDREN LEGITIMATED</b>		
<b>NAME</b>	<b>BIRTH</b>	<b>REGISTRATION DATA</b>
<b>NAME</b>	<b>BIRTH</b>	<b>REGISTRATION DATA</b>
<b>NAME</b>	<b>BIRTH</b>	<b>REGISTRATION DATA</b>
<b>NAME</b>	<b>BIRTH</b>	<b>REGISTRATION DATA</b>

<b>COMMENTS</b>
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<b>SIGNATURES OF THOSE PRESENT</b>
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<b>COMPLEMENTARY NOTATIONS<sup>2</sup></b>
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<sup>2</sup> Every complementary notation must bear the date it was written and the signature of the registrar.

<b>REGISTER OF DEATHS</b>	<b>3A</b>
<b>COUNTRY</b>	

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>REGISTRATION NUMBER</b>

<b>CHARACTERISTICS OF THE DECEASED</b>
<b>FIRST SURNAME</b>
<b>SECOND SURNAME</b>
<b>NAME</b>
<b>IDENTITY DOCUMENT</b>
<b>NAME OF FATHER</b>
<b>NAME OF MOTHER</b>
<b>SEX</b>
<b>MARITAL STATUS</b>
<b>NAME OF SPOUSE</b>
<b>USUAL PLACE OF RESIDENCE</b>
<b>DATE AND PLACE OF DEATH</b>
<b>DATE AND PLACE OF BIRTH</b>
<b>DATA FROM REGISTRATION OF BIRTH</b>

<b>PLACE AND DATE OF REGISTRATION</b>
---------------------------------------

<b>IDENTITY, SIGNATURE AND SEAL OF REGISTRAR</b>
--

REVERSE

CHARACTERISTICS OF INFORMANT	
FIRST SURNAME	
SECOND SURNAME	
NAME	
IDENTITY DOCUMENT	

CHARACTERISTICS OF PHYSICIAN	
FIRST SURNAME	
SECOND SURNAME	
NAME	
IDENTITY DOCUMENT	

CHARACTERISTICS OF WITNESSES	
FIRST SURNAME	FIRST SURNAME
SECOND SURNAME	SECOND SURNAME
NAME	NAME
IDENTITY DOCUMENT	IDENTITY DOCUMENT

COMMENTS <sup>1</sup>
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SIGNATURES OF THOSE PRESENT
-----------------------------

IDENTITY, SIGNATURE AND SEAL OF REGISTRAR
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<sup>1</sup> State whether the death was registered under a court order. State also if it was registered after the time limit.

<b>REGISTER OF DEATHS</b> <b>COUNTRY</b>	<b>WP</b>
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REGISTRATION AREA	LOCAL OFFICE	REGISTRATION NUMBER

COMPLEMENTARY NOTATIONS <sup>2</sup>

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<sup>2</sup> Every complementary notation must bear the date it was written and the signature of the registrar.

**REGISTER OF DIVORCES**

4A

**COUNTRY**

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>REGISTRATION NUMBER</b>

**CHARACTERISTICS OF THE MARRIAGE DISSOLVED**

<b>DATE OF MARRIAGE</b>	
<b>WHERE CELEBRATED</b>	
<b>DATA FROM REGISTRATION OF MARRIAGE</b>	
<b>HUSBAND</b>	<b>WIFE</b>
<b>FIRST SURNAME</b>	<b>FIRST SURNAME</b>
<b>SECOND SURNAME</b>	<b>SECOND SURNAME</b>
<b>NAME</b>	<b>NAME</b>
<b>PLACE AND DATE OF BIRTH</b>	<b>PLACE AND DATE OF BIRTH</b>
<b>DATA FROM REGISTRATION OF BIRTH</b>	<b>DATA FROM REGISTRATION OF BIRTH</b>
<b>IDENTITY DOCUMENT</b>	<b>IDENTITY DOCUMENT</b>
<b>NAMES AFTER THE MARRIAGE</b>	<b>NAMES AFTER THE MARRIAGE</b>
<b>NATIONALITY</b>	<b>NATIONALITY</b>

**CHARACTERISTICS OF THE DIVORCE**

<b>AUTHORITY ISSUING THE DIVORCE DECREE</b>
<b>PLACE AND DATE OF DIVORCE</b>
<b>DATA FROM COURT ARCHIVES</b>

**PLACE AND DATE OF REGISTRATION****IDENTITY, SIGNATURE AND SEAL OF REGISTRAR**

REVERSE

COMMENTS<sup>1</sup>

COMPLEMENTARY NOTATIONS

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<sup>1</sup> State that the reason for the divorce is permissible under domestic law. May also indicate whether the divorce decree makes any provision as to parental authority or for guardianship and custody.

## EXAMPLES OF COMPLEMENTARY NOTATIONS

### COMPLEMENTARY NOTATION FOR A RECOGNITION

THE UNDERSIGNED (NAME AND SURNAME[S]) IS THE SON OF (NAME AND SURNAME[S] OF THE FATHER OR THE MOTHER) IN ACCORDANCE WITH THE RECOGNITION WHICH TOOK PLACE BY VIRTUE OF (ANY OF THE LEGAL FORMS RECOGNIZED BY THE STATE: DECLARATION, LEGAL DOCUMENT, COURT RULING, ETC., STATING THE DATE AND IDENTITY OF THE AUTHORITY). THE RECOGNITION MEETS THE REQUIREMENTS (FOR VALIDITY PURSUANT TO DOMESTIC LAW: CONSENT OF THE LEGAL REPRESENTATIVE OF THE MINOR OR OF THE PERSON RECOGNIZED IF OF LEGAL AGE, ETC.). THE SURNAME[S] OF THE REGISTRANT WILL HENCEFORWARD BE (IF THE DETERMINATION OF FILIATION INVOLVES A CHANGE IN THE REGISTRANT'S SURNAME[S], STATE THOSE RESULTING FROM THE RECOGNITION). DATE OF THE ENTRY, IDENTITY, SIGNATURE AND SEAL OF THE REGISTRAR.

### COMPLEMENTARY NOTATION FOR AN ADOPTION

THE UNDERSIGNED (NAME AND SURNAME[S]) HAS BEEN ADOPTED IN ACCORDANCE WITH (ANY OF THE LEGAL FORMS RECOGNIZED BY THE STATE: COURT RULING, NOTARIAL DOCUMENT, ETC., STATING THE DATE AND IDENTITY OF THE AUTHORITY) BY (NAME AND SURNAME[S] OF THE ADOPTING PARTY[IES]). THE SURNAME[S] OF THE REGISTRANT WILL HENCEFORWARD BE (IF THE ADOPTION INVOLVES A CHANGE IN THE REGISTRANT'S SURNAME[S], STATE THOSE RESULTING FROM THE ADOPTION). FOLLOWING THE ADOPTION, THE PRESENT ENTRY OF BIRTH IS CANCELLED AND A NEW ONE REGISTERED STATING THE IDENTITY OF THE ADOPTIVE PARENTS AND CONTAINING DATA FROM THE NEW ENTRY OF BIRTH (FOR PURPOSES OF MAKING THE NECESSARY CROSS REFERENCES BETWEEN THE TWO ENTRIES OF BIRTH FOR THE SAME PERSON). THE NEW ENTRY WILL SIMILARLY CONTAIN REGISTRATION DATA REFERRING TO THE CANCELLED ENTRY. DATE OF THE ENTRY, IDENTIFY, SIGNATURE AND SEAL OF THE REGISTRAR.

**COMPLEMENTARY NOTATION FOR A LEGITIMATION**

THE UNDERSIGNED (NAME AND SURNAME[S]) HAS BEEN LEGITIMATED BY THE MARRIAGE OF HIS PARENTS (NAME AND SURNAME[S] OF THE FATHER AND MOTHER) CELEBRATED (STATE PLACE AND DATE OF MARRIAGE) AND AUTHORIZED (STATE AUTHORITY RECEIVING CONSENT TO MARRIAGE). THE MARRIAGE WAS REGISTERED (DATA FROM REGISTRATION OF THE ENTRY OF MARRIAGE). DATE OF THE ENTRY, IDENTITY, SIGNATURE AND SEAL OF THE REGISTRAR.

**COMPLEMENTARY NOTATION FOR A CHANGE OF NAME**

THE NAME OF THE REGISTRANT (NAME AND SURNAME[S] APPEARING ON THE ENTRY OF BIRTH) HAS BEEN CHANGED AS FOLLOWS (NEW NAME AND SURNAME[S]). THE ENTRY IS MADE BY VIRTUE OF (ANY OF THE STATE-RECOGNIZED METHODS FOR RECOGNIZING CHANGES IN NAME AND SURNAMES: COURT RULING, ADMINISTRATIVE RULING, AUTHENTICATED DECLARATION, ETC., STATING THE DATE THEREOF AND THE IDENTITY OF THE AUTHORIZING PARTY). DATE OF THE ENTRY, IDENTITY, SIGNATURE AND SEAL OF THE REGISTRAR.

**COMPLEMENTARY NOTATION FOR A PRENUPTIAL AGREEMENT**

THE MARRIED COUPLE (NAME AND SURNAME[S] OF THE COUPLE) HAVE PRESENTED A LEGAL INSTRUMENT REGULATING THE FINANCIAL ASPECTS OF THEIR MARRIAGE (DATA FROM THE INSTRUMENT, DATE AND PLACE OF EXECUTION, IDENTITY OF THE AUTHORITY, NOTARIAL FILE NUMBER). DATE OF THE ENTRY, IDENTITY, SIGNATURE AND SEAL OF THE REGISTRAR.

**COMPLEMENTARY NOTATION FOR A DIVORCE**

THE MARRIAGE, DULY REGISTERED, CONTRACTED BY (NAME AND SURNAME[S] OF THE SPOUSES) HAS BEEN DECLARED DISSOLVED BY DIVORCE BY (JUDICIAL AUTHORITY ISSUING THE DECREE), RECORDED IN THE COURT FILES (DATA FROM THE COURT FILES). THE DIVORCE WAS ENTERED IN THE CIVIL REGISTER OF (REGISTRATION OFFICE IN WHICH THE PRINCIPAL ENTRY OF THE DIVORCE IS REGISTERED) ON (DATE ON WHICH THE DIVORCE WAS REGISTERED) UNDER REGISTRATION NUMBER (DATA FROM THE REGISTRATION RECORD). DATE OF THE ENTRY, IDENTITY, SIGNATURE AND SEAL OF THE REGISTRAR.



**EXAMPLES OF CERTIFICATES**

<b>REGISTER OF BIRTHS</b>
<b>COUNTRY</b>

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>CERTIFICATE NUMBER/YEAR</b>

<b>PARTIAL CERTIFICATE OF AN ENTRY OF BIRTH</b>
<b>REGISTRATION NUMBER</b>
<b>DATE, TIME AND PLACE OF BIRTH</b>
<b>FIRST SURNAME:</b>
<b>SECOND SURNAME</b>
<b>NAME</b>
<b>SEX</b>
<b>NAME OF FATHER</b>
<b>NAME OF MOTHER</b>

<b>OTHER DATA FROM THE REGISTRATION RECORD</b>
--

<b>PLACE AND DATE OF ISSUE OF CERTIFICATE</b>
<b>IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY</b>

REVERSE

REGISTRATION AREA	LOCAL OFFICE	CERTIFICATE NUMBER/YEAR

**PARTIAL CERTIFICATE OF AN ENTRY OF BIRTH**

REGISTRATION NUMBER

**COMPLEMENTARY NOTATIONS**

PLACE AND DATE OF ISSUE OF CERTIFICATE

IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY

**REGISTER OF MARRIAGES**

**COUNTRY**

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>CERTIFICATE NUMBER/YEAR</b>

**PARTIAL CERTIFICATE OF MARRIAGE**

**REGISTRATION NUMBER**

**PLACE AND DATE OF MARRIAGE**

<b>IDENTITY</b>	<b>GROOM</b>	<b>BRIDE</b>
<b>NAME</b>		
<b>SURNAME[S] BEFORE MARRIAGE</b>		
<b>SURNAME[S] AFTER MARRIAGE</b>		
<b>PLACE OF BIRTH</b>		
<b>DATE OF BIRTH</b>		
<b>IDENTITY DOCUMENT</b>		

**OTHER DATA FROM THE REGISTRATION RECORD**

**PLACE AND DATE OF ISSUE OF CERTIFICATE**

**IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY**

REVERSE

REGISTRATION AREA	LOCAL OFFICE	CERTIFICATE NUMBER/YEAR

**PARTIAL CERTIFICATE OF AN ENTRY OF MARRIAGE**

REGISTRATION NUMBER

COMPLEMENTARY NOTATIONS

PLACE AND DATE OF ISSUE OF CERTIFICATE

IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY

**REGISTER OF DEATHS**

**COUNTRY**

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>CERTIFICATE NUMBER/YEAR</b>

**PARTIAL CERTIFICATE OF AN ENTRY OF DEATH**

**REGISTRATION NUMBER**

**DATE AND PLACE OF DEATH**

**NAME**

**FIRST SURNAME**

**SECOND SURNAME**

**SEX**

**DATE AND PLACE OF BIRTH**

**MARITAL STATUS**

**IDENTITY DOCUMENT**

**PLACE AND DATE OF ISSUE OF CERTIFICATE**

**IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY**

REVERSE

REGISTRATION AREA	LOCAL OFFICE	CERTIFICATE NUMBER/YEAR

**PARTIAL CERTIFICATE OF AN ENTRY OF DEATH**

**REGISTRATION NUMBER**

**COMPLEMENTARY NOTATIONS**

**PLACE AND DATE OF ISSUE OF CERTIFICATE**

**IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY**

**REGISTER OF DIVORCES****COUNTRY**

<b>REGISTRATION AREA</b>	<b>LOCAL OFFICE</b>	<b>CERTIFICATE NUMBER/YEAR</b>

**PARTIAL CERTIFICATE OF DIVORCE**

REGISTRATION NUMBER

PLACE AND DATE OF DIVORCE

AUTHORITY ISSUING DIVORCE DECREE

PLACE AND DATE OF MARRIAGE

DATA FROM THE MARRIAGE RECORD

<b>IDENTITY</b>	<b>GROOM</b>	<b>BRIDE</b>
NAME		
SURNAME[S] BEFORE MARRIAGE		
SURNAME[S] AFTER MARRIAGE		
PLACE OF BIRTH		
DATE OF BIRTH		
IDENTITY DOCUMENT		

OTHER DATA FROM THE REGISTRATION RECORD

PLACE AND DATE OF ISSUE OF CERTIFICATE

IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY

REVERSE

REGISTRATION AREA	LOCAL OFFICE	CERTIFICATE NUMBER/YEAR

**PARTIAL CERTIFICATE OF AN ENTRY OF DIVORCE**

REGISTRATION NUMBER

COMPLEMENTARY NOTATIONS

PLACE AND DATE OF ISSUE OF CERTIFICATE

IDENTITY, SIGNATURE AND SEAL OF ISSUING AUTHORITY



## II. CONTRIBUTIONS OF CIVIL REGISTRATION TO THE NORMAL FUNCTIONING OF SOCIETIES

171. When a civil registration and vital statistics system is operating properly and normally, it constitutes an invaluable source of information. It allows constant and permanent use to be made of data that are collected just once, when vital events and their characteristics are gathered by the registration method, in accordance with United Nations recommendations that are spelled out essentially in Principles and Recommendations for a National Vital Statistics System, 1/ paragraphs 13 to 36, and in the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects, 2/ paragraphs 80 to 112.

172. As stressed earlier, both public and individual interests are served when the people comply promptly with their registration obligations by providing local civil registration offices with immediate and accurate information on the occurrence of vital events and their characteristics. To promote compliance, it is made compulsory to register vital events and fines are set for failure to comply. On the other hand, incentives are offered, like registration free of charge, even if the legal time limits have expired. But the greatest incentive to register comes from stressing the benefits to the individual and the family; to this end, it is vital that the agency administering the civil registration system encourage the people to become aware, voluntarily as far as possible and without coercive measures, of the objectives of the civil registration and vital statistics system, and of the advantages to individuals of registering vital events and legal acts involving their civil status. The primary means of encouragement are public information programmes on registration requirements and procedures and on the importance of registering vital events that occur in order to obtain official means of proving them at any time and for any reason, and to any public and private agency that is required to accept registration certificates as public documents attesting to the information they contain. See the Handbook on Developing Information, Communication and Education for Effective Civil Registration and Vital Statistics Systems (see the Preface).

173. Chapter III of this Handbook reviews the principal advantages that accrue to individuals from civil registration records, seeing that they are intended to protect the rights of individuals in terms of their own identity, family relationships, inheritance rights, citizenship, school enrolment, right to work, social benefits, health benefits, obtaining a driver's licence, etc. Acknowledging that individuals possess and can exercise these rights depends in large measure on whether the underlying vital events have been registered and can thus be documented in any legal or administrative setting. If the people understand the essential legal function that civil registration is called upon by law to perform, this represents the greatest incentive for them to participate actively. Quite apart from this direct interest to the individual, the information collected by the registration method also affords important advantages for the proper functioning of the society to which the individual and the family belong, so that over the medium and long haul they also stand to gain from the preparation and execution of public programmes predicated on the statistical compilation of registration data. The statistical function entrusted to the civil registration system provides complete and reliable information that is of irreplaceable value in the area of public policy and programmes. It has many uses in the area of public health, social services and programmes, family planning, medical research, social and demographic research, mother and child care programmes, genetic studies, control of infectious diseases, studies on causes of mortality, etc. By way of example, and simply by

way of illustration, we review below some of the more important contributions which civil registration makes to the functioning of society.

#### A. Identity of persons

174. Along with the concept that all human beings have equal rights, which today is recognized both internationally and in most countries' internal legal systems, there is one obvious and unquestionable fact that manifests itself inescapably in every person's interaction in society: the inherent need and highest aspiration to be different from everyone else, to affirm his own individuality, the fact of being himself, distinct and different from all others. The outward manifestation of this need is the corollary need to individualize all persons using the means which the law provides and, by identifying them, to distinguish them from all others. From the moment a human being is born his natural equality - and hence his identical value to that of all other men - is recognized by enactment of law. From the moment the personality of a human being is recognized, one of the immediate and essential manifestations of that personality that arises is the *fundamental right of the person to his identity*, on both sides of the ledger, as it were: individualization to distinguish him from other people, and identification to prove he is still the same person. Individualization singles out to distinguish, identification provides the proof. Every human being needs to be able to affirm his own individuality with the assurance that he can develop his personality to the full. The first time the right to identity was expressly recognized in an international - albeit sectoral - document was in article 8 of the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989: States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

175. In the absence of widespread methods of determining individual personality from intrinsic personal attributes (anthropometric measurements, fingerprinting, genetic profiling), the right to personal identity is traditionally vested, in social life and for legal purposes, in a person's name, in the broad sense that includes name and surname(s), the official record of which is generally created with the entry of birth, where it forms a key data item. Nowadays, even allowing for widely varying practices in different countries in terms of the substantive regulation of names, registration of a person's given name is thus the direct manifestation of that person's right to identity. This constitutes a primary right in that an individual's entire personality development depends on it, since it establishes him as subject to rights and obligations.

176. It follows from the foregoing that the primary contribution of civil registration to the normal functioning of society is that it enables each person - individualized through a registration record referring to specific circumstances - to be provided with an official permanent instrument which allows him at any time to prove his own identity to third parties without fear of being confused with any other person as he exercises his private and public rights and obligations. This correct identification of the person is also of interest to the State for reasons of public order, which is why naming conventions will usually be regulated, as will the scope for subsequent amendments, so as to avoid any changes in identity that might constitute fraud and thereby undermine certainty in legal dealings.

177. The right to personal identity thus stems from the essential data that must be recorded on the entry of birth with respect to the date, time and place of birth, sex of the child, full name of the child and his parents, and nationality and date of birth of the parents. Even though the name is the most important mark of individuality and is internationally recognized as a fundamental right of every human being, all these data items are indispensable for identifying the child by reference to space-time determinants that pinpoint the physical event of the birth, and for referencing it to a particular family unit, even if under the country's domestic law the entry of birth alone may not be sufficient to document the filiation of the child, since it is clear that, in combination with other entries on record - marriage certificate of the child's parents, complementary notation of its recognition, court ruling on filiation, etc. - it does constitute proof for purposes of registration.

178. Because references to the registrant's identity are so vital for purposes of absolute identification, the civil registration law may contain rules on naming, even if the substantive regulations are consigned to the corresponding civil laws, to which the civil registration will need to refer. To avoid undesirable discrimination when registering the data items required to be recorded in the entry of birth, as between children whose filiation appears to be initially determined by their paternal and maternal blood lines and children whose filiation does not appear to be determined by one or both lines, the civil registration law provides for the compulsory imposition on the child of a name and surname(s) in common use, based on a choice made by the person declaring the birth or, failing that, ex officio by the registrar responsible for making the entry of birth. If the names of one or both of the parents is not recorded, the entry must also contain, as compulsory references to identity, commonly used paternal or maternal names for purposes of identifying the person. This expedient allows essential references to identity to be kept intact for all purposes of individualizing persons, since it is they that will appear on any birth certificates issued, including where appropriate those required to obtain an identity card. With respect to the imposition of names on the registrant, the substantive regulations in each country should be observed, even though, for reasons of human dignity and public order, certain broad rules of registration should be established both to forestall any confusion in the identification of persons and to prevent the choice of words that, viewed objectively, might offend the registrant's dignity. In all these cases the registrar will have a duty to oversee the way in which the naming regulations are applied.

179. In terms of the essential coordination between civil registration and the country's identification services, if any, and assuming the civil registration service is operating normally and continuously, it should be borne in mind that, given the acknowledged probatory value of registration records, the corresponding birth certificates of the individuals concerned will afford the obvious means of proving the references to the registrant's identity that will be used as a basis for issuing his official identification documentation. It is accordingly desirable to establish a close link between entries of birth and the issue of identity documents that will make it possible to set up controls to avoid duplication in the issue of identifying documents. To this end, whenever a birth certificate is issued containing essential references to the registrant's identity for the purpose of obtaining an identity document, or if the certificate is issued on an official form exclusively prepared for this purpose that will normally be a partial certificate, or if it is issued on an ordinary form, it should expressly state that it is being issued solely for this purpose. Whenever such a certificate is issued, its issuance should be recorded as a complementary notation on the birth record. Should it ever subsequently be

necessary to issue a second certificate for purposes of obtaining an identity document - because the first one issued has been lost or destroyed - this duplication will be recorded both on the second certificate issued and on the birth record itself.

#### B. Family organization

180. The starting point is the general principle that the family is the natural and fundamental building block of society and is entitled to the protection of society and the State. Article 10 of the International Covenant on Economic, Social and Cultural Rights echoes this idea, adding that "The widest possible protection and assistance should be accorded to the family, ... , particularly for its establishment and while it is responsible for the care and education of dependent children." The legal formation of families is the responsibility of civil registration and is accomplished not only through the celebration and registration of marriages but also through the registration of all births, irrespective of legitimacy, and through its participation in noting legitimations, recognitions and adoptions. Protection of the family should therefore begin by facilitating its formation through improvements in the institution responsible for this function. An inefficient civil registration system, whether because its procedures are unduly complex, it does not have adequately trained personnel, or it lacks essential resources, is one that unremittingly undermines the organization of the family.

181. Moreover, the family is indispensable because without its support it is virtually impossible for children to be raised in a balanced and comprehensive manner. Human beings are born helpless and remain that way for so long that they would not survive without outside help. Protection is one of their primal needs. Both parents, but especially the mother, provide this help, which seemingly springs from a genetic force that binds the man and the woman together, at least temporarily, thereby assuring the survival of the child and the perpetuation of the species.

182. Without in any way detracting from the need for certain forms of protection for a pregnant woman, to benefit the child she is carrying, a child's problems can be said to begin at birth. It is recognized nowadays that child care should be comprehensive and satisfy three basic needs: (a) physical or material, such as housing, clothing, food and health; (b) emotional or psychological, such as motherly affection, early stimulation, ideally requiring the presence of both parents, and education; and (c) social, that is, socialization within a family setting. It is acknowledged that children born and brought up in well organized families achieve better all-round development and have fewer health and behavioural problems.

#### C. Monitoring demographic trends

183. Statistics are not as a rule an end in themselves but a necessary tool for studying and understanding many social and economic phenomena. They are meaningful only as a means of interpreting or forecasting different aspects of life. But if their purpose is thought to be achieved by the mere fact of publication, they miss their true target, which is to serve by providing quantitative information.

184. The same applies to vital statistics as a subset of demographic statistics. They have multiple uses and can be grouped by subject into health, economic, social and demographic data. From a programming viewpoint they are equally necessary during planning, execution and evaluation. As far as government planning is concerned, they are used at the local level in direct action programmes; at state or provincial level in oversight programmes and at times also in direct actions; at the national level for planning broad-brush government policies and on occasion for oversight purposes; and, finally, at the international level, for comparison purposes and for planning joint programmes involving two or more countries, or one or more international agencies with one or several countries.

185. Vital statistics are of irreplaceable value in the field of public health since, being dynamic, they are the only source of information as events occur. Some examples are given below for illustration:

(a) Mother and child mortality are reflected in the pertinent rates. Infant mortality rates are recognized as the best indices for measuring the effectiveness of public health programmes. For their part, excessive maternal mortality rates probably suggest the need to study not only causes but also circumstances. For example, plotting maternal deaths by type of attendance at birth might reveal that their incidence is excessive in home births, thereby justifying preventive measures or the expansion of hospital services;

(b) It is generally acknowledged that statistics on mortality are better than those on morbidity, so when the latter are unavailable planning to prevent tuberculosis, cancer, malaria and AIDS, for example, is done on the basis of the mortality rates for these specific causes;

(c) Statistics on deaths due to poisoning have helped, among other things, to ban the use of lead in paints used in making toys and children's furniture;

(d) Communicable diseases, such as typhoid fever and malaria, still pose serious health problems in some parts of the world; vital statistics are helpful in pinpointing their incidence and location and in evaluating the progress of ongoing programmes to combat them;

(e) Other areas, such as social security systems, rely for their actuarial calculations on life tables based on population estimates and mortality rates.

186. In the international sphere, the main users of vital statistics are international agencies, which rightly stress the need for reliable and comparable statistics as a basis for their work. To begin with, they need to know the relative seriousness of the problems they may be able to help solve, in different countries or regions. They also need statistical information to plan technical and financial assistance programmes, to measure their progress, and to evaluate their outcomes.

#### D. Social welfare

187. Social welfare systems rely on civil registration to accomplish their goal, which is human well-being. However, social assistance looks at the individual as a member of a family and at the family as the environment in which individual well-being is achieved. It has therefore been said that, of all the technical

services that make up a country's public administration, none attaches more importance to the family than social assistance does.

188. It is vital for social welfare agencies to legally recognize the family as an irreplaceable social unit, but also to know the civil status of each of its members, because legal determinations that a person exists and is a member of a family are prerequisites for receiving the benefits provided by social welfare, social insurance and social security services in countries where those benefits are considered to be entitlements rather than acts of charity.

189. It is the function of civil registration to provide the evidence that proves the legal existence of a family and each of its members, their ages and their position within the family. In other words, birth, marriage and death certificates are what make it possible to determine the rights and obligations of each member of a family vis-à-vis the others, and of the family vis-à-vis the society of which it forms part. Without such proof it would be very difficult for a country's social assistance machinery to operate, making the benefits it is supposed to provide to the people illusory.

#### E. Housing

190. Demographic shifts are taking place all over the world all the time. We refer to two of them that are related to the subject of this Handbook:

(a) Every year in every country a number of families are formed that need tools, services and, in particular, housing. The construction industry is obviously keen to see the number officially quantified so that it knows how many units are needed and can be sold. According to the Economic Commission for Latin America and the Caribbean, new family formation is easily the most dynamic factor for determining the need for new housing and the most useful to track statistically. Evidence is gathered by the civil registration agency, which can report the number of marriages celebrated and registered during the period. Nevertheless, it is essential to point out that de facto families are also formed — many of them stable and with much the same needs as conventional families — that do not make it into the civil register and thereby distort and lessen the value of the information. It is important, therefore, that the civil registration agency have ways and means of encouraging people to go to their local registry offices and take advantage of their services;

(b) The world is becoming urbanized, albeit at different rates in different countries and regions. This means there is a steady drift from rural areas to urban centres. The population of both continues to grow, but more slowly in rural than in urban areas. This drift means a new way of life for the immigrants, with new requirements and needs, one of which is of course housing. But, as they become part of their new life in society they are forced to rely as never before on documentation provided by civil registration.

#### Notes

1/ United Nations publication, Sales No. E.73.XVII.9.

2/ United Nations publication, Sales No. E.91.XVII.5.

### III. HUMAN RIGHTS AND CIVIL REGISTRATION

191. The legal function performed by civil registration - essentially by creating legal instruments of direct interest to individuals through the compulsory registration of vital events and their characteristics - constitutes the primary advantage and incentive for people to register. It has been said that "the best incentives for promoting registration are, of course, the privileges and entitlements that flow from proof of registration". Entries of births, marriages, deaths and divorces are primarily designed to safeguard the rights of individuals as members of society. Individuals use birth, marriage and death certificates in their daily life provided that the registration system in effect establishes the general probative value of registration records and their certificates as official, public documents, so that they can be used as permanent legal documents proving the occurrence of the events registered and certified.

192. Aside from the direct, overarching importance of civil registration to the public authorities - in that the information compiled using the registration method provides essential data for national or regional planning in terms of preparing medical and health programmes, family care and planning programmes, mother and child health services, other social services, public health programmes for controlling infectious diseases, health research programmes, social and demographic studies, etc. - it should be emphasized that the role played by civil registration in proving and in establishing, implementing and realizing many of the human rights embodied in international declarations and conventions is one of its most important contributions to the normal functioning of societies. Accordingly, its description, albeit in summary form, has been separated from the listing in the previous chapter.

193. The human rights on which the comments in the following paragraphs are based are those that form part of:

(a) Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948;

(b) Declaration of the Rights of the Child, proclaimed by the United Nations General Assembly on 20 November 1959;

(c) International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966;

(d) International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966;

(e) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted by the United Nations General Assembly on 7 November 1962;

(f) International Convention on the Elimination of all Forms of Racial Discrimination, adopted by the United Nations General Assembly on 21 December 1965;

(g) Declaration on the Elimination of Discrimination against Women, proclaimed by the United Nations General Assembly on 7 November 1967;

(h) Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979;

(i) Convention on the Reduction of Statelessness, adopted by the United Nations General Assembly on 30 August 1961;

(j) Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989.

194. The fundamental connection between human rights and the registration of vital events was sealed when the International Covenant on Civil and Political Rights proclaimed 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 proclaimed that "All marriages shall be registered in an appropriate official register by the competent authority."

195. This connection was later emphasized in the United Nations 1974 World Population Plan of Action, one of whose studies arising out of the recommendations for action, laid the foundation for identifying two groups of human rights:

(a) those that require States to ensure that vital events are registered, and

(b) those that may depend on the vital events having been registered.

196. Since its establishment in 1946, the United Nations Human Rights Commission has been charged with promoting, encouraging and enforcing human rights and fundamental freedoms. And in 1966, the Economic and Social Council instructed the Commission to consider as an important and urgent matter the problem of human rights violations, with a view to preparing measures to put an end to them. Accordingly, the Commission is now in overall charge of the human rights issue, both in its active aspects, which involve promotion, encouragement and enforcement, and in its passive aspects, or violations.

197. It must be agreed that the obligation of the States that have signed the International Covenants on Human Rights to promote their application entails the corollary obligation to amend or repeal any laws or policies that prevent it. No other position would make sense.

198. However, meaningful protection of human rights depends not only on the legislation enacted to give them effect, but also on the administrative procedures designed to implement the laws. The right to register vital events is a case in point. It is common knowledge that very few countries do not have basic laws on registration that make it compulsory to report and register births and deaths, as a minimum. But there is no denying that these measures alone have failed to produce complete records. On the contrary, a review of the situation in the countries that do have such basic legislation reveals that systems covering approximately 70 per cent of the world's population are not operating effectively. It is thus safe to infer that the problem lies in the administrative procedures, which are either non-existent or are inefficient and incomplete; it might be added that the most disadvantaged sectors of the rural population experience difficulties in terms of communications and transportation.



199. This is a serious shortcoming, since it means that the right to register vital events has not been assured in all countries. As a result, a huge number of people are deprived of the right to hold proof of the occurrence of a birth, a death, a marriage or a divorce. This means that the individual concerned is deprived of the rights guaranteed by international conventions, since their attainment depends on the ability to prove identity, age, parentage, nationality and marital status, all of which are characteristics traditionally certified by the documents issued by the civil registration service.

200. Thus, the mere recognition of human rights, both internationally and nationally, is not enough to guarantee their effectiveness, since it is essential to implement the measures needed to establish control mechanisms to guarantee that the rights enunciated in international conventions and in the basic charters of the States actually materialize. The classic international mechanisms are characterized by their "weakness", in that the States resist meaningful supranational oversight. Nevertheless, the States Parties to the international human rights conventions have legally committed themselves - not morally or politically, as in the declarations - to respect and ensure the enforcement of the rights recognized and to take the measures needed to this end. At the present time, apart from the traditional international instruments just referred to, great importance attaches to the Convention on the Rights of the Child adopted by the United Nations on 20 November 1989. The relevance and merit of the Convention on the Rights of the Child lie, on the one hand, in the fact that it exists at all, because it stands as the most important international instrument for the protection of children's rights, and in this connection has been called the "Children's Magna Carta". On the other hand, it is a codification of child-protection rights already proclaimed or recognized in other generic or sectoral international texts, which was compiled as an international instrument that would be binding on its signatory States, which are subject to the mechanisms for overseeing its enforcement, that is, to the Committee on the Rights of the Child referred to in article 43 of the Convention. But, in addition, the 1989 Convention does not confine itself to compiling - this time with binding force for the States Parties - rights already recognized internationally and having greater or lesser force depending on the nature of the international instrument in which they are embodied; it also introduces some novel features which we would regard as substantive for registration purposes and which relate, among other things, to a child's right to preserve its identity, which the States Parties undertake in article 8.1 to respect, assist and protect; and to a child's right to know its parents, as proclaimed in article 7.1. The States Parties are under an obligation to protect and respect those rights, acting at all times in the "interest of the child", as the paramount principle that is to guide the application of the Convention, pursuant to article 3, and observing at all times the principle of non-discrimination enunciated in article 2.

201. The following sections review:

(a) The right to officially register the vital events comprising the two top-priority groups, that is, births, deaths, foetal deaths, marriages and divorces;

(b) Those human rights that may depend on the corresponding vital events having been registered.

## A. Right to register vital events

### 1. Right to register a birth

202. This right was proclaimed in article 24 of the International Covenant on Civil and Political Rights, in recognition of the fact that the entry of birth is legal proof of the occurrence of this event and of the circumstances noted on the entry, which, as will be seen, turns out to be essential for protecting a number of individual human rights. To provide this protection, the Covenant specifies it as a State obligation to ensure that "Every child shall be registered immediately after birth ...."

203. Entries of birth contain information that, though it varies from country to country, constitutes legal proof of birth and helps to identify the newborn child - its name and those of its parents, date and place of birth, name of informant, and of the physician attending the delivery or, failing that, of the witnesses, and the name and signature of the registrar who made and authorized the entry. All these data items, which were furnished at the time the birth was registered, will be permanently available to the individual concerned, through certificates issued by the civil registry office, whenever he needs to document them to protect his rights or for any other purpose.

204. The commonest uses of entries of birth in the exercise of rights and privileges relate to date of birth, for example when individuals seek official, legal proof of age because the law of the land says they must be of a certain age to qualify for a particular right: enrolling in school, getting a work permit, serving in or being exempted from the armed forces, voting, getting married, entering into a contract, etc. Other rights closely linked to the entry of birth that cannot be recognized or exercised without being able to prove the fact and characteristics of birth relate to parental ties, identification, inheritance rights, birth and maternity allowances, maternity leave, proof of nationality, obtaining a passport, collecting insurance, applying for credit cards, etc.

### 2. Right to register a death

205. Neither the Universal Declaration of Human Rights nor the related International Covenants make any specific reference to the right to register a death. However, this right can be asserted to exist because it is implicit in article 12(2) (a) of the International Covenant on Economic, Social and Cultural Rights, which stipulates that, for the right to healthy development to be fully effective, the States Parties must adopt, among other things, measures aimed at "reduction of the still-birth rate and of infant mortality, ..." and, as we know, the register of deaths can provide the number of deaths at less than one year, which is the basis for measuring infant mortality. Without this figure, which is arrived at from the register of deaths and the number of live births obtained from the register of births, there would be no way to calculate the infant mortality rate over time and for different population groups. Nor, as a result, would it be possible to document trends in the rates or to plan and evaluate their reduction.

206. The right to register deaths is also implicit in connection with the exercise of other human rights, such as the right to inherit and those arising from social security systems and the collection of insurance. The death will also need to be registered in order to legally document widowhood and the right

to remarry. Moreover, the primary incentive for individuals to register a death has, as noted, been the need to obtain a burial or cremation permit, since in most countries the permit will not be issued without the death being legally documented by means of the relevant death certificate. It can therefore be assumed that the right to officially register a death is also a human right, like that of registering a live birth.

207. The entry of death also includes data items such as the name and characteristics of the deceased, date, place and certification of the death, identity of the witnesses, if any, the informant and the registrar. The occasion of registering a death should always be used to gather information on the cause of death, which is entered in the register itself if it doubles as a statistical report, or otherwise only in the latter.

### 3. Right to register a foetal death

208. This, as in the case of deaths, is also implicit in article 12(2) (a) of the International Covenant on Economic, Social and Cultural Rights. Reduction of the infant mortality rate is one of the measures that the signatory States must adopt to ensure full attainment of the right to health. It should be borne in mind that the data needed to calculate the infant mortality rate can only be obtained from a register of foetal deaths - or at least of late foetal deaths (with a gestation period of over 28 weeks) - in combination with a register of live deaths.

### 4. Right to register a marriage

209. This right was not included as such in the International Human Rights Covenants. However, it is implicitly recognized as essential for several of the rights embodied in those covenants.

210. The registration of marriages first came to be legally binding on the States with the approval in 1964 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, article 3 of which states that "All marriages shall be officially registered by the competent authority." The United Nations General Assembly had earlier approved four resolutions recommending the official registration of marriages. The first was resolution 843 (IX) of 1954, entitled "Status of women in private law: customs, ancient laws and practices affecting the human dignity of women", which urged all States to take all appropriate measures in the countries and territories under their jurisdiction with a view to abolishing such customs, ancient laws and practices ...; and establishing a civil or other register in which all marriages and divorces will be recorded; ....

211. The more recent declarations of the United Nations General Assembly on the subject of the registration of marriages are the Declaration on the Elimination of Discrimination against Women (1967), article 6.3 of which states that "effective action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory". This wording is echoed in article 16.2 of the Convention on the Elimination of All Forms of Discrimination against Women.

212. Leaving aside differences among countries, registrations of civil marriages contain data items on both spouses, such as name, proof of identity, age,

previous marital status, occupation, date of the marriage, date of registration, whether the marriage was civil or religious with civil standing, domicile or residence of the bride and groom, place of the marriage, particulars of the witnesses, and the name and signature of the registrar. Through copies or certificates the civil registration agency issues proofs of the marriage and its particulars, which will provide the spouses thereafter with the means to safeguard several of their human rights. The primary individual rights associated with legal proof of the marriage are the legitimacy of any children, proof of their biological origins, inheritance rights, application for family benefits, marriage allowances, collection of pensions and insurance, prerequisite for the spouse to acquire nationality, etc.

#### 5. Right to register a divorce

213. Resolution 843 (IX) of 1954 of the United Nations General Assembly on the status of women in private law also urged governments to establish a register of divorces. Furthermore, in its resolution 1068 F of 10 July 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 ...."

214. As a general rule, divorce proceedings take place in a court of justice and divorces are granted by a court ruling. If, under the law of the land, such a court is a court of first instance, the ruling normally has to be approved by a higher court (court of appeals) as a sign of the importance attached to the proceeding. After processing, the file is sent back to the court of first instance and from there to the court archives. The decree is legal proof of the divorce and its characteristics, and interested parties can obtain a copy of it at any time for their own purposes. However, unless there is a legal provision requiring the court to forward a copy of the ruling to the pertinent civil register, it cannot be asserted in court or in any other judicial or administrative proceeding, nor, if it has not first been recorded in the civil register, will it be possible to keep statistics on this vital event. For its part, the procedure followed in the civil register will depend on the laws of each country. In some, the decree is entered, as is done with a marriage or a birth, sometimes in a separate register and at others through a complementary notation in the register of marriages. Others with more sophisticated civil registration systems merely take note of the divorce decree by recording its main data items in the margin or on the reverse of the marriage record to which it refers. And if the data for the respective statistics are noted on a statistical report, it is not even necessary to keep a copy of the ruling on file since the interested parties can always refer to it in the court archives where it is kept. It is also possible to combine both systems, in other words, record the divorce separately as an independent entry in the relevant register of divorces and simultaneously make a marginal note on the record of the marriage being dissolved by the divorce decree.

215. The divorce decree always contains sufficient data on the parties, and most of the statistical data required can be extracted from them. The others are requested from the informant, that is, from the person requesting the entry or notation, as the case may be. The principal rights flowing from the registration of a divorce are the right to remarry, based on legal proof that the previous marriage has been dissolved, to collect a family food allowance, to establish custody of minor children subject to parental authority, etc.

## B. Human rights that may depend on the registration of vital events

216. There are several human rights emanating from international declarations and covenants that in one way or another involve civil registration, which demonstrates the scope of its contribution to the normal functioning of societies. Some are not very closely related to the purposes of the present Handbook, but all are covered in a fairly cursory manner for completeness's sake and so that those interested in studying them in greater depth can easily do so. Prerequisites in all cases are that interested parties must be able to prove their age, place of birth, nationality, identity, and civil or marital status. Some require proof of only a single characteristic from a single entry, but others require proof of more than one characteristic taken from one or more entries in the civil register. The pages that follow indicate, for each of them, a concept, the provisions of the international declarations, covenants and conventions from which they derive (see para. 193 supra), and the records involved in their attainment.

### 1. Right to own identity

#### Concept and origin

217. Nowadays birth records are the pre-eminent means of identifying individuals, since the data items in the record, particularly the name and surnames, are the marks that individualize and evoke the identity of a person, precluding confusion with everyone else. The right to immediate registration was proclaimed in article 24.2 of the International Covenant on Civil and Political Rights: "Every child shall be registered immediately after birth ...." Article 7 of the Convention on the Rights of the Child reaffirmed this right to registration, in the following terms: "1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents." The right to register a birth thus appears closely linked to the attainment of the right to one's own identity, also expressly recognized for the first time in an international instrument in article 8 of the Convention on the Rights of the Child, which includes references to nationality, name and family relations: "1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law and without unlawful interference. 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity." Implementation by the States of the United Nations recommendations for regulating registration services provides the assurance that the necessary entries of birth will be recorded, thereby fulfilling the legal purposes entrusted to the civil registration function and providing individuals with preferred means of official, permanent proof of the events that determine their civil status, including first and foremost their own identity. The importance of this right being made effective is brought home clearly by the fact that the effectiveness of all other rights to which a person is entitled depends on whether it was possible at an earlier date to make a foolproof identification of him, which in turn depends on whether his entry of birth includes the necessary references to identity, notably the full name given to the registrant pursuant to domestic law, sex, circumstances of the physical birth event, names and surnames of the parents, and their nationality at the time he was born. Proof of a person's identity in any legal act in which he is

a party - marriage, determination of filiation, execution of legal instruments, judicial or administrative proceedings, etc. - will be based on his prior identification in his entry of birth, which must be accepted as the primary instrument of proof by the State's identification services when they issue the corresponding identity document. The right of every human being to his own identity constitutes a logical priority when it comes to establishing and attributing the relevant rights and obligations.

### Register involved

218. Birth.

## 2. Right of the child to know its parents

### Concept and origin

219. According to article 7 of the Convention on the Rights of the Child, a child has the right from birth to a name and, as far as possible, the right to know his or her parents. As in the case of a minor's right to an identity, this represents a novel formulation in international law: the right of the child to know his or her biological parents, as an essential element of his or her biological identity, an unprecedented international posit related to the principle of unrestricted investigation of paternity, which is prevalent in many countries today: "Article 7.1: The child shall be registered immediately after birth and shall have the right from birth ... and, as far as possible, to know and be cared for by his or her parents." From a registration standpoint, this right appears to be linked to the entry of birth, even though it is not recognized as having the same probatory force with respect to filiation. The premise underlying the draft law is that the birth record is delinked from the registrant's filiation. This will ultimately depend on the regulations in force in each country on an issue as complex and sensitive as determining filiation. At all events, either filiation is established at the time the entry of birth is recorded, or both events are delinked in terms of the discrete probatory value of the birth record, which will reliably attest only to the existence and identity of the registrant; the birth record, either in the main body or through complementary notations, will normally provide information on the full names of the parents, as well as data on their dates and places of birth, and their respective nationalities. The registrant must always be given free access to the data on record in his entry of birth and complementary notations, as well as in the documents filed in the relevant civil register as they pertain to the identity of his biological parents. For example, it is presumed that biological maternity can be inferred from the medical certificate of delivery, which has to be filed in the civil registry, and, in the event that the mother's name does not appear on the registration record because it may under the law of the land be held in anonymity, it must be possible to access the original document to verify the data items pertaining to the mother. In cases of adoption, the adoptee upon reaching majority has the right to conduct the necessary research to obtain information on his biological parents and, therefore, even if a new entry of birth was made containing references only to the identity of his adoptive parents, and even if the original record has been cancelled, he must be allowed to obtain a certificate of such cancelled entry, which will presumably contain data items on his true biological filiation, which will thus enable him to realize the right to his own identity.

## Register involved

220. Birth.

### 3. Right to non-discrimination by reason of birth

#### Concept and origin

221. This right is expressly recognized in article 2 of the Convention on the Rights of the Child and is closely related to the methods for determining maternal and paternal filiation, whether in or out of wedlock. The wording of the precept reproduces almost verbatim all the earlier international declarations on the issue. Universal Declaration of Human Rights: "Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Declaration of the Rights of the Child: "Principle 1. The child shall enjoy all the rights set forth in this Declaration. These rights shall be recognized to all children without exception, distinction or discrimination by reason of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, either of the child or of his or her family." International Covenant on Civil and Political Rights: "Article 2.1: Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 24.1: Every child has the right, without distinction of any kind by reason of race, colour, sex, language, religion, national or social origin, property or birth, to the protective measures which his status as a minor requires, both from his family and from society and the State." Convention for the Protection of Human Rights and Fundamental Freedoms, signed by the Council of Europe at Rome on 4 November 1950: "Article 14: The enjoyment of rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Finally, article 2 of the Convention on the Rights of the Child provides: "1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

222. Even if one opts for a registration model that segregates filiation from the birth record, the right to non-discrimination on grounds of filiation immediately becomes a civil registration issue to the extent that the entry of birth calls for essential data items, notably the compulsory entry of the full name of the registrant's parents, as well as other identifying references, such as their dates of birth and nationalities. In cases where the filiation is not known to one or both lines, the birth record would not contain identifying

references that relate to the parents, as they have not been legally determined; this would mean that the official documentation on the registrant would immediately reveal that fact that his origin is unknown. The civil registration law contains provisions that allow for these situations so as to avoid discriminations from the moment the birth is officially registered. To this end, without prejudging the registrant's filiation, it provides that the name be designated by the informant or the registrar himself and that, if not decided, surnames in everyday use will be imposed ex officio. For the same purpose of giving the child full identifying references, it also provides that fictitious names for the mother and father must be entered for identification purposes.

#### Register involved

223. Birth.

#### 4. Right of the child to a name

##### Concept and origin

224. The rights of the child should cover four major areas - all subordinated to the fundamental principle of his or her "higher interest" - namely survival, growth, protection, and participation. In the case of survival, together with the inherent right to life, the child has the right, as indicated earlier, to a name and a nationality. The child has the right from birth to a name and a nationality. Every child shall be registered immediately after birth and shall have a name.

225. The Declaration of Human Rights and the international Covenants and Conventions have nothing further to say about names. They do not specify what standards or guidelines should be followed in naming a person. However, the common denominator which emerges from all these conventions is the basic notion that the wording of the legislation, whatever form it may take, may not be discriminatory. A minor child may not be discriminated against. However, in many countries there are still legal rules which make it compulsory to use one formula for naming legitimate children and a different one for naming a child born out of wedlock.

226. The right to a name was first proclaimed internationally in principle 3 of the Declaration of the Rights of the Child and subsequently recognized as a right in article 24(2) of the International Covenant on Civil and Political Rights. Articles 7 and 8 of the Convention on the Rights of the Child recognize the right of every child to a name and the obligation of the States Parties to ensure the implementation of that right, among others, in accordance with their national law and their obligations under the relevant international instruments in this field. Also relevant in this connection are articles 1 and 25(2) of the Universal Declaration of Human Rights, in that they prohibit any form of discrimination.

#### Register involved

227. Birth.



## 5. Right of the child to a nationality

### Concept and origin

228. This appears with similar wording in four international statutes, which can be taken as proof of the importance attached to it. Every person has the right to a nationality. Every child has the right to acquire a nationality. The child has from birth the right to a name and a nationality. The child will be registered immediately after birth and will from birth have the right to a name, to acquire a nationality and, as far as possible, to know and be cared for by his or her parents. Neither the celebration or dissolution of a marriage between a national of a State Party and a foreigner nor a change in the nationality of the husband during the marriage shall automatically affect the nationality of the wife.

229. The principal international instruments in which this right to nationality is recognized are: the Universal Declaration of Human Rights, article 15; the International Covenant on Civil and Political Rights, article 24(3); the Declaration of the Rights of the Child of 1959, principle 3; the United Nations Convention on the Rights of the Child of 1990, article 1; and the Convention on the Reduction of Statelessness, article 1 of which establishes the commitment of all Contracting States to grant their nationality to any person born in their territory who would otherwise be stateless.

### Registers involved

230. Birth: to fully appreciate the role this record plays in proving nationality it should be pointed out that it is usually a country's political constitution or founding charter that determines who are nationals and who are aliens and how nationality is acquired and lost. Some follow the principle of *jus soli* and others that of *jus sanguinis*. Under the former, those born in the territory of the country are nationals, even if their parents are aliens; under the latter, the children of a country's nationals are usually also nationals of that country, regardless of where they were born. In the first case, the entry of birth is sufficient to assert a particular nationality, but in the second the interested party must document the nationality of one of his parents, at least by means of a birth certificate and, where appropriate, a marriage certificate.

## 6. Right to health

### Concept and origin

231. Everyone has the right to an adequate standard of living that affords him and his family health and well-being, medical assistance and essential social services. All children will have the right to grow and develop in good health; to this end special care must be provided to them and their mothers, including prenatal care. Everyone is recognized as having the right to the enjoyment of the highest attainable standard of physical and mental health. To this end, it is necessary to take steps to reduce the stillbirth and infant mortality rates, as well as to improve all aspects of environmental and industrial hygiene, to prevent, treat and control epidemic, endemic and occupational diseases, and to create conditions that will provide all with medical assistance and medical services in the event of sickness. It is recognized that every child has the inherent right to life and to the enjoyment of the highest attainable standard

of health and to facilities for the treatment of illness and the rehabilitation of health.

232. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 25(1); the Declaration of the Rights of the Child, principle 4; the International Covenant on Civil and Political Rights, article 12; and the Convention on the Rights of the Child, article 24.

Registers involved

233. Birth; death; foetal death.

7. Right of the family to protection

Concept and origin

234. The family is the natural building-block of society and is entitled to the protection of society and the State. The family, which is the natural and fundamental element of society, should be afforded the broadest possible protection and assistance, particularly for its establishment and while it is responsible for the care and education of dependent children. As is known, the legal constitution of the family - which begins with marriage and is proved by its registration - is the true task of civil registration. The most common forms of family protection are regular additions to income, commonly called family allowances or the Iike; a lump sum paid upon the birth of a child, and a tax reduction based on proof of having one or more dependent children in the family entitled to maintenance, assistance and care until they reach the age of majority or such other age as the law may prescribe if the child is still a student.

235. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 16; the International Covenant on Civil and Political Rights, article 23(1); and the International Covenant on Economic, Social and Cultural Rights, article 10(1).

Registers involved

236. Birth; marriage.

8. Rights of the juvenile delinquent

Concept and origin

237. Right to justice. Special procedure, depending on the age of the minor, designed to promote his rehabilitation. Detention in a separate place from adults. Accused juvenile persons shall be separated from adults and be accorded treatment appropriate to their age and legal status. Sentence of death shall not be imposed on persons below 18 years of age. Minors accused of violating penal laws have the right to be accorded treatment aimed at promoting their sense of dignity and their social rehabilitation. They are also entitled to a series of protective measures set forth in detail in article 40 of the Convention on the Rights of the Child.

238. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 6(5); the International Covenant on Civil and Political Rights, article 10(2)(b); the International Covenant on Civil and Political Rights, article 14(4); and the Convention on the Rights of the Child, article 40.

#### Register involved

239. Birth. Proof of age is crucial in determining the conditions for the treatment of minors.

### 9. Right to education

#### Concept and origin

240. Everyone has the right to education. Primary education shall be compulsory and available free to all. Equality of rights as between boys and girls shall be compulsory.

241. The principal international instruments in which this right is recognized are: the International Covenant on Economic, Social and Cultural Rights, article 13(1) and (2); the Declaration of the Rights of the Child of 1959, principle 7; the Universal Declaration of Human Rights, article 26; and the Convention on the Rights of the Child of 1989, article 28(1)(a).

#### Register involved

242. Birth: this can provide a list of prospective primary students, without which compulsory schooling would be meaningless; allows the education system to know the size of the male and female infant population for parity purposes.

### 10. Right to maintenance and protection

#### Concept and origin

243. Every child has the right to special protection to ensure his or her all-round development. Every child has the right, without discrimination, to protective measures by his or her family, society and the State. Both parents have equal responsibilities to provide protection and maintenance to their minor children. Every child has the right to benefit from social security, including social insurance. Every child has the right to rest and leisure. All have the right to be protected from economic exploitation and hazardous work. All have the right to be protected from the illicit use of narcotics and drugs in general. All have the right to be protected from all forms of sexual exploitation and abuse.

244. The principal international instruments in which this right is recognized are: the Declaration of the Rights of the Child, article 2; the Declaration of the Rights of the Child, article 7; the Declaration of the Rights of the Child, article 9; the International Covenant on Civil and Political Rights, article 24(1); and the Convention on the Rights of the Child of 1989, articles 18, 26, 31, 32, 33, 34.

### Registers involved

245. Birth: proof of age; proof of natural filiation or at least of maternal filiation. Marriage: proof of legitimate filiation.

## 11. Right to marry

### Concept and origin

246. In order to marry, men and women must be of a minimum age prescribed by law. This minimum is also used to prohibit minors from marrying. The Universal Declaration of Human Rights refers to the age of puberty as the minimum age, but some national laws have set a higher age limit.

247. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 16(1); the International Covenant on Civil and Political Rights, article 23(2); and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, article 2.

### Registers involved

248. Birth: this is essential to prove the minimum age prescribed by law has been attained and offers proof that the intending spouses are not precluded from marrying because they are interrelated. Death: the intending spouses must also prove that their personal status permits them to marry, that is, they have never been married, are widowed or are legally divorced. In the case of widowhood, proof of the previous spouse's death is required. Divorce: intending spouses must always prove they are free to remarry - that is, in monogamous societies - and are not legally married at the time they remarry.

## 12. Right of minors to protection from marriage

### Concept and origin

249. Puberty is a prerequisite for a valid marriage, barring a waiver. National laws should prohibit marriage before puberty.

250. The Universal Declaration of Human Rights, article 16(1); the International Covenant on Civil and Political Rights, article 23(2); and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, article 2.

### Registers involved

251. Birth: the ability to prove at least the attainment of puberty is a prerequisite for entering into a valid marriage. Marriage: the marriage record contains the ages of the contracting parties and therefore serves as added proof of age; it also records any dispensation, normally granted for serious reasons in the interest of the parties.

### 13. Right of protection from forced marriage

#### Concept and origin

252. Both intending spouses must consent freely and fully to the marriage. The consent of only one party is not sufficient. The Covenants are explicit and categorical on this point.

253. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 16(2); the International Covenant on Economic, Social and Cultural Rights, article 10(1); the International Covenant on Civil and Political Rights, article 23(3); and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, article 1(1).

#### Register involved

254. Marriage: the presence of the witnesses and the registrar affords proof that the marriage was celebrated with the full consent of both intending spouses.

### 14. Right to food

#### Concept and origin

255. This is part of everyone's right to an adequate standard of living for himself and his family, which also includes clothing and housing. The international covenants emphasize the right of the mother and the child to special care and assistance as far as food is concerned.

256. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 25(1); and the International Covenant on Economic, Social and Cultural Rights, article 11(1).

#### Register involved

257. Birth: listing of newborns for administering supplementary food programmes. If children are not registered, they and their mothers are ineligible for the programme. Death: allows the list of beneficiaries to be kept up to date. In addition, the incidence of certain potentially fatal nutritional diseases reveals the need for specific types of food to be included in the programme.

### 15. Right to clothing

#### Concept and origin

258. This is part of everyone's right to an adequate standard of living for himself and his family, which also includes food and housing, and to the continuous improvement of living conditions.

259. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 25(1) and the International Covenant on Economic, Social and Cultural Rights, article 11(1).

### Registers involved

260. Birth: proof of number of children to qualify for differential benefits in countries that scale back the cost of clothing and other goods according to income level and age of the children. Marriage: in such countries, preference in qualifying for these benefits is usually given to legally established families.

## 16. Right to housing

### Concept and origin

261. This, like the right to food and clothing, is a corollary of an adequate standard of living. State programmes to provide housing for lower-income groups take different forms, such as subsidies for buying or renting homes, rent allowances, grants, loans, tax concessions, etc. Eligibility is usually determined by a formula in which the number of persons in the household and their relationship to the head of household play an important part.

262. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 25(1); and the International Covenant on Economic, Social and Cultural Rights, article 11(1).

### Registers involved

263. Birth: the number of minor children in the family, their ages and relationship to the head of household are commonly determining factors in qualifying. This information can also be used to determine what type and size of house a family qualifies for. Marriage: according to the legislation, the right to housing assistance may depend on proof that the family is legally established, that is, the marriage certificate issued by the civil registration office.

## 17. Right to work (employment)

### Concept and origin

264. Everyone has the right to a job that he freely chooses (or accepts), on equitable terms and rates of pay, and to protection against unemployment. Everyone has the right, without discrimination, to equal pay for equal work; and everyone also has the right to rest, to the enjoyment of free time, reasonable limitation of working hours, and to periodic holidays with pay. The States must establish a minimum age below which work is prohibited by law and violations punished. The States must protect children against any form of labour exploitation and must refrain from recruiting those below 15 years of age into the armed forces.

265. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 23(1), (2) and (3); the Universal Declaration of Human Rights, article 24; the International Covenant on Economic, Social and Cultural Rights, article 6; the International Covenant on Economic, Social and Cultural Rights, article 10(3); the Declaration of the Rights of the Child of 1959, principle 9; the Convention on the Rights of the

Child, article 32(2) (a, b and c); and the Convention on the Rights of the Child, article 38.

#### Registers involved

266. Birth: the entry of birth provides proof of the minimum (entry) and maximum (retirement) age. The latter allows employment to be terminated without resistance or dispute. Proof of nationality (if the State follows the *jus soli*) when applying for employment, including in the armed forces. Marriage: preference for certain jobs may depend on whether the candidate is single or married. Death: for the same purposes as in the preceding point, and to document widowhood.

### 18. Right to property

#### Concept and origin

267. Everyone has the right to property, individually or collectively. He may therefore acquire, administer, enjoy, dispose of and inherit property and goods, including those acquired during the marriage. The States parties to the international declarations and covenants undertake to guarantee men and women equality in the enjoyment of this right. No one can be arbitrarily deprived of his property.

268. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 3; the International Covenant on Economic, Social and Cultural Rights, article 3; the Declaration on the Elimination of Discrimination against Women, article 6(1) (a); and the Convention on the Elimination of All Forms of Racial Discrimination, article 5(d) and (v).

#### Register involved

269. Birth: proof of having reached the age prescribed by law to enjoy the right to property (capacity). May also help in establishing identity.

### 19. Right to inherit

#### Concept and origin

270. States must guarantee the right to inherit "ab intestato" and hence to acquire, administer, enjoy and dispose of inherited goods. The formal establishment of parentage and filiation is of decisive importance for rights of inheritance. Neither the Universal Declaration of Human Rights nor the international covenants on human rights refer specifically to the right to inherit.

271. The principal international instruments in which this right is recognized are: the Declaration of the Rights of the Child of 1959, principle 4; the International Convention on the Elimination of All Forms of Racial Discrimination, article 5(d); the Declaration on the Elimination of Discrimination against Women, article 6(1) (a); and the Convention on the Rights of the Child, article 26.

## Registers involved

272. Birth: proof of parentage is derived from the register of births. Death: in the case of intestate successions, the first proof required is of the death of the decedent, that is, the register of deaths, followed by proof of the relationship of the presumptive heir to the decedent, that is, the birth record of the heir. Marriage: the record of the marriage in an official register automatically ensures the inheritance rights of the surviving spouse, whether husband or wife, and also supports the claims of the surviving children.

## 20. Right to migrate

### Concept and origin

273. Everyone has the right to leave any country, including his own, and to return to his country.

274. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 13(2), and the International Covenant on Civil and Political Rights, article 12(2).

### Register involved

275. Birth: if one intends to cross national borders, the rights to freedom of movement and residence are restricted by the need for a passport and visa. In countries governed by *jus soli* the birth record accredits nationality; but in those governed by *jus sanguinis*, in addition to the entry of birth containing the names of the parents, the parents are required to document their own nationality, which they transmit to their children by blood, regardless of place of birth. Naturalized persons must submit an authorized copy of the decree or ruling granting them nationality and on that basis may obtain a passport or visa.

## 21. Right to social security

### Concept and origin

276. The States parties to the international declarations and covenants recognize the right of everyone to social security, including social insurance. Everyone has the right to insurance in the event of unemployment, sickness, disability, widowhood, old age or other instances of loss of livelihood due to circumstances beyond their control. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits. Children should also benefit from social security, including social insurance. Mentally or physically disabled children or those afflicted by any social impediment should receive the special treatment, education and care appropriate to their particular case and shall enjoy a full life.

277. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 25(1); the International Covenant on Economic, Social and Cultural Rights, article 9; the International Covenant on Economic, social and Cultural Rights, article 10(2);



the Declaration on the Rights of the Child, principles 4 and 5; and the Convention on the Rights of the Child, article 26.

#### Registers involved

278. Birth: the register of births, which documents age, nationality and relationship to the head of the household, is used as a basis for applying for many benefits of the social security system. If the benefit is restricted to minors, proof of age is essential, and the same holds for old age pensions and orphan benefits, which are paid, respectively, from and to a specified age. Widows' benefits often depend on the nationality of the wife, on having reached a specified age, or on having a certain number of dependent children. In all these cases, exercise of the right relies on certificates from the civil register. Death: with the death certificate of the head of household, the family unit can claim payment of the pensions or insurance to which the decedent was entitled. Marriage: the marriage certificate provides proof that the surviving spouse is entitled to widowhood benefits.

### 22. Right of spouses to custody of children

#### Concept and origin

279. Spouses have equal rights and responsibilities to the marriage, during the marriage and in the event of its dissolution, when arrangements have to be made to ensure the necessary protection for their children. If dissolution is not due to the death of one spouse, protection and custody are normally transferred to the survivor; but if it is due to divorce or judicial separation, protection and custody are decided taking account of the age and sex of the children and the financial situation and personal circumstances of each spouse.

280. The principal international instruments in which this right is recognized is: the International Covenant on Civil and Political Rights, article 23(4).

#### Registers involved

281. Death: the exercise of the surviving spouse's right to custody of the children depends on proof of the death of the other spouse, which is provided by the register of deaths. Marriage: the marriage certificate protects the surviving spouse from illegal treatment with respect to the custody of the children.

### 23. Right to elect (vote) and be elected

#### Concept and origin

282. The will of the people is the basis for the authority of the State. It shall be expressed in periodic, bona fide elections by universal and equal suffrage, and by secret ballot or other equivalent procedure guaranteeing the freedom of the vote. All individuals, without undue distinctions or restrictions, enjoy the right to vote and to be elected and are eligible for government employment in their country.

283. The principal international instruments in which this right is recognized are: the Universal Declaration of Human Rights, article 21(3) and the International Covenant on Civil and Political Rights, article 25(b).

Register involved

284. Birth: a minimum age and a specific nationality are customary requirements for voting and being elected. The register of births furnishes the necessary proofs. If the country has adopted the principle of *jus sanguinis*, it is also necessary to document the nationality of the progenitors of the interested party.

#### IV. THE ADMINISTRATIVE VITAL STATISTICS SYSTEM

##### A. Background

285. In vital statistics, the statistical units to be tallied, described and analysed are the vital events that correspond to the civil status events and acts which it is the legal function of civil registration to register; they are thus two different names for the same events, depending on whether they are viewed from the legal or statistical standpoint. It is therefore not by chance or whim that civil registration has been tasked with collecting the basic data underlying vital statistics, because they represent data supplementary to those relating to each of the events registered. In this way, the people make only one trip to the civil registry to record the events and acts that concern them and to provide the data needed to compile the country's vital statistics. Efforts should be made to avoid creating an agency parallel to civil registration to collect these data, to ensure that people do not have to go through the process twice or at times even three or four times. In practice, however, many countries maintain, side by side with the civil registry, a population register, a citizens' register, an identification service, etc., with the result that functions often overlap and costs are magnified. On top of that, the results are not compatible.

286. However, civil registration is, first and foremost, a legal type of organization; those in particular who are in charge of local offices must possess a sound knowledge of their country's family law if they are to play an efficient role in the process of family organization. Chapter I of this Handbook elaborated on the role of the local registrar, conferring on him broad powers to perform his registration duties under the law. This legal training and the establishment of a system of accountabilities in answering for the work done within his area of jurisdiction imply that local registrars, as well as the other personnel assigned to the local registry office can and must participate in the collection of the basic statistical data items from the information obtained at the time any vital event is registered. This collection function also entails checking the veracity and accuracy of the data declared. However, a manually operated registration system using separate forms for legal and statistical purposes cannot be expected also to be involved in compiling the data to produce statistical information. The compilation of vital statistics is a complex process that constitutes a separate specialty calling for study and sound knowledge. This is why in many countries the compilation, analysis and publication of vital statistics come under a separate agency independent from civil registration. Only the most advanced civil registration systems with powerful computing facilities could also process vital statistics, if desired, or transfer the raw data on magnetic media to enable the compiling agency to generate the tabulations required for its own planning needs.

##### B. Concept and constituent elements

287. Our basic starting point is the analysis presented in the Handbook on the Management, Operation and Maintenance of Civil Registration and Vital Statistics Systems (see Preface) of the different administrative systems that can be adopted when establishing a permanent civil registration and vital statistics administration; the essential choice is whether such an administration is to be organized and operate along centralized or decentralized lines. The choice among the different ways of organizing the system was based on the consideration that the system needs to be nationwide in scope, even though civil registration

and vital statistics functions are assigned to different and independent administrative agencies; it is accordingly necessary to establish mechanisms to ensure permanent collaboration between them in order to achieve a common advantage. In the area of demographic statistics, the national civil registration and vital statistics system represents an application of administrative system design and can be seen as a harmonious and systematic joint effort by the agencies that collect, compile, analyse and publish the data derived from such statistics, to ensure that they are complete, truthful, timely and comparable. When two or more agencies participate in a cooperative effort, such as data collection (civil registration) and compilation (statistics, health, or both), it is essential to set up mechanisms for close and permanent coordination for the smooth conduct of business, ensuring that the information is consistent and available resources are put to the best possible use. Their activities, procedures, documentation and any problems that arise call for ongoing oversight, continuous agreements, and supervision of strict compliance. An administrative system dealing with vital statistics always has issues to be discussed and problems to solve.

288. Several ways have been tried to produce or improve coordination between the collecting agency and the compilers, ranging from periodic meetings between the agencies involved to - most desirably - periodic meetings of the vital and health statistics committees. Federally organized countries, such as Argentina, Canada, the United States of America, India and Mexico, have organized periodic meetings among the senior officials involved to discuss problems related to the registration and processing of vital statistics. The federal offices have taken the initiative to revise the design and content of the documentation and develop standard forms, as well as to develop model laws on vital statistics. In the United States of America biennial conferences on the subject are also held, attended by state and federal personnel, as well as the principal users, to report on their needs.

289. Since 1948 the World Health Organization has repeatedly urged the establishment of national vital statistics and health committees as a powerful means of coordinating the common activities of the national agencies involved in the production of vital statistics. A review of the coordinating function of such committees, conducted by WHO in 1979, concluded, among other things:

(a) That experience with these committees in a number of countries has demonstrated their potential for achieving technical advances in vital and health statistics;

(b) That so far their usefulness and productivity have been varied, depending on the circumstances;

(c) That to improve the situation, there should be a serious commitment on the part of the civil registration, statistics and health agencies to develop and improve vital statistics;

(d) That there should be a clear understanding of their objectives and of the related operational constraints; and

(e) That, in any event, their members and especially their chairmen, should be selected carefully.

290. A document prepared in 1983 by a special committee sponsored by the Inter-American Children's Institute and the International Institute for Vital

Registration and Statistics also advocated the establishment of national civil registration and vital statistics committees as a means of ensuring coordination between the agencies involved and recommended that the following conditions be met to assure success:

(a) That, in principle, the representatives of the constituent institutions be the highest-ranking authorities from each agency involved, failing which the designated officials should possess the necessary authority for committee resolutions to be binding upon the respective agencies;

(b) That they be made up only of the agencies directly concerned, to prevent an unwieldy membership from protracting studies, complicating discussion and hampering the adoption of resolutions;

(c) That members should try to develop a general spirit of loyalty in their common capacity as State officials in pursuit of their high purposes, rather than of the goals of their own agencies;

(d) That their members should preferably also be technicians familiar with the nature and magnitude of the problems they have to solve.

291. More recently, the five United Nations workshops on strategies for accelerating the improvement of vital statistics and civil registration systems, organized by the United Nations Statistics Division between 1991 and 1995 under the auspices of the international programme on the same topic, emphatically recommended the establishment of national civil registration and vital statistics committees because of the importance of their role in coordination and reciprocal cooperation among participating institutions.

292. In this field, as in others, a genuine desire to encourage and implement initiatives is more important than whether resources are in short supply, an excuse heard all too often. There is always scope for making better use of existing resources, by being creative or applying administrative techniques.

293. Therefore, structuring a national civil registration and vital statistics system along the lines described requires:

(a) The existence of two or more constituent public agencies, neither of which should be subordinate to the other. There may be more than two constituent agencies, for example, if civil registration collects all the data, the national health system is responsible exclusively for compiling, analysing and publishing statistics on deaths and foetal deaths, and Statistics is responsible for everything else;

(b) The need for continuous collaboration between them, or at least an acknowledgement that it is desirable;

(c) That the goal of such collaboration be the general good, which neither agency could achieve as effectively on its own.

294. It is commonly thought that a law is needed to set up an administrative system, and the decision is postponed because the law is not enacted. But this is not the case. An administrative system does not alter either the objectives or the structures of the constituent agencies; it simply changes procedures or work methods. This does not require a law, but merely a signed agreement between the institutions concerned and a genuine desire to benefit the

community. Nevertheless, should it be possible to secure enactment of a very broad legal statute creating the system, the opportunity should be taken since it would give it greater strength, stability and permanence.

295. A nationwide administrative system for civil registration and vital statistics requires adoption of a number of administrative regulations to ensure that the agencies involved can work together to produce them. They should all be adopted by mutual agreement. The principal regulations are:

(a) To select and define the data to be collected. The importance of this step lies in the fact that statistical needs can change fairly often, and the document used for collecting the data should allow for changes whenever necessary. Chapter I of the present Handbook analysed the United Nations recommendation that the registration record and the statistical report should be separate documents;

(b) Define the geographical area the information is to cover, which whenever possible should be the entire territory of the country;

(c) Decide how the system is to be organized, which entails specifying its constituent agencies and defining functions, responsibilities and lines of authority;

(d) Establish a coordinating body composed of representatives from the participating agencies, to be responsible, as a minimum, for drawing up operating and coordination procedures and for evaluating the system.

296. Each constituent agency and the coordinating body should perform the functions set forth below. Their sum total equals the functions of the system as a whole.

#### 1. Functions of the collecting agency

297. Is responsible, in terms of the system, for:

(a) Promoting integrity in the registration of vital events and acts for legal purposes, because this leads to integrity in the statistical information which it has to provide to the compiling agency;

(b) Collecting the agreed statistical information for each vital event it records and forwarding it in timely fashion to the compiling agency;

(c) Participating in any agreed system procedures for correcting any errors found in the data collected;

(d) Establishing internal mechanisms for measuring its performance in terms of integrity, veracity and timeliness.

#### 2. Functions of the compiling agency

298. Is responsible, in terms of the system, for:

(a) Receiving and assembling the statistical reports from the collecting agency;

(b) Reviewing the information;

(c) Implementing the previously agreed system procedures for correcting any errors it may contain;

(d) Coding, evaluating the quality and consistency of the information, classifying and tabulating the information in accordance with the pre-approved programmes;

(e) Analysing and publishing the information and distributing it among the individuals concerned and local, national and international institutions, pursuant to existing agreements and any agreed exchange arrangements;

(f) Establishing internal procedures to measure the quality of the different processing stages;

(g) Establishing mechanisms for providing additional statistical information to qualified persons and institutions.

### 3. Functions of the body responsible for coordinating the system

299. This national committee is responsible for:

(a) Proposing measures for reorganizing, strengthening, and oversight of the operation of the system and its compliance with the legal rules applicable to the collecting and compiling agencies;

(b) Issuing the necessary technical and administrative rules, including those for the transfer of information;

(c) Establishing the mechanisms for coordination between the agencies in the system and with other interested agencies;

(d) Proposing budget rules to define the financial accountability of each agency;

(e) Systematically establishing the country's statistical needs, revising the content of the statistical reports accordingly, and planning the activities of the system in line with those needs and the resources available;

(f) Periodically evaluating the performance of the system;

(g) Studying ways to improve procedures and techniques, including the introduction of computing and other modern technology, the structure and creation of databases for legal, statistical and health purposes;

(h) Promoting the use of the statistical information.

300. To summarize, the analysis made of how the civil registration model selected would operate advocates adoption of an administrative vital statistics system based on the coexistence and coordination of two distinct and mutually independent public agencies - both part of the government apparatus - preferably at the national level. The registration method of collecting data, regarded as the best source of information for legal, statistical and other purposes, entails making the civil registration system the cornerstone of the vital

statistics system, as the agency that collects data for subsequent analysis, evaluation and dissemination by the national or local statistical agencies. Both public agencies responsible for the production of the country's vital statistics should perform their individual functions within their respective purviews as gatherers and compilers of data. Obviously, in the interest of system efficiency, they must act in a coordinated manner to avoid duplication of work and ensure uniformity of methods and procedures and high-quality information. The necessary coordination can be achieved in one of the ways described in the Handbook of Vital Statistics Systems and Methods, vol. I, Legal, Organizational and Technical Aspects. 1/ It is important in this connection that there be a standing, national, interinstitutional committee to coordinate civil registration and vital statistics. Other means of coordination are based on the continuous communication and exchange of information between the public agencies involved in the collection and compilation of data, through seminars and conferences, as well as periodic newsletters on registration and statistical matters.

#### 4. Diagrams on the operation of the system

301. In the pages that follow, five diagrams are presented, the first of which shows the agencies which make up a national administrative system for civil registration and vital statistics and how it operates. The other four illustrate different alternatives in terms of the flow of statistical data.

302. The main issue that arises with the administrative system for civil registration and vital statistics is how best to forward the data collected by the local registry offices to the agencies responsible for compiling and disseminating the vital statistics. This question will ultimately be resolved in accordance with the internal legislation of the country concerned. The differences between the various procedures shown in the diagrams are essentially that diagrams 3 and 4 give the collecting agency the dual task of collecting the data and reviewing their quality, then forwarding the revised statistical reports not directly but through the civil registration directorate or regional offices; on completion of the review and quality-control process, they are then forwarded to the different compiling agencies established as part of the system. Apart from the national statistical service, these may include the national health system as the agency responsible for compiling and publishing vital statistics concerned basically with deaths, so as to ensure prompt action by the public health authorities in detecting and controlling contagious diseases.

303. Alongside this indirect data flow to the statistical agencies, the other basic alternative presented in diagrams 1 and 2 is to forward the data collected by the local registry offices directly, and in principle unrevised, to the national or regional compiling agency. Although this latter system is in some ways dysfunctional, since it links the local offices to and in this respect makes them dependent on the compiling agency - which is objectionable from the standpoint of management science, transferring to the compiling agency oversight of the timeliness and quality of the data transfers, and possibly complicating the process of disciplining inefficient local registrars - it is nevertheless the one most commonly used in the countries and one that offers unquestioned advantages in terms of expediting the forwarding of the statistical reports. Moreover, strengthening the authority of the local registrar in terms of checking the accuracy and truthfulness of declarations and of the data provided to meet both the legal and the statistical functions assigned to the civil registration system, depending on the model selected; the fact that the



registrar can always be called to account for the way in which he performs the functions assigned by law, through the relevant inspection and disciplinary mechanisms; the registrar's obligation in each case to assist the person declaring the registrable events in filling out the statistical reports, and the direct participation in this respect both of the professionals who attended the events being declared and of the local registrar himself, as well as the possibility that the statistical services themselves will contact the local offices to clarify data on the statistical reports forwarded to them, provide the best possible assurance of the accuracy and quality of the data forwarded directly to the statistical agencies, so that there is no reason whatever to believe that they have not been checked by the collecting agency itself. Furthermore, the role of the so-called field consultants as liaison agents between the vital statistics office and the local registry offices permits coordination between both agencies, even where the registry offices do not come under the administrative authority of the central vital statistics agency. This guarantees collaboration between the two agencies, starting with the forwarding of data whose quality would appear to be duly underwritten by the registration method of data collection, while allowing direct intervention on the ground by the compiling agencies through the technical personnel needed to round out or clarify queries about the data provided by the registry offices. The two public agencies, collector and compiler, would thus be jointly accountable for quality control of the vital statistics database.

304. In the administrative system in the example (diagram 1), the role of civil registration is to collect the data, while the national statistics system and the national health system are the compiling agencies. The organ coordinating the system can be seen in the centre of the diagram and is made up of representatives from the constituent agencies. It adopts resolutions that form the system's operating base and are communicated to the constituent agencies for implementation. It is assumed that these resolutions are taken by consensus and that the representatives have sufficient authority for the resolutions to be binding, which considerably enhances the efficiency of the system.

305. In diagram 1, and in the one showing alternative 4 (diagram 5), the national health system has been included as a compiling and user agency, because in some countries it bears full or partial responsibility for compiling and publishing vital statistics. And even where it does not carry that responsibility, it needs in any case to know, at the local level, of any deaths that occur in each registration area, as an aid to control of potentially epidemic diseases, which it is compulsory to report.

306. In alternative 1 (diagram 2), the collecting registry offices forwards the data unedited to the compiling agency.

307. In alternative 2 (diagram 3), revision of the statistical reports continues to be done by the compiling agency, but in its regional offices, thereby decentralizing the task and saving time on the transfer of the documents. This alternative does not include the national health system as a participant.

308. In alternative 3 (diagram 4), the collecting agency assumes the twofold task of collecting and reviewing the quality of the data. The local registry offices have to send the statistical reports to a higher level within their own agency, which could be the Directorate of Civil Registration or the corresponding regional offices, for onward transmittal to the compiling agency when the review process is complete.

309. In alternative 4 (diagram 5), supervision of the quality and timeliness of the records sent from the local registry offices is kept within the agency itself so that the compiling agencies receive records already edited. Responsibility for reviewing them is entrusted to the regional civil registry offices, and the data are distributed between the national statistics system and the national health system on the assumption that the latter will receive only those on deaths and foetal deaths.

310. In addition to these alternatives, the Handbook on the Management, Operation and Maintenance of Civil Registration and Vital Statistics Systems, (see Preface) gives a detailed description of an integrated civil registration and vital statistics system under a single administration. Countries can select the alternative that best fits their legal regulations, administrative arrangements and resources.

#### Note

1/ United Nations publication, Sales No.E.91.XVII.5.

Diagram 1. National administrative system for civil registration and vital statistics:  
 constituent agencies and operation

National committee on civil registration and vital statistics

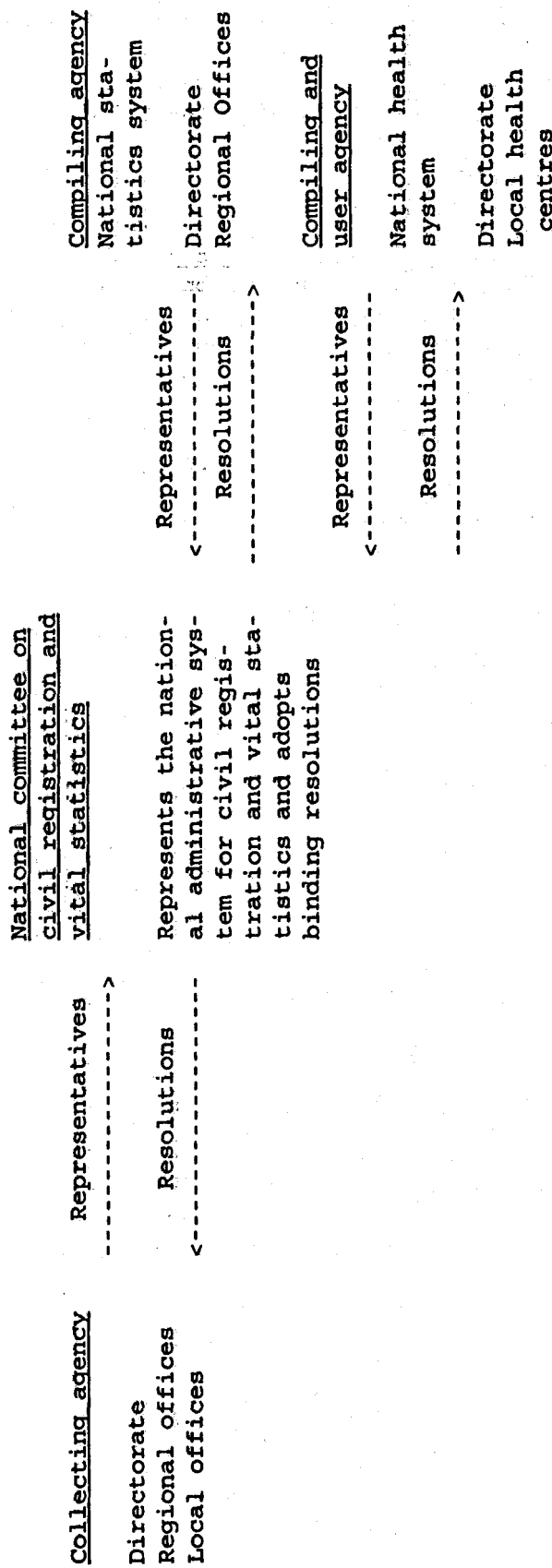


Diagram 2. National administrative system for civil registration and vital statistics:  
periodic flow of data

Alternative 1

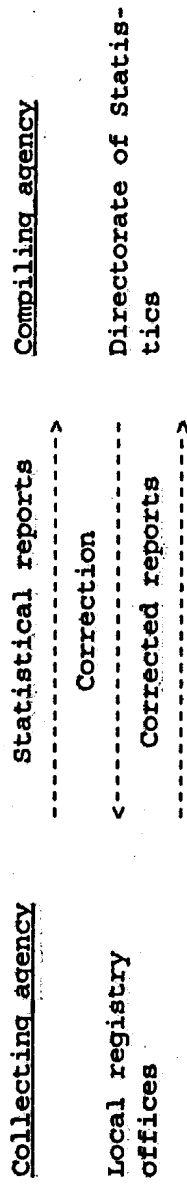


Diagram 3. National administrative system for civil registration and vital statistics:  
periodic flow of data

Alternative 2

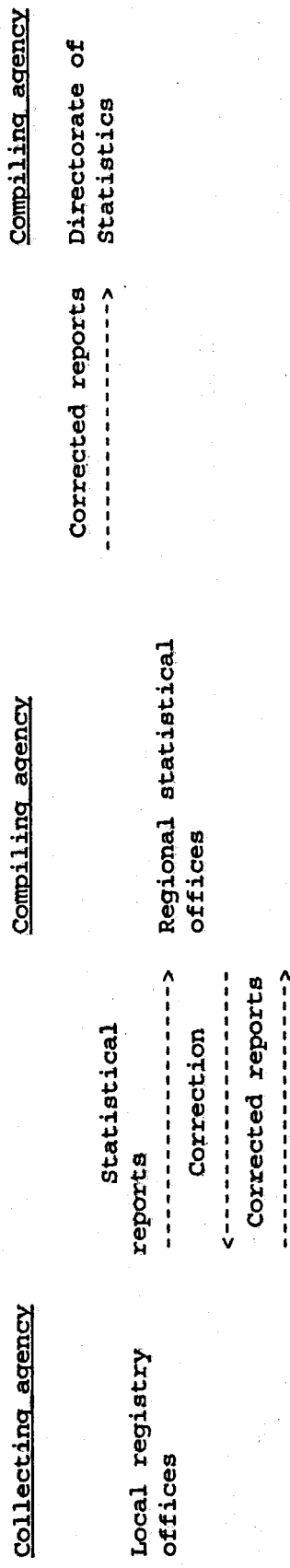


Diagram 4. National administrative system for civil registration and vital statistics:  
 periodic flow of data

Alternative 3

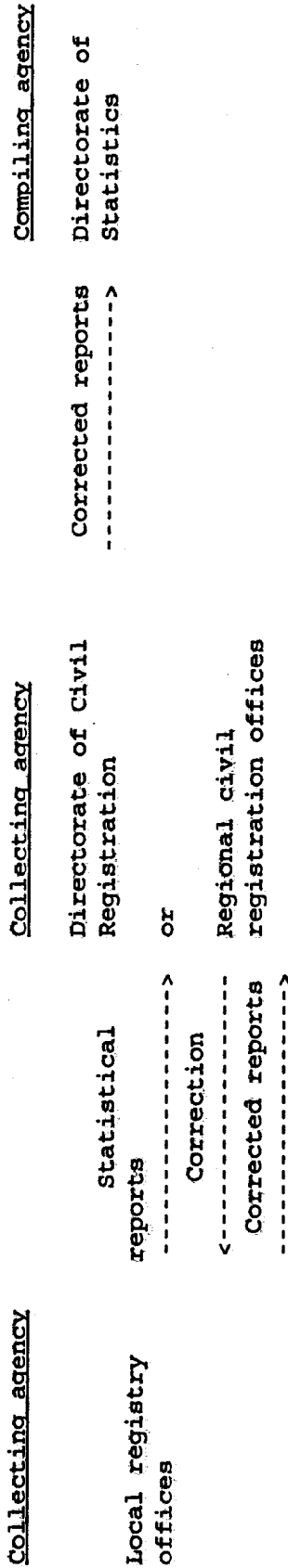
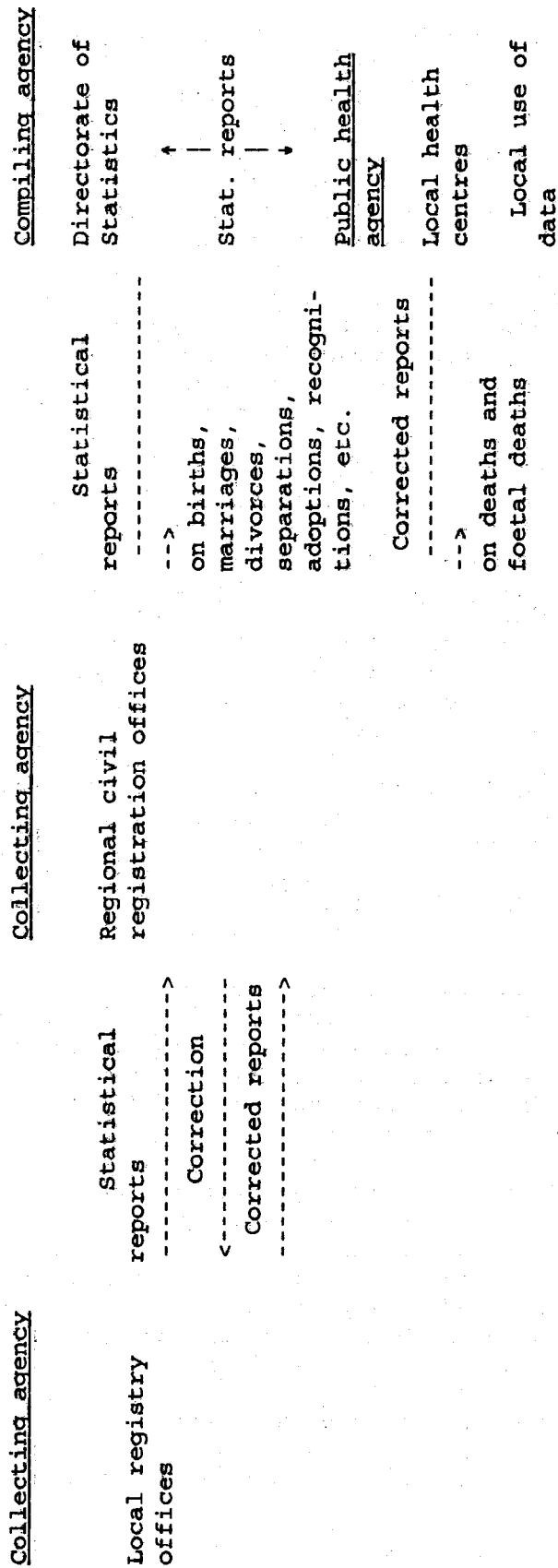


Diagram 5. National administrative system for civil registration and vital statistics:  
 periodic flow of data

Alternative 4



## V. EXAMPLE OF HOW TO PREPARE AN ORGANIC CIVIL REGISTRATION LAW

### A. Matters of law and matters for the regulations

311. All laws are equally compulsory, but not all are of equal rank. The highest-ranking is a country's founding charter or political constitution. It is usually concerned with nationality and citizenship, individual rights, and organizing the branches of government. Its provisions are generic in character, and it commonly leaves the articulation of its rules to laws yet to be enacted. Next come the laws, with wide-ranging spheres of action. Their only limit is the constitution, in that their provisions may not conflict with it. The laws are used to expand on and implement the provisions of the constitution. At the same time, however, parliaments or congresses, which are the bodies entrusted with enacting them, cannot possibly, on their own, regulate, down to the minutest details, all the behaviours that can possibly occur in society. It is impossible for those bodies to devise a minutely detailed administrative blueprint. It is up to the executive branch, as administrator of the State - in those countries which have adopted the separation of powers: executive, legislative and judicial - to complete the work of the legislators by spelling out a series of complementary rules known as regulations. Generally speaking, the administration possesses powers to frame and execute laws, as well as inherent regulatory powers to carry out its functions. By way of exception, as in Anglo-Saxon administrations, the enactment of regulations requires in each instance the express authorization of Parliament. Be this as it may, the limit of the regulations is the law, in that their provisions may not conflict with it. Regulations can complement the law, especially in terms of procedures, but may not compete with its provisions.

312. In allocating particular functions, the constitution or law is also understood to confer the power to regulate them by issuing regulations. This authority can be embodied in a law or derive directly from the constitution. It can thus be inferred that the administration (executive branch) has the power to regulate whatever the constitution or the law implicitly or explicitly assigns to it as matters for which it is responsible.

313. If a law is unduly or unnecessarily detailed, it actually encroaches on the domain of the regulations, nullifies its intrinsic *discretionality factor*, and inhibits the administration from using its powers to serve the community efficiently by changing the procedures promptly whenever it deems it necessary. *Discretionality factor* is construed as the degree of freedom of action which the law confers upon the administration.

314. The importance of regulatory power is that it serves to streamline the business of government, because regulations are approved by government decree. The legislative process, on the other hand, is slow, particularly when it involves complex and technical laws like organic laws. A case in point is civil registration. The draft law proposed in Chapter VI of the present Handbook is complete but does not regulate. It can therefore be more readily adapted to national legislations.

315. Generally speaking, most constitutional provisions are substantive; very few are procedural. In laws, there are as many substantive as procedural provisions; in regulations, there are more procedural than substantive provisions.



B. How an organic civil registration law is born: the interdisciplinary team

316. It was stated earlier that civil registration is a complex business. Managing it successfully calls for a knowledge of several disciplines. Those with a direct interest in its efficient operation include the agencies that compile the country's vital statistics (statistics, public health) and the principal users of those statistics, notably health and planning ministries, universities, and research centres. Mention should also be made of such public services as identification, voter registration, military recruitment, and social security, which customarily need data which the register can provide. Virtually all of them have their own particular views on what might usefully be changed and they need to be heard. The basic idea is that, the broader the base of support for the draft organic law, the greater its likelihood of being speedily debated and passed by the congress or the parliament. In any case, it is desirable that all disciplines involved be represented on the committee tasked with drafting the organic law.

317. When planning to form or reform a national civil registration system, it is therefore suggested that the first step should be to organize an ad hoc committee made up of representatives of all the institutions that are genuinely concerned. The initiative should come from civil registration, which should preside as the agency directly affected, but it might alternatively be chaired by the representative of a compiling agency. In countries that have had them, they have worked well, their members have made valuable contributions based on their experience, and they have met their objectives, at least on the technical level. But the job does not end there. It is vital to consider the political level, too, because more than one civil registration bill has run aground for good in congress or parliament. It is hard to pinpoint the reasons but they can be assumed to include: excessive workload in congress or parliament; low priority attached to civil registration in top government circles; and lack of familiarity with the subject matter, since of the vast majority of countries the subject is not taught in any university course, and no one likes to work in a field he does not know. This lends added weight to the need to have a formally organized committee and to give the bill the broadest possible support base. It is also wise to contact members of parliament to gain their direct interest and persuade them to sponsor the bill. Another strategy might be to give the committee chairmanship to whichever member is known to have political clout in government or in the congress or parliament at that particular political juncture.

318. In summary, any organic civil registration law that is also to meet the concerns of the national vital statistics system of which it is part, should start out as an initiative of the interested agency itself. The preliminary bill is first approved by the pertinent minister - whether of justice, the interior or any other to which civil registration is attached - and then becomes the bill of the government, that is, of the executive branch, which is responsible for administering the State. A very important part of the preliminary bill is the study of the outlays involved, which are normally discussed and approved in the ministry of finance or its equivalent. Studies carried out for a number of countries differing in population size and level of development have demonstrated that civil registration can finance its normal operations from the funds it collects, so that this issue should not be an obstacle that would hamper studies leading to the necessary reforms. Once the preliminary bill has been drafted and reviewed and approved by the government, it is ready for submission to the congress or parliament for processing and

enactment. It is a sound idea to have the relevant minister and advisers, together with the director of civil registration, if such a position already exists, standing by to attend discussions of the bill in congress or parliament, so that they can brief its members on any queries that may arise and defend the key reforms it contains, which are sometimes resisted simply by administrative inertia.

### C. Role of the legislation

319. Quite apart from its own objectives, the national civil registration system should collaborate with a number of other agencies by providing them with information that is essential to them. Hence the importance of defining its objectives, functions, structure and organization and deciding on its method of operation. The definitions adopted form the essence and content of the system's organic law. The objectives should be defined first, because without the definitions one cannot specify the functions it is hoped to perform, and only when these have been defined can one start to think about structure and organization. Civil registration should not be viewed as an isolated agency. Efforts must be made to link its objectives to the country's general economic and social development goals, so that it is truly integrated into the services that contribute toward the achievement of those goals.

320. Despite the remarks in paragraph 313 about the discretionality factor, it is sometimes advisable that the law not be too general. While it should not read like a set of regulations, it should not contain only general concepts either. In developed countries with high educational levels and mature administrations, laws are brief and contain only the minimum norms needed to get an agency off the ground, that is, definitions of its objectives and references to its primary functions and funding. Everything else is left to the discretion of the administration (executive branch or its equivalent). In this way, all the agencies that make up the country's public administration operate with the civic-mindedness and administrative maturity of the people behind them. In developing countries, however, these conditions are not present, and administrative decision-making by many individuals in government is often hesitant and at times driven by chance interests, which is hardly conducive to efficiency in the administrative process. The existence of an adequate organic law is then perceived as a godsend, because it can avoid many of those pitfalls. The law marks the channel and steers all administrative actions. Deciding whether a law should be more or less regulatory in character is therefore a delicate question that should be viewed from every possible angle.

321. Under normal conditions, the national civil registration system should have its own organic law. It should not be part of the organic law of any other agency. Among its most important provisions are:

- (a) Those which define its objectives;
- (b) Those which make it compulsory to register vital events and acts in the country, state or province, as the case may be;
- (c) Those which penalize failure to comply with this obligation or other provisions of the law;
- (d) Those which specify its functions;

(e) Those specifying the administrative systems in which it is to participate;

(f) Those relating to its funding.

322. It is also important that the organic law provide clearly and decisively that the registration system is applicable to all vital events occurring within the country's boundaries and to the entire population, domestic or alien. Ideally, there should be a single, nationwide civil registration system, even in countries organized along federal lines which commonly experience difficulties in this respect. Treating civil registration as a federal matter would solve all such problems, because a single law could then be enacted for all states and provinces. In the meantime, however, there is nothing to prevent each territory from passing a law with the same content as the others, at least in its essential aspects, which would make it very much easier to interconnect them.

323. Organic civil registration laws vary from one country to another, because each has its own set of characteristics for which the legislation must allow, but in essence they could well be very similar. The international principles and recommendations may prove very helpful in this respect.

324. The Preface referred to the general characteristics of current civil registration throughout the world. It is important to avoid a proliferation of legal texts (laws, decrees, regulations) on civil registration, because it becomes harder to study and enforce them. If one of the more pressing problems faced by civil registration is the training of officials, then avoiding an excessive number of legal texts in force can make the task a great deal easier.

325. To summarize the importance of an organic civil registration law:

(a) It is essential to form an interdisciplinary drafting committee, at the highest possible level, both because civil registration is interdisciplinary and because the bill needs to have a broad enough support base to ensure its passage;

(b) The law should never be so heavy on regulations as to choke the administration's freedom to adapt organization and procedures as social needs evolve. Deciding how regulatory the law should be calls for studies to determine the country's level of development and administrative maturity, since the less developed and mature a country is, the more regulation is needed to support and guide the administrator, and vice versa;

(c) The objectives of the agency should always be written into the law, because otherwise its functions cannot be specified, and without these it is impossible to define its structure and organization.

326. In the paragraphs that follow and the articles of the draft law that appear in Chapter IV, the following assumptions are made:

(a) That the law will govern a central, nationwide civil registration system in a country organized along centralized lines. Countries with federal systems could also use it as a model for use in each state, province or region, as the case may be;

(b) That this civil registration system must necessarily form part of the administrative system for civil registration and vital statistics;

(c) That in the country in which it might be implemented civil registration and the compilation of vital statistics operate through separate agencies.

D. Steps to be taken before the law is drafted

327. Before starting to draft the articles, it is advisable to carry out the following tasks to facilitate the subsequent steps: justify the new law; define the objectives of the new agency; list the functions needed to accomplish those objectives; and prepare an organization chart.

1. Justification of the new law

328. This step is not to be confused with the explanatory statement. It is an exercise designed to assemble and organize the background on the civil registration situation when initiating studies with a view to reforming or forming a new agency, as well as to lay the groundwork for the explanatory statement. Accordingly, during this exercise background information can be assembled on, among other things:

(a) Characteristics of the current legislation: social changes that have occurred since the law was enacted; civil registration objectives referred to in the current legislation and the need for review and changes; whether there is one or several laws and, if the latter, the need to codify them, that is, merge them into a single text by rearranging their provisions by topic; law(s) of a general or regulatory nature and degree of difficulty in enacting amendments, etc.;

(b) Comments concerning the administrative structure in effect and comparison with that recommended by the United Nations (see the Handbooks mentioned in the Preface);

(c) Comments, and comparison with the recommendations, on such organizational aspects as:

(i) Qualification level of the local registrars;

(ii) Capacity of public attestors;

(iii) Stability of tenure;

(iv) Remuneration in the form of salary, wage or fees;

(v) Registration records kept in books, on forms or on cards;

(vi) Existence of a central archive;

(vii) Events which have to be registered and those placed in complementary notations;

(viii) Existence, type and quality of indexes of entries;

(ix) References to funding arrangements and comparison with the international recommendations;

- (x) Any other aspects considered of interest.

## 2. Definition of objectives of the new civil register

329. In legal theory, it is the function of civil registration to provide individuals with legal instruments to establish their identity and prove their existence and the circumstances relating to their civil status, as well as to participate in the legal establishment of the family by registering vital events and acts (legal objective); to participate in the production of national vital statistics by collecting the basic data (statistical objective); and to provide information from the records in its archives to other State agencies (general collaboration objective). But the language of legal theory is not the same as the language of law, which has its own characteristics. Accordingly, these objectives will need to be couched in different terms when written into the body of the law. The differences in form are very important, but it is even more important that the substance be identical in both cases.

## 3. Enumeration of functions to accomplish the objectives defined

330. This is a straightforward listing of all the functions which are considered necessary in order to accomplish those purposes and which will be performed by the Director General, the different officials in the Directorate, the Central Archive, and by the local civil registrars, but mainly by the local registrars. The list need not state what official will perform what function, but it is preferable to group them by objective, as shown below, to facilitate the subsequent preparation of the structural organization charts.

331. With respect to the legal objective:

- (a) To register births and deaths;
- (b) To perform and register civil marriages;
- (c) To register religious marriages if recognized as civil by law;
- (d) To issue burial permits which, depending on the custom in the country, may be cremation permits;
- (e) To make notations pertaining to civil status on the appropriate record;
- (f) To issue copies and certificates of the entries;
- (g) To sign the entries immediately they are completed;
- (h) To comply with verdicts and administrative rulings to cancel, correct, or reconstitute entries;
- (i) To rule on petitions for the administrative correction of entries;
- (j) To report at law to the courts on petitions for the judicial correction of entries;

(k) To promote universal registration of births and deaths and the celebration of civil marriages;

(l) To carry out periodic information, education and communications programmes designed to publicize the importance of and contributions made by civil registration and the normal legal rules in terms of requirements, time limits and place of registration and penalties for non-compliance;

(m) To implement the funding arrangements and the prescribed penalties;

(n) To have custody of records and documentation, ensuring their confidentiality, checking on their authenticity, and assuring their preservation;

(o) To schedule the Directorate's inspection work and advisory services;

(p) To systematically train the personnel with the collaboration of the vital statistics compiling agency(ies);

(q) To publish instructions and methodological handbooks for the personnel at periodic intervals;

(r) To issue and maintain family books (optional);

(s) To prepare and maintain the register of the country's surviving population;

(t) To ensure that concepts and definitions are consistent with other sources of population data in the country and strive for international comparability.

332. With respect to the statistical objective:

(a) For each record, to gather the data needed to produce the country's vital statistics and enter them on the corresponding statistical report;

(b) To forward the complete, edited statistical reports to the compiling agency(ies) in a timely manner;

(c) To participate in studying and designing the content of the statistical reports and in deciding on the periodicity and arrangements for forwarding them;

(d) To coordinate with agencies engaged in tasks of common interest;

(e) To plan management programmes, inspections and advisory services;

(f) To systematically train the personnel with the collaboration of the vital statistics compiling agency(ies);

(g) To publish instructions and methodological handbooks for the personnel at periodic intervals.

333. With respect to the general collaboration objective, the nature, scope and characteristics of the collaborative functions performed by the national civil registration system should be established by mutual consent, in the form of

agreements, with the beneficiary agencies. They normally take the form of certificates or copies of the entries or data items needed to update the population register or to collect widows', old age or orphans' pensions; or of periodic listings containing information relating to the age of individuals, for example, the number of births and deaths during a calendar year, for military conscription or electoral purposes.

VI. OUTLINE, EXPLANATORY STATEMENT, AND ARTICLES OF  
THE DRAFT ORGANIC CIVIL REGISTRATION LAW

334. The draft law which appears on the following pages consists of an explanatory statement, 178 articles, 12 transitory provisions, and 2 derogatory provisions. Although the explanatory statement comes before the articles, in practice it is drafted after them, because it refers to the articles, comments on their key provisions, and explains and justifies the most novel provisions.

335. Although it is theoretically considered a prerequisite to define the objectives to be accomplished by a country's registration service, as a first step in determining what functions are needed to achieve them, leaving it until last to define the system's personnel and physical organization, the fact remains that for practical reasons and to permit greater clarity in laying out and developing the body of the law, the civil registration law should preferably start by defining its basic objectives and the probatory effectiveness of registration, taking into account in this respect the recommendations of the United Nations, after which the organic structure of the registration service should be established by defining each organ and specifying the particular functions it needs to perform to accomplish its proposed purposes, together with the legal charter of its employees. A third step would be to draft the general regulations governing the registration work involved in officially recording the events and legal acts which are placed in the civil register on the strength of appropriate original documentation and declarations, for the purpose of completing the registration records and statistical reports. The detailed regulations governing each of the registers - births, marriages, deaths, divorces - will be contained in the following chapters. Last will be the regulations governing amendments to the register and the corresponding registration procedure. System of inspections; penalties; and funding arrangements.

336. The outline of the draft law appears in the table of contents of the articles (see para. 403 below).

337. The following is a brief review of the content of the law, the explanatory statement and the body of the draft law being proposed as an example.

A. Background

338. The present draft law is offered to countries as an example to facilitate their legislative efforts in the area of civil registration. It is based on the principles and recommendations of the United Nations, which have been instrumental in formulating the new thinking in this field.

339. Almost all developing countries need to modernize their civil registration system to make it effective and easy to manage. The draft is addressed to them and does not therefore include the immediate incorporation of advanced technology, but does leave the option open for the Director-General to introduce it when the country so decides.

340. In the draft, civil registration is organized in keeping with its objectives and functions. The relevant subjects are handled in an orderly and methodical fashion. Allowance is made for the fact that it will be required to participate in the operation of the administrative system for vital statistics, and the groundwork is laid for the incorporation of advanced technology in due



course, that is, when the new law has been enacted, the infrastructure is operating normally throughout the territory, the registers are virtually complete and reliable, and the country has the necessary financial, human and physical resources.

341. It must be remembered that technology is a management tool that should be at the service of the organization, not vice versa. If the organization is inefficient, it is hard to introduce new technologies successfully.

342. From a historical standpoint, countries have evolved in different ways in the area of civil registration. Not all have a civil registration service as such, with its own structure, organization and staff and adequate resources to take on responsibility for registering vital events.

343. Some countries have a central or national civil registration office, but only in 65 per cent of the cases does it supervise and oversee the registration process. In the remaining 35 per cent, the central office, to perform its functions, has to rely on personnel over whom it has no control or authority because they belong to a different ministry or agency.

344. The problem is even more serious if a country's registration process is decentralized and comes under the public health and statistical systems, which are neither interested in nor sufficiently knowledgeable about the complex issues of civil registration.

345. It is impossible in a single draft organic law to consider or allow for all the organizational set-ups referred to in the preceding paragraphs. For this reason, the version offered later in this Handbook has been prepared for use in a country, preferably with a centralized administrative structure, that needs a civil registration system which would operate under a national office, with an appropriate number of local registry offices and a separate administration for processing vital statistics, and which would therefore use separate forms for registering vital events and collecting statistical data.

346. Leaving organization aside, the functions and basic procedures of civil registration do not differ greatly among countries, although in some not all the functions recommended are performed and in others functions have been added to the system that do not belong and have little or nothing to do with civil status, which can very well interfere with the performance of its own functions without the full financial and political backing of the government.

347. In all the countries, the informant designed by law is required to inform the local registrar and provide him with the data for registration of the vital event and for compilation of the vital statistics. Depending on how the country has evolved in this respect, there are separate documents for each of these two purposes if there is a civil registration agency in the country. And a single report containing both legal and the statistical information is used in countries that have some form of civil registration but do not have an agency with overall responsibility for it.

#### B. Theoretical aspects of civil registration

348. The draft law, in keeping with the international recommendations, assigns the civil registration system three functions: legal, statistical and collaboration.

349. The legal function consists in registering the events and acts that constitute the source of civil status; this in turn forms the foundation for organizing and operating the legal system governing the relationships of individuals organized into families and their ties to the State. This system rests on the legal event of birth, which is the starting point of legal personality and civil status; on the legal event of death, which extinguishes legal personality and creates inheritance rights; and on the legal acts of marriage, divorce, judicial separation, annulment, adoption, legitimation and recognition, which create, modify or extinguish civil statuses and other rights and obligations. Foetal deaths are irrelevant to civil status, but reporting them to the local registrar should be compulsory for statistical purposes (although it is not necessary to prepare an entry), because of their fundamental importance for public health. To achieve uniformity within the system and comparability of statistics both nationally and internationally, the definitions of these events and legal acts should be based on the concepts established by the United Nations.

350. The system of proving events and acts affecting civil status using civil registration records or entries implies recognition that this agency contributes to the stability of relationships between individuals and between them and the State. Without stability there is no legal order, and without legal order social and economic development is inhibited. In sociological terms, whether events and acts affecting civil status are registered promptly and voluntarily can be seen as a guide to how well individuals and groups are participating in the prevailing system of legal rules, and hence to the extent to which they are part and parcel of social and cultural life.

351. The statistical function consists in gathering the necessary data on these same events and acts in order to compile the country's vital statistics, which reflect its demographics, population trends, and the characteristics of ongoing social change.

352. The common goal of all agencies that make up a country's public administration is to serve the people. From this standpoint, if civil registration has adequate human and physical resources, it must collaborate to enable other public entities to accomplish their purposes. This is the collaboration function.

353. Civil registration cannot carry out its functions properly without the assistance of the people. The methods used and the mechanisms developed to achieve a close relationship should be built on a simple and effective organization and on a proactive, responsive attitude on the part of its officials. In other words, the system must be capable of offering the people a well-informed and efficient service so that the routine registration of vital events becomes a felt need even among the least disadvantaged groups in the country.

### C. The articles

354. The proposed draft law creates a civil registration system attached to a ministry and managed by a Director-General appointed by the president of the republic at the request of the minister. The system comprises a Directorate of civil registration, a central archive and local offices or registration areas which, taken together, must cover the entire population and the entire national

territory. The functions of the system and of the local registrars have been carefully defined.

355. Only four registers will be kept: births, marriages, divorces and deaths, because the other acts will be recorded as complementary notations in the corresponding registers. This position was reached on the strength of the following considerations:

(a) It links events and acts affecting the civil status of an individual without complicating the operation of the system, which is a significant advantage;

(b) The acts which result in complementary notations are always recorded on legal instruments (court rulings, notarized documents, or rulings by the Director-General himself) that are kept permanently in registry archives so that, if and when disclosure is required, it is sufficient simply to take note of them without the need to copy them, because this would constitute duplication;

(c) This method of operation is labour-saving for the local registrars and the central archive and means faster service for the public.

356. The draft adopts five highly recommended organization and operational features:

(a) Local registrars must have the status of public attestors because they issue and authorize, by the signature and seal, public documents which have full probative value in respect of the events to which they relate. As a practical matter they currently have such value, but legal recognition is lacking. Notaries have the same status in respect of the documents - usually financial - which they handle. The work of registrars in the area of family law is no less important;

(b) The registers of births, marriages and deaths should be kept in duplicate so that one copy can be stored in the local office and the other in the central archive, both for reasons of security and to afford the public better service, since, as is known, the population tends to migrate to each country's main city, state, province or region, as the case may be;

(c) Compulsoriness is one of the three characteristics of the registration method. Neither continuity nor permanence is sufficient to ensure that it works properly. Vital events must be registered within the legally prescribed time limits, and non-compliance must be punishable by fines in amounts established by regulation. Complementary notations are similarly compulsory. At the same time, it should be borne in mind that penalties do nothing to stimulate the registration of vital events and that the active participation of the people, which is essential to the attainment of universal registration, should be encouraged by other means that rely basically on information about registration methods and the benefits that accrue to the individual and to society from having a civil registration system;

(d) Free registration is a powerful incentive to achieving universal registration. The draft is based on the general principle that registration is free but there are charges for certificates;

(e) Civil registration is an agency at the service of the public. The individual involved in a record or his proxy, or any member of his biological (nuclear) family, may obtain a certificate by requesting it from the official responsible, in the form of a handwritten transcription, photocopy, partial certificate. In the case of the statistical data collected at the time of registration, for example on a form separate from the registration form, these are strictly confidential. It is of the utmost importance to assure the informant that the data he provides for statistical purposes are absolutely secret, so that he will provide reliable information. Appropriate confidentiality of personal data collected in the registration records and on the statistical reports becomes a harder issue to resolve when both documents are prepared using the same form.

357. Special attention has been paid in the draft to foetal deaths, the occurrence of which in no way affects civil status. The draft accordingly provides that they should not be legally registered but must be reported to the registry office because they are enormously important to the public health authorities. A statistical report should be filled in for every foetal death.

358. The draft law refers to records or entries as being registration documents construed as legal proof of the occurrence of vital events and acts and as the foundation of the legal system for establishing families. It makes no specific recommendations regarding the type of such documents - whether book, loose-leaf or card. The choice is left to the countries, which should assess the pros and cons of each type of document by reference to the analyses carried out by the United Nations.

359. Chapter I of the draft law develops the general provisions, setting forth the objective of civil registration and the vital events which should be registered to obtain legal and statistical information on the occurrence of those events and their characteristics (art. 1). It includes the definitions of vital events prepared by the United Nations (art. 2). It makes general provisions on the compulsoriness of registration and its value in terms of providing public proof of the events registered, and establishes that the civil registration record has constitutive value in as much as the registration of certain legal acts is construed as an integral component in proving the act for the parties involved and vis-à-vis third parties (arts. 4 and 5). It establishes as a general principle the authority to issue certificates of civil registration entries and states who may legitimately obtain certificates of registered events (arts. 8 and 9). It similarly establishes the compulsoriness of making entries in duplicate and the need to complete a statistical report for each vital event registered (arts. 6 and 13).

360. Chapter II develops the organization of the registration function, stating the agencies which make up the civil registration system in the country and the functions they are called upon to perform within the system. Emphasis is placed on the following aspects: the existence of a central organ to manage, direct, guide and maintain the system; the existence of local offices or registration areas distributed in such a way as to cover the entire territory and population; and, in particular, the working conditions of local registrars and other staff, who are to have the status of civil servants.

361. At present, the greatest weakness of civil registration is at the local level, which results in: omissions in the registers of births and deaths; illegible entries; data items that are incomplete or contain errors due to ignorance of the substantive rules of family law; and carelessness on the part

of individuals going to registry offices to seek records and family advice. Therefore, in the interest of improving the efficiency of civil registration, the accent should be placed at the local level, on the local registrar, around whom registration work revolves; attention should accordingly be paid to his personal qualities and legal knowledge. With respect to the important role of local registrars, it is commonly found in countries that they are limited to a passive role vis-à-vis informants and are required only to receive their declarations. Under the draft, the local registrar must be a better educated and trained official and must possess the status of public attestor. In keeping with this, he is given broad powers to check beforehand on the veracity, accuracy and legality of the events to be registered (art. 31). The active participation of the local registrar as a highly qualified professional in performing the important legal function assigned to him in the exercise of his legal powers allows data to be screened, which means more careful attention to the authenticity and quality of the entries and of the statistical information. The resources allocated to the local office are also important. If these aspects are neglected, little is to be gained by equipping the system with computing or other modern technology (microfilming, optical disks, etc.). With respect to personnel, their training and working conditions, the draft is based on the assumption that they will receive specific training for the registration functions they are to perform, as specialized civil servants.

362. The draft allows for the fact that a country's territorial divisions and subdivisions were arrived at on the strength of political, economic and administrative considerations, but hardly to accommodate the needs of civil registration. It is therefore natural that they will need to be adapted for the benefit of the people. With this in mind, the Director-General has been given sufficiently broad powers. This avoids the slow and cumbersome process of enacting a law whenever it becomes advisable, because of migratory movements or for any other reason, to create or abolish a registration area or to redraw its boundaries.

363. Provisions are included dealing with the function of consuls as public attestors of the documents they legalize (art. 36). The draft takes a broad view of the consular function with respect to registrable events occurring abroad that concern nationals in a country in which there is an accredited consul. If consuls are not given the status of civil registrars, which is a matter for domestic legislation, the appropriate course is to submit to the consul a certificate of the registration record for legalization and forwarding to the country's competent authorities for registration.

364. Chapter III sets forth general rules on the sphere of competence of civil registration in the country based on principles of nationality (art. 39) and territoriality (art. 40), to ensure that the country and its population are fully covered. It also establishes rules on territorial authority to demarcate the jurisdiction of each local registry office, based on the principle of registration in the place where a registrable event occurs (art. 41).

365. Chapter IV governs the mechanics of registration by establishing formal rules for making registration entries. Article 65 is designed to avoid the unlimited and unnecessary growth of the archives, since it permits the return to interested parties of the documents which they submitted and were used as a basis for making a complementary notation. The reason for this is that such notations can be based only on a legal document, a court ruling, or an administrative ruling by the Director-General. The original of the first two documents is normally kept in the so-called court archives and the latter in the

archive of the Directorate itself, so that keeping the copy presented by the interested party to the local registrar or the central archive would be to duplicate those archives to no purpose.

366. Chapter V is concerned with the register of births. It establishes the normal time limit for compulsory declaration and designates the persons who are required to report (arts. 66 and 67). It also regulates the complementary medical certificate which is required in order to make the entry of birth and the alternative means to be used in its absence (arts. 68 and 69). Article 71 provides that entries of birth prove the fact of birth and its circumstances but do not on their own document filiation; it also mentions how the latter is documented.

367. Some of the draft's most important provisions, which appear in Chapter V, are those relating to the name which must be given to the child in the entry of birth. The aim is to ensure the fundamental right of every child to bear a name and, as far as possible, to avoid any discrimination against him or her if born out of wedlock. Until national legislations adopt a formula to avoid all discrimination in this respect, they are not in compliance with the provisions of articles 1 and 7 of the Universal Declaration of Human Rights on equal dignity and the equal right to be protected from all forms of discrimination. This is echoed in articles 7 and 8 of the Convention on the Rights of the Child adopted by the United Nations on 20 November 1989.

368. The way names are formed varies from one region to another and from one country to another. In Latin America and some European countries one or more given names are used and, if possible, the surnames of the mother and father, the idea being to show descent. In China, the names used are traditional, going back more than 2,000 years, and are in reverse order, that is, the surname first followed by one or more given names; the written language consists of characters, and given names and surnames are usually made up of three characters, the first being the surname and the second and third forming the given name. The surnames are not derived from the parents' names but may be freely chosen. In Sweden, surnames do not necessarily come from the parents and, within certain limits, can be changed, for example, on the occasion of a marriage. In some countries of Asia and Africa, and also in some indigenous communities in Central and South America, the father's and mother's surnames do not form part of the structure of the surname; and in the Arab countries, people traditionally use several names, but not surnames. The upshot of the foregoing is that, in most countries and whatever the convention may be, everyone has a name that identifies him or her. If the register is based on cards or loose leaves, registration records can be filed and stored by name to form an alphabetical or equivalent index.

369. The expedient, when filiation has not been established, of having the name provided by the declarant or, failing that, assigned by the local registrar, is not novel (arts. 74 and 75). It is used, for example, in the legislation of England and Spain. What is novel is the idea of noting the name of parents [selected at random] in the entry of birth, without this having any legal effect other than to prevent the registrant from appearing to society as a person without parents, which is contrary to the nature of things (art. 77). Depending on the region or country, discrimination may weigh more or less heavily on a minor child, but it always affects the development of his or her personality, with all the regrettable consequences which that entails.

370. The law is based on the principle that registration of a birth is compulsory within the ordinary time limit prescribed for making the declaration; however, since the handbook is intended for such a wide diversity of countries, in the version proposed it was felt desirable, in the interest of the register and of the vital statistics system, to impose additional procedures for late registration by invoking the local registrar's authority to check the occurrence of the event and its circumstances so as to double-check the facts and thereby avoid fraud or duplication.

371. Chapter VI is concerned with the register of marriages. There is a general tendency in marital matters to simplify requirements and processing in order to induce those who may be culturally less advantaged to register. Rules on the processing and celebration of civil marriages are given, assigning the competent local registrar the power to authorize marriages as a public attestor (art. 86). Allowance is also made for those in imminent danger of death and those confined to hospitals, prisons and the like (arts. 90 and 91). With respect to religious marriages, regardless of creed, that are recognized by the State as valid for civil purposes, the law makes their registration compulsory and recognizes the probative value of the certificates issued by the State-recognized religious authorities (art. 92). With respect to consensual, traditional, sociological or customary marriages, it must be borne in mind that there are many sizeable ethnic groups which have continued in family matters to adhere to their ancient rites, habits and rules. They include the Bantu people, some 150 million strong, who spread south from equatorial Africa (Nigeria, Cameroon, Angola), the descendants of the Ronga in Mozambique and, in America, the Quechua and Aymara of Peru, Bolivia and northern Argentina. Their customs are especially deep-rooted in the matter of marriage. The "bride price" of the Ronga is similar to the dowry of the Bantu peoples, but they both differ somewhat from the "servinacuy" of the Quechua and Aymara. All three are forms of marriage and their common feature is that marriage does not take place in a single ceremony but through lengthy talks which serve, among other things, to unite the family groups. They also produce unusually stable families. These customs cannot continue to be overlooked by the official legal order in the countries concerned. It is essential to associate these groups more closely with the prevailing legal system even though such marital unions are not regarded as subject to registration since the law of the land does not recognize their legal validity. Nevertheless, to obtain information on them that may be necessary for the country's statistical purposes, the law may provide that either or both spouses must go to the appropriate local registry so that note can be taken of their marriage and the corresponding statistical report filled in, even if it does not result in the making of an entry in the register. The procedure would be similar to that for foetal deaths.

372. Chapter VII is concerned with divorces.

373. Chapter VIII deals with the register of deaths and the special treatment of foetal deaths. It includes detailed provisions regarding the medical certificate of death as a complementary document to the declaration of death by legally designated persons, as well as the alternative means of proving death (art. 108). With respect to the proof of death, primary responsibility is assigned to physicians in a painstakingly developed order. All of them in their varying capacities, even if they had no professional relationship with the decedent, are required to issue free of charge the certificate that has to be presented to the registrar. This obligation is justified by the need to collect reliable data on the causes of death, which, when known, quantified and classified, underpin the majority of public health programmes. There are also

provisions banning the burial of corpses - or cremating them if the country's legislation so permits - without prior registration, which is required in order to obtain the relevant permit (art. 111).

374. Foetuses that die in the mother's womb, or before being completely separated from the mother, or do not survive separation even for an instant are not entered in the register of deaths because their death is entirely irrelevant to civil status. However, since these legal events are of great interest for public health purposes, the rules on deaths should be followed in all other respects, which means that it is always necessary to fill in a statistical report before obtaining a burial permit and interring the remains in an authorized cemetery; by the same token, if the country has institutionalized arrangements for cremation, the relevant permit must be obtained. Obviously, for practical reasons, if delivery takes place in a hospital, the head or director will be responsible for declaring the event to the competent registrar for preparation of the corresponding statistical report and will dispose of the remains if not claimed by members of the family. This rule is justified on two grounds. On the one hand, it is in the interest of the hospital to make things easier for the disappointed mother and to gain prompt access to the hospital facilities she is using; on the other, there is the disinclination on the part of some segments of the population, in some ways understandable, to get involved in red tape and expense when the delivery has not been successful.

375. Chapter IX covers judicial and administrative procedures for correcting, cancelling or reconstituting registration records. It provides for two procedures for correcting entries: one judicial, which applies to all cases, and the other administrative, which is reserved for the correction of obvious mistakes. Both court rulings and administrative orders for corrections are carried out by making a new error-free entry and cancelling the old one. In this way, copies and certificates can be made by photocopies, which never contain transcription errors. In the old entry that is cancelled a cross reference is made in the Comments box to the number and year of the new entry which replaces it, and the same is done on the new entry in respect of the old one (art. 131). The authority to correct the civil register ex officio is conferred directly upon local registrars, in exercise of the powers given them by the law in cases specifically identified (art. 121). This direct, undelegated authority greatly streamlines processing in countries with large land areas, as it avoids the shipment of documents and speeds up the procedure. In all cases, rulings by the registrars are subject to review by the Directorate (art. 34).

376. Chapter X deals with the system for certifying civil status records by issuing full or partial certificates (art. 135). These certificates have the status of public documents which attest to the occurrence and circumstances of the event to which they relate (art. 134); however, the content of the registration record invariably prevails in the event of any discrepancy between it and the certificate issued (art. 8). One reason the content of the entries or data items of births, marriages and deaths is organized in such a way as to keep the reverse side for complementary notations - as illustrated in the specimen forms on earlier pages of this volume - is to make it possible to issue certificates by photocopying the face of the entries, which has the twofold advantage of avoiding errors in transcription and eliminating the need to review their content. If the country in which the registration system is being introduced has not yet reached a level of development that allows it to reproduce registration records by photocopying, the certificates, whether full or partial, are issued on uniform official forms prepared by the Director-



General (art. 137). The civil registration service is authorized to issue certificates of records in several languages simultaneously for use outside the country of issue. These are unquestionably helpful because they obviate the need for translation, thus saving the interested parties time, formalities and cost. Each country will decide what languages it makes sense to use, as a function of its international relations and geographical location.

377. Many public offices, including courts of justice, need certificates or copies of civil registration records for their own purposes. In keeping with its collaboration objective, the system should satisfy those needs. Accordingly, the law introduces certificates which are issued free of charge at the request of such offices and for their exclusive use (art. 14). In the same vein, article 15 makes it compulsory for public offices and authorities to forward ex officio to the competent local registry offices whatever documentation they need in order to make entries in the registers.

378. Bearing in mind the level of technological development of the country in which the civil registration system is being introduced, and until a start is made on incorporating technology into the operation of the system on the strength of the powers conferred in this respect on the Director-General, certificates may be issued in handwritten or typed form or as photocopies of the records, and, at the request of parties, may be full reproductions, or certifications of one or more events or circumstances, of the entries, and details as to which option applies must be stated on the document itself. However, in view of their importance and possible effects vis-à-vis third parties, partial certificates may not omit anything that expands upon, restricts or modifies any data item on the record (art. 135).

379. No certificates may be issued of cancelled or corrected entries, except by court order. If issued, they must always state the status of the relevant entry.

380. Chapter XI is concerned with statistical reports and how they should be completed, this being one of the duties assigned to local registrars in so far as the civil registration system is established as the agency responsible for collecting and providing data for the compilation of vital statistics.

381. In many countries, as a legacy first from the registers of the religious orders and later from the Napoleonic Code and the old legislation of Spain, civil registration was originally concerned with the legal organization of the family. This was for a long time its only purpose. Later on, as a result of provisions in laws on statistics and public health or both, it took on the task of collecting for them the basic data for the country's vital statistics, which they have always processed. This is what gave rise to and kept in place the distinction between the task of data gathering, handled by the civil registration system, and that of data processing or compilation, handled by the statistical or public health agencies, or both, which have sometimes shared that responsibility.

382. When civil registration took on the collection of data for the vital statistics function, it had already developed its own documentation, notably the registration record, characterized by its legal purpose, content prescribed by law, and permanent storage. It can be inferred from the foregoing that the data which the vital statistics function needs on vital events and acts should be recorded on a special and separate form, the statistical report, whose contents

need to be flexible so that the resulting statistics can satisfy the need to track a population with constantly changing characteristics.

383. It should be pointed out that the documents in question differ in purpose, content and processing. One is used for legal purposes tied to family organization; the other for statistical purposes. The content of each should therefore be tailored to its respective purpose; one needs to be kept permanently, and the other can be destroyed once data processing is complete. Finally, one is handled in accordance with each country's family law and stored permanently in the civil register, while the other is based on demographic principles and definitions and kept only for a short time in one of the compiling agencies. It is therefore a tricky matter to combine both in a single document and strike a balance between the importance attached to the organization of the family on the one hand and the production of vital statistics on the other. The draft advocates the notion that civil registration should have separate forms, one, the registration record, to fulfil its legal function, and the other to carry out its statistical function, the individual statistical report, which is completed for each vital event registered (art. 141).

384. Chapter KI of the draft law describes how the administrative system for vital statistics works; it opts for the direct forwarding of the statistical reports from the local registry offices to the competent statistical agencies for compilation of the statistics, processing and dissemination. Regardless of the option selected, exactly how the statistical reports should be transmitted to the compiling agencies is a complex question that will need to be decided on the basis of each country's circumstances. It can therefore be provided that arrangements for delivering statistical information to the compiling agency will be mutually agreed upon by the collecting and compiling agency. In this way, the countries are free to choose any of the options analysed in Chapter IV of the present Handbook.

385. Also to be mutually agreed are the content of the statistical reports and the instructions for using and processing them. The intent was that the operation of the administrative system for vital statistics should never run up against legal constraints and that its management should be able to modify forms and procedures whenever it felt it necessary, both to maintain its efficiency and to ensure that the resulting vital statistics reflect actual conditions in the country (arts. 143 and 144).

386. The change proposed in the draft is positive and important. Traditionally, it has been the compiling agency that has imposed its rules on the civil registration system for the collection and delivery of statistical data, but experience has shown that this arrangement does not work well. The civil registration system has felt used and has lacked motivation. In the draft, therefore, all the agencies that make up the administrative system participate as partners in the common effort to produce reliable vital statistics and, as such, it is hoped that they will all have an opportunity to make their views known.

387. From the standpoint of an organic civil registration law, it is not possible to push this matter any further without encroaching on other organic laws, such as those governing the compiling agencies. Ideally, these laws should have similar and reciprocal provisions, although this is not in fact strictly necessary because in law it is understood that a subsequent law tacitly amends earlier laws on the same subject matter.

388. Chapter XII covers inspection arrangements and sanctions within the civil registration system. Inspection of the system is entrusted to the Directorate, which will operate through the inspection service; an ordinary, periodic regime will be organized to inspect the local civil registration offices and central archive, as well as a special regime in appropriate cases. The sanctions to be imposed will be monetary or disciplinary, as appropriate, without prejudice to the possible commission of acts classified as crimes that may result in criminal liability.

389. Chapter XIII deals with the funding of the registration service. To simplify matters, the draft avoids case-by-case lists, which complicate the process, and starts from the general principle that the registration of vital events is free if done within the time periods prescribed by the law. In cases of late registration it was considered desirable, at least when the civil registration system is first introduced, to impose fines. The draft also establishes the general principle that fees will be charged for certificates, except when requested through official channels. Setting the scale of charges is deferred to the regulations, and their amount will depend on how necessary it is in each country that civil registration be self-financing. The ideal course is to allocate sufficient funds in the budget each year for the civil registration system to operate properly and effectively.

390. It is important that the Director-General be given the authority to adjust the charges originally specified in the law by whatever percentage is required to maintain their purchasing power. It is stressed that this measure does not necessarily involve raising their real cost but merely preventing them from being trivialized by inflation. This would ensure that the system could continue to operate normally, financially speaking, if its funding is wholly or partly dependent on the revenues it generates.

391. Chapter XIV contains the transitory and derogatory provisions needed to allow the law to take effect. The third transitory provision is intended to cover the complex issue of the existing registration documentation under the legal system in effect prior to implementation of the new registration system that comes into effect with the present law. To this end, the draft opts to provide that the pre-existing local archives in the custody of the authorities responsible for the country's registration system up to the entry into force of this law be transferred to the appropriate new local registration offices, with a copy of the necessary inventory - which is to be forwarded to the Directorate - of all entries made under the previous regime. Following the transfer of the archives, certificates of events registered before the new civil registration law came into effect will be issued by the civil registration officials responsible for the custody of those documents.

#### D. Explanatory statement

392. The present civil registration law aims at improving the country's existing registration system by combining all registration rules into a single legal text, in order to replace the existing provisions on registration matters, which differ greatly in rank and regulate the matter in a haphazard fashion, which in turn leads to confusion in the application and effectiveness of registration legislation. The wording of the law is intended to follow systematic and simplifying principles that make it possible to establish registration rules capable of integrating the registration model which the country adopts. The principle that registration work is subject to the law ensures that civil

registration will operate properly and normally; the need to safeguard the interests of individuals underlies the system for certifying registration records; ex officio action enables the registers to be as complete as possible; while bureaucratic and administrative simplification, as well as free registration for key events, help the people to fulfil their obligation to register. The nature of registration work is such that it must be left to the regulations to establish the detailed, case-by-case rules needed to apply the provisions of the law, through complementary and interpretative provisions that always remain within the boundaries of the law, to which any regulatory rule is subordinate. The need for flexibility, which must be built into the regulation of the registration system to allow it to adapt to new legal situations stemming from changes in substantive legislation, makes it essential to deal with the subject through regulations, as well as to give the Director-General broad regulatory powers that, within the sphere of competence assigned to him under the law, allow him to adjust the legally established registration system promptly to changing realities, as reflected in changes in domestic legislation, by adopting regulatory provisions that allow the registry offices to be adequately organized, equipped and staffed to address continually changing challenges and thereby fully meet the goals of registration. Moreover, the aim is to modernize the system by taking advantage of the experience with other legal statutes on registration, by endeavouring to introduce new criteria into the way registration work is handled, as well as the possibility of incorporating new technologies into civil registration, or at least laying the groundwork for it; to this end, broad authority is vested in the Director-General in the exercise of his self-regulating power, so that the people are provided with a regular, continuous, responsive and effective public service, which is the ultimate goal that ought after all to inspire all administrative work.

393. The present law approaches registration from the standpoint of the international recommendations, assigning the registration system a threefold function:

(a) A legal function, which covers the traditional role of civil registration as a public agency that provides individuals with official and authentic means of proof of the circumstances relative to their existence, identity, and personal and family situation. For this purpose, civil registration is construed as an agency that collects data on the civil status of individuals, which it officially documents through the act of registration, whereby register entries are invested with full probatory value through the presumption of their validity, accuracy and legality, barring evidence to the contrary. Register entries, records and complementary notations thus constitute proof of the events registered unless and until they are modified by court order or through the legal procedures prescribed for amendments. The official status of the civil register is manifested in the form of certificates, full or partial, which are public documents; the legal regulations governing certificates, in terms of who may legitimately request them, make every allowance for the need to protect the personal and family privacy of the registrant. Being able to satisfy this legal requirement simply and quickly is the key to involving the people and getting them to comply punctually with their obligation to register;

(b) A statistical function, built upon the legal function which civil registration performs by simultaneously gathering data on or related to registrable vital events and legal acts, that are also needed as inputs to the country's vital statistics, for subsequent compilation by the competent

statistical agencies, with which the registration entities are required to collaborate and coordinate as fully as possible. Assigning statistical functions to the civil registration system makes it possible to obtain, at one and the same time, information on vital circumstances to assist the country's planning efforts in the areas of health, housing, services, infrastructure, etc. This is achieved by virtue of the legally prescribed obligation to register the events concerned for the dual purpose of registration and statistics, in the latter case through completion of the statistical report;

(c) A collaboration function, as a natural spinoff of the registration work involved in the collection, storage and custody of civil status data, which makes the civil registration system a pre-eminent source of information for other public agencies that need access to those data to accomplish their own objectives. Such collaboration must in all cases be reciprocal, since the authorities and officials are similarly bound by law to lend their assistance to the civil registration system in the interest of achieving a record that is truthful, continuous and permanent.

394. The administrative system for civil registration and vital statistics set up under this law assumed that the two functions are centralized; the proposed law is therefore national in scope and applicable throughout the national territory and to the entire population. The organization of the two systems has been delinked, based on the principle of having two separate and mutually independent agencies that are required to coordinate their activities to produce an effective, continuous and permanent registration and statistical service. Under this division of labour, civil registration is given the statistical function of collecting data at the time vital events are registered, whereas the statistical agencies are tasked with compiling the information gathered through the local civil registry offices. Under the system proposed, the production of statistics is assigned to the national statistical service, although arrangements can also be made to include the national health system as a compiling agency in the interest of a more rapid local response to statistical data on deaths, with a view to controlling possible epidemics and taking emergency health or other measures. The statistical data collected by the local registry offices when vital events are registered are forwarded directly from the registry offices to the corresponding statistical offices responsible for compiling them. Civil registration is placed under the relevant ministry (justice, interior, etc.), which works through a central organ, the Directorate, headed by a Director-General appointed by the government acting on a proposal by the minister. The Directorate is responsible for directing, managing, overseeing, maintaining and supervising the registration agency under him. The system also comprises a central archive and the local civil registration offices. The internal organization of the local offices reflects the division into the four main registers in which births, marriages, divorces and deaths are registered. The other events affecting civil status are registered as complementary notations. The role of local registrar has been visualized as identical in all offices through which the system provides its services - central archive, local offices or suboffices - the same powers being conferred in all cases. In contrast with a passive role for the registrar, limited to receiving information and preparing, maintaining and storing records, his duties in the registration field have been enhanced as much as possible in the interest of securing high-quality information. It is believed that only through such active participation by the registrar is it possible to achieve the goals set for civil registration, notably that the information which the registration service provides to public agencies and to individuals should have the fullest possible probative value under this law. He is therefore empowered, as far as

is possible, to check personally on the veracity and accuracy of the act and its conformity with current legislation and, to this end, to carry out such verification measures as he deems appropriate. The local registrar is also competent to rule on any questions that arise, including the possibility of amending the register in cases allowed by the law, without the need to consult the Director-General beforehand - although he is of course free to do so, without prejudice to the remedy that is always available to appeal rulings by the registrar, such appeals being decided upon by the Director-General, thereby exhausting registration channels of appeal. The aim of empowering registrars - who, as a corollary, are required to possess high legal qualifications as lawyers and experts on family law - is to facilitate and offer the people a better and faster service without impairment of the proper guarantees, which are secured by virtue of the registrars being subject to the law, and the requirement, where appropriate, that they be held accountable for the performance of their registration duties - even if this should involve criminal liability - through the system of appeals and the established system of inspections.

395. It was also felt desirable to strengthen the function of the central archive as the competent central organ not only for storage and custody of the duplicates of all registration entries made at any local office in the country and issuing the corresponding certificates, but also for performing functions involved with the registration of vital events affecting the civil status of nationals resident or travelling abroad, and making the corresponding entries in cases where aliens are naturalized in accordance with the laws of the land. This has the effect of centralizing these data, thereby avoiding jurisdictional problems and making it easier to retrieve them later. Moreover, without prejudice to the jurisdiction given by domestic law to the country's consular services, it is felt that consuls occupy a privileged position with respect to registration information on the civil status of nationals resident within their consular area. Accordingly, even if they are not given the same registration duties as local registrars, at least an effort will have been made to simplify the procedures involved in the compulsory forwarding of data items for the entries to be made in the central archive. The central archive is the ideal source of information when it comes time to computerize the country's civil registration service. The basic idea is to maintain a living archive that reflects changes in civil registration records and can serve as a base for introducing computerized systems.

396. To avoid excessive detail that can only lead to confusion and contradictions when implementing the law, the draft opts instead to set out some clear principles with respect to the general purview of the country's civil registration system, based on the twin connecting criteria of, on the one hand, nationality, under which it is compulsory to register events affecting nationals of the country even if they happen to be abroad, and, on the other hand, territoriality, under which it is compulsory to register all events affecting civil status that occur within the national territory, even if they involve foreign subjects. With respect to the criteria for determining what local office is competent for territorial purposes, once the country has been subdivided by the Directorate for registration purposes, the draft establishes the general principle that the competent registry office is the one in the place where the registrable events occurred, without prejudice to the fact that exceptions may be made to this general rule.

397. For making the actual entries in the register, rules are established that are aimed, first and foremost, at clarity and simplicity of registration. The

data will be filled in on the official forms prepared by the Directorate, a different form being used for each kind of register. Entries and complementary notations may be made only on those forms, so that partial reproduction of the register entries can be made to produce partial certificates of the records, in accordance with the established regulations, although in no event may a partial certificate be issued if the portion omitted in any way substantively alters its content. The statistical reports are prepared on official forms separate from the registration documents to provide greater flexibility with respect to their content, which may vary as a function of changing statistical objectives. As regards the obligation to archive and store documents, only those documents that do not have originals in other public archives will be kept in the archives of the local registry offices that are competent to make the corresponding entries. This measure avoids unlimited and often pointless growth of the registration archive due to duplication. As for the evidentiary documents used as a basis for making the entry in the register, the draft sets forth identical rules on disclosure to those for issuing certificates.

398. Given the inherent complexity of determining filiation, which is a matter for a country's substantive civil laws, the registration form selected delinks filiation from the registrant's entry of birth, which is construed as full and sufficient proof of the actual birth event and its key characteristics, as well as of the child's identity. It should not be forgotten, however, that filiation is reliably documented by the proof available in the register, through the entry of birth and the entry of the parents' marriage showing they were married before the birth of the child, or alternatively through the corresponding complementary notations on the entry of birth relating to subsequent recognitions, legitimations by marriage, court rulings establishing filiation, etc. Since the entry of birth constitutes the registrant's proof of identity, steps have been taken to avoid discrimination in cases where no filiation is stated on the initial entry; in the absence of any indication by the interested party, the draft provides that the registrar making the entry will ex officio give the child a commonly used name and surname of his or her own and will, purely for identification purposes, supply names for the father and/or mother. With respect to the rules for naming, the system established in the laws of the country should be followed. Adoption gives rise to a complementary notation on the adoptee's entry of birth; however, the social sensitivity around the issue of adoption requires special treatment to ensure confidentiality. To this end, and even though the entry of birth does not of itself prove filiation, the complementary notation of adoption requires that the original entry of birth be cancelled and a new entry of birth be made in which the only references to identity are the names and surnames of the adoptive parents, without prejudice to the need to cross-reference the two entries to enable the adoptee at a later date to search for his biological parents. The same reasoning would in principle justify the fact that only the courts can request certificates of original entries of birth that have been cancelled by virtue of adoption. Moreover, since the aim of civil registration is to provide as complete information as possible, it was felt desirable not to impose time limits in situations where declarations have not been made within the legally prescribed time period, although registrars are given broad powers to take whatever steps they consider appropriate to verify the truthfulness of events submitted for registration beyond the allotted time.

399. The provisions on registering marriages make allowance for the different ways in which they can be celebrated under the agreements entered into by the State with the different religious denominations or cultural communities, with a view to recognizing their validity for civil purposes. The underlying

assumption is thus that the State is characterized by religious, ethnic and cultural pluralism and there is a need to integrate all population groups into society. The registrar has the authority to oversee the registration of marriages by checking the authenticity of the documentary evidence beforehand and ensuring that marriages not celebrated at the registry office comply with current legislation. It was similarly thought desirable, for statistical purposes, to introduce a precept that makes it compulsory to declare the celebration of common-law marriages, which are not recognized by the law but which in some countries may be important for gathering statistics on family formation. For civil marriages, the authorizing registrar is required to check beforehand that the intending spouses meet the capacity requirements pursuant to the substantive laws for the purpose of consenting to marriage. The general prevailing principle is that all registration work is to be done in the local registry office, although this rule is subject to, among others, the basic exception of marriage in imminent danger of death, in which case the registrar should celebrate it urgently in the requisite location but must, in any event, before entering it in the marriage register, verify that all pertinent legal requirements have been met in order for it to be valid. Complementary notations on entries of marriage will include those relating to judicial separations, annulments, or divorces, as well as any prenuptial agreements between spouses, pursuant to domestic law. In the matter of divorces, the draft follows the general jurisdictional principle that they will be entered at the local office where the judicial body which issued the final divorce decree is located. After the registrar has made the entry, a divorce certificate is forwarded so that a complementary notation can be made on the relevant entry of marriage.

400. The basic problem with deaths is that the cause of death is irrelevant to the legal function of civil registration, but is a vital element for the statistical report which has to be filled in for each death registered; hence the detailed provisions regarding the physician's obligation to issue the corresponding medical certificate attesting to the death and its circumstances, including the cause of death. Traditionally, the registrar with the authority to make the entry of death is also empowered to issue the burial or cremation permit, the only requirement for its issuance being that the entry proving the death has been made first. The law is similarly based on this classic approach, although it was considered appropriate, in order to facilitate and streamline the procedures for obtaining this mandatory permit, to introduce an important new procedure whereby, outside registry office hours and once the death has been documented, the burial permit will be issued by the law enforcement authority on duty in the place where the death occurred. However, it was not considered desirable to include provisions regarding cemeteries and the obligations of those responsible for their construction and maintenance, on the grounds that the subject is beyond the scope of registration and should be overseen by the health authorities or by local government. But the Director-General of civil registration has a duty to coordinate as necessary with the local authorities to ensure that they build and properly maintain the cemeteries in their locality. Such measures will help to reduce omissions in the register of deaths.

401. In keeping with the legal suggestion for simplifying registration procedures, it was felt necessary to include regulations for instances where the local registry can initiate changes itself, since establishing as an exclusive principle that registration records can be modified only by a court ruling ordering the amendment is unworkable and inconsistent with the way things happen in real life. It is similarly felt that authorizing only the Director-General to make changes in registrations unduly slows down and protracts the process of correcting entries. To bring the system in closer touch with everyday life and



offer a rapid service that allows the commonest errors to be corrected, the competent registrar has been given authority to modify or cancel entries in the registers in those cases provided for in the law and subject to the necessary safeguards, without prejudice to the fact that a final court ruling always constitutes a probative document for any change in register entries. To give effect to the principle that all registration activity must be subject to the authority of the law, it is necessary to establish a system of inspections and sanctions, as a control not only on the work of the personnel in charge of civil registration but also on compliance by individuals and officials of any kind with their registration obligations. Finally, the law also covers the issue of funding for the civil registration system. The ultimate objective of the relevant provisions was not that the system be self-financing, since the public service afforded by registration covers important interests that are not only private in nature, but also public. Accordingly, due allowance has been made for the important functions assigned to the registration system in the proposed model and the consideration that the active participation of the people is essential to achieve the goals of both registration proper and statistics. An effort has therefore been made to strike a balance between the interests of both society and individuals and to make allowances for the level of social and legal development in the country concerned. It is obvious that the rights of the individual should be viewed not only from the personal standpoint but also from that of being integrated into a specific family organization. It was nevertheless felt appropriate to charge for entries involving dissolution of the traditional family, in order to make it easier to apply the law flexibly in the widely varying types of society to which the general model is addressed. It was thus considered preferable to follow the general principle that on-time registration should be free, regardless of whether the registrable events involve integration into an institutional kind of family, but that fees should be charged both for late registration and some complementary notations and, as a general rule, for the issue of certificates. It is similarly provided that the scale of charges should be updated at intervals to maintain purchasing power parity.

402. Since the law and the regulations are intended when they enter into force to constitute the only set of rules governing all registration activity, there is an obvious need to expressly repeal all provisions, regardless of rank, that previously regulated registration matters. Moreover, whether a civil registration system is being introduced into the country for the first time or the existing system is simply being upgraded, there is a need for rules to ensure that the new registration regulations enter into force correctly and without problems. This is the purpose of the transitory provisions, which provide, as is the customary practice, that the law entering into force does not have any retroactive effect on events already registered under the system being repealed but applies to those events that are registrable under the law but had not been registered by the time it came into force. There are additional measures to ensure continuity between the registration system being repealed and the new regime which is replacing it so as not to create a vacuum that would break the continuity that is so vital in matters of registration. Finally, there is provision for the situation of the personnel hitherto responsible for registration in the country; they are authorized on a priority basis to become part of the new system established by this law.

E. Draft law: articles

403. The articles of the draft organic law on civil registration are presented below:

ORGANIC LAW ON CIVIL REGISTRATION

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## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

The purpose of civil registration is to collect, document, store, preserve and certify the following events affecting civil status:

- (a) Births;
- (b) Marriages;
- (c) Deaths;
- (d) Divorces;
- (e) Annulments of marriages;
- (f) Separations;
- (g) Recognitions of filiation;
- (h) Court rulings on filiation;
- (i) Legitimations by marriage;
- (j) Adoptions.

#### Article 2

For the purposes of this Law the following definitions shall apply:

- (a) Live birth: the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached; each product of such a birth is considered live-born. All live-born infants must be registered and counted as such irrespective of gestational age or whether alive or dead at time of registration, and if they die at any time following birth, they must also be registered and counted as a death;
- (b) Foetal death: death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy. The death is indicated by the fact that after such separation the foetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. There are three major categories of foetal deaths: *Early foetal death*, at less than 20 completed weeks of pregnancy; *Intermediate foetal death*, at 20 but less than 28 weeks of gestation; and *Late foetal death*, at 28 completed weeks or more of gestation;

- (c). Death: the permanent disappearance of all evidence of life at any time after live birth has taken place (post-natal cessation of vital functions without capability of resuscitation). This definition therefore excludes foetal deaths;
- (d) Marriage: the act, ceremony or process by which the legal relationship of husband and wife is constituted. The legality of the union may be established by civil, religious or other means as recognized by the laws of each country;
- (e) Divorce: the final dissolution of a marriage, that is, the separation of husband and wife which confers on the parties the right to remarriage under civil, religious and/or other provisions, according to the laws of each country;
- (f) Annulment: the invalidation or voiding of a marriage by a competent authority, according to the laws of each country, which confers on the parties the status of never having been married to each other;
- (g) Judicial separation: the disunion of married persons, according to the laws of each country, without conferring on the parties the right to remarry;
- (h) Adoption: the legal and voluntary taking and treating of the child of other parents as one's own, in so far as provided by the laws of each country;
- (i) Legitimation: the formal investing of a person with the status and rights of legitimacy, according to the laws of each country;
- (j) Recognition: the legal acknowledgement, either voluntarily or compulsorily, of the maternity or paternity of an illegitimate child.

### Article 3

Any other events or acts relating to civil status prescribed by the Law or the Regulations shall also form the subject of civil registration and must be registered (broad wording which allows the sphere of registration to be expanded at a later date to include data on the registrant's filiation, nationality, name, changes in the capacity to act, etc.).

### Article 4

The entry of registrable events in the civil register is compulsory and shall be done within the legal time limits by the persons designated in each case by the Law. The competent registrar may make the corresponding entry in the register ex officio when he has in his possession the documentation proving the event. Foetal deaths are not legally registered but those obliged by law to declare them or to provide the corresponding medical certificate of birth shall also be

obliged to report foetal deaths in a timely fashion for purposes of the statistical function performed by civil registration.

#### Article 5

The registration record is an official document backed by the Government and constitutes full proof of the events recorded. Final rulings that declare or constitute civil status, as well as legal documents that must under this Law be registered or placed in a complementary notation, shall be valid between parties and vis-à-vis third parties only after they have been entered in the register. Entries enjoy the presumption of accuracy, truthfulness and legality until corrected using the procedures established by the Law.

#### Article 6

Entries shall be made in duplicate. One copy shall be kept at the competent registry office and the other forwarded to the central archive for safekeeping and preservation and for certification purposes. Both copies shall have the same probative value but, in the event of any discrepancy between them, the one kept in the central archive shall be deemed the original. They shall also have the same value as any copies of register entries that the central archive makes for the purpose of preservation and permanent safekeeping on magnetic media, microfilm, microfiche, optical disks, or other media.

#### Article 7

In cases where there is no entry for a registrable event, alternative probative evidence may be admitted only if it can be proved to the competent agency that steps have been taken to supply the missing entry or to reconstitute the entry that cannot be certified.

#### Article 8

Civil registration is a public agency. The record certification service is carried out by issuing special documents called certificates, which may be full or partial, of the entry of a vital event in the civil register. The certificates are official documents backed by the Government. In the event of any discrepancy between the entry and the certificate the former shall prevail.

#### Article 9

Full or partial certificates of a registration record may be requested by the person involved in the record, either himself or through his legal representative, or by court authorities. Certificates may also be requested by the members of his biological family, spouse, father, mother or brothers and sisters, and legitimate heirs or their legal representatives. In these cases, the competent registrar shall grant permission for issuance of the certificate to any person who can prove a legitimate interest and valid reason to ask for it. The same

requirements in terms of proving a legitimate interest and prior permission must be met as a condition for issuing certificates to any person with an interest in accessing the registration record.

#### Article 10

Certificates of entries of birth that contain complementary notations relating to an adoption may be issued only at the request of a competent judicial authority.

#### Article 11

Certificates of cancelled or corrected registration records shall be issued only at the request of the competent judicial authority.

#### Article 12

Only authorized registry personnel shall be permitted directly to consult and examine the original documents on file and the registration documents available at the corresponding registry offices. If a public authority or agency requests disclosure of registration documents and other documents on file at the registry office, such direct access shall be authorized by the registrar in charge of the registry archive.

#### Article 13

The registration of any of the events affecting civil status referred to in this Law shall be accompanied by completion of the corresponding statistical report. The privacy and confidentiality of name-bearing data items included in the statistical reports shall be ensured. The registrar competent to make the entry shall, on the terms and within the time limits legally prescribed therefor, directly forward such statistical reports to the competent agencies for subsequent statistical compilation.

#### Article 14

Public authorities and offices may request full or partial certificates on events entered in the civil register for purposes of their respective businesses, which shall be duly stated. The competent registrar shall issue the certificates, noting on them their official status, the requesting agency, and the fact that they may be used only for the purposes for which they are issued. These official certificates are free. In all cases the registrar shall take appropriate steps to safeguard the registrant's right to personal and family privacy.

#### Article 15

Public authorities and offices shall lend civil registration the collaboration needed to allow the registration service to operate

properly. They are required, as appropriate, to forward ex officio, or at the request of the civil registration service, the documentation needed to make the corresponding registration entries related to registrable events. Whenever a judicial or administrative authority issues a final ruling on a vital event subject to registration pursuant to this Law, it shall ex officio forward to the competent local office an authentic copy of the ruling so that the appropriate entry or complementary notation can be made.

## CHAPTER II

### CIVIL REGISTRATION INFRASTRUCTURE

#### Article 16

Civil registration comes under the Ministry of (Justice, Interior, etc.). The leadership, management, maintenance and inspection of the registration service are entrusted to a central organ, the Directorate of Civil Registration, headed by the Director-General who acts through powers delegated by the competent Minister. The Director-General, a lawyer specializing in matters of family law, shall be appointed by the Executive Branch at the request of the Minister (a more efficient administrative structure would be to make civil registration an independent ministry).

#### Article 17

The Directorate is tasked with the following registration-related functions:

- (a) To direct the civil registration services as the organ responsible for studying, proposing and implementing ministry policy on registration matters as it relates to private law, family law and the authority to attest to public documents;
- (b) To oversee compliance with legal provisions on registration matters by resolving any inquiries and incidents that may arise in connection with compliance and enforcement;
- (c) To inspect civil registration services;
- (d) To participate in all draft laws or less-ranking legislation affecting registration matters;
- (e) To assure uniformity in registration and certification procedures nationwide by preparing official forms which may be revised from time to time;
- (f) To guarantee the confidentiality, storage, safekeeping and indefinite preservation of registration documents and documents related to proof of civil status by adopting the necessary measures for their proper storage and preservation;
- (g) To prepare handbooks, instructions and other general guidelines on the organization of civil registration, its operation and maintenance;
- (h) To exercise the power of sanctions in respect of registry violations;
- (i) Selection and administrative rules governing civil registration employees;



(j) Management of human, physical and financial resources for the efficient and proper operation of the registration service in the country;

(k) To establish the territorial demarcations for purposes of the proper and effective operation of the registration service. To improve the registration service, it may establish suboffices (secondary registration units), clearly defining the boundaries of the territorial subdivisions for jurisdictional purposes. It may also merge local registry offices if circumstances so warrant;

(l) To rule on appeals filed against rulings by local registrars;

(m) To participate in the preparation of the forms for the statistical reports and coordinate with the country's statistical services by issuing the necessary instructions in its sphere of competence;

(n) To introduce modern technology into registration work to enhance the efficiency of the service and its response to the public, to which end it shall endeavour to secure the necessary human, financial and physical resources;

(o) To develop periodic training, refresher and improvement programmes for the personnel employed by the registration service;

(p) To develop periodic education programmes to spread information and publicity about registration work, targeted at the population at large or at sectors in need of special treatment, regarding the need and the desirability for both individuals and society to register vital events;

(q) To coordinate with other public agencies and authorities to ensure the improvement, uniformity and timely presentation of the documents issued by them: medical certificates, court documents, notarial documents, etc.;

(r) To oversee and evaluate the coverage of registration and its productivity in the local offices in accordance with the procedures established for registration work, as well as compliance with the obligations established to achieve the statistical objectives assigned to the civil registration service;

(s) To provide information and services stemming from or contained in its registers to research entities or centres so that they can perform their own functions, while assuring that they will be used exclusively for such purposes. Such entities shall sign bilateral agreements to guarantee the confidentiality and privacy of information on individuals. They shall also cooperate with the national civil registration system so that it can perform its functions efficiently;

(t) To prepare and issue family books (optional);

(u) Authority to approve or deny access to and use of information in the civil register and requirements with respect to access to confidential information.

## Article 18

In the performance of his functions under this Law, the Director-General shall be assisted by a Technical Corps composed of professionals highly qualified in registration matters to ensure that the service is efficient. The Technical Corps shall be divided and organized internally into Divisions on the basis of the functions to be performed in the sphere of registration. (The Regulations to the Law may establish these Divisions based on the variable needs of the registration service; a permanent core might comprise a Legal Division, Training Division, Inspection and Disciplinary Division, Financial Management Division, Personnel Division, Resources Division, and Statistical Division).

## Article 19

The national civil registration system shall comprise the Directorate, the Central Archive and the local civil registry offices, which shall cover the entire national territory.

## Article 20

The Central Archive is a central organ under the Directorate that is staffed by at least two civil registrars of proven experience appointed by the Director-General and having the same duties as those assigned by this Law to the other local registrars. The registrars shall stand in for each other. The Director-General shall determine what functions shall be performed by each registrar within the sphere of competence of the Central Archive.

## Article 21

The Central Archive shall store, keep safe and preserve the duplicates of all civil status records made at the competent local offices, which are required to forward them to it periodically. The copies kept at the Central Archive shall be deemed originals. Moreover, the Central Archive shall keep the records up to date, by recording any changes made as notification is received from the local registrars. The Central Archive may introduce modern technology for the storage and retrieval of records, including magnetic media, microfilm, microfiche, optical disks, and the like. The records stored by these means shall have the same legal value as those in the original registers and paper duplicates thereof.

## Article 22

The registrars in charge of the Central Archive shall issue certificates of the registration records on file in their archives in accordance with the general rules on certification set forth in this Law.

### Article 23

The Central Archive shall contain the registration records of civil status acts and events occurring outside the national territory and involving nationals of the country. Entries made abroad or the data needed to make such entries shall be forwarded either directly by the individuals required under this Law to declare the registrable events or through the corresponding consular services of the country accredited in the place where the events occurred. (Allowance will need to be made for any domestic legislation that exists concerning the possibility of assigning registration functions to the country's consular services to cover nationals resident in the consular area that includes the foreign location where the events occurred).

### Article 24

The Central Archive shall contain the registration records on naturalizations by aliens pursuant to domestic legislation. It shall also contain the entries of birth of aliens born abroad and adopted by nationals of the country.

### Article 25

Local civil registration offices shall be in the charge of one or two local registrars who shall work within the boundaries of the territorial districts established for registration purposes. Depending on the needs of the service, the Director-General may set up civil registration suboffices in hospitals, maternity homes or the like to ensure that registration obligations pursuant to this Law are complied with. The registrars responsible for these suboffices shall be appointed by the Director-General from among professionals familiar with registration matters and shall have the same duties, obligations and responsibilities as the other local registrars.

### Article 26

Each local civil registration office shall be divided into four registers: Births, Marriages, Divorces, and Deaths. Each of the registers shall be kept in different sections, numbered consecutively and arranged separately. The other registrable events referred to in this Law shall be recorded as complementary notations in the appropriate register.

### Article 27

There shall be at least one local civil registration office for each territorial district. To meet the needs of the service, the Director-General may combine two or more territorial districts under the jurisdiction of a single local office or divide one district into two or more local offices.

## Article 28

The local registrars shall be appointed by the Director-General from among career civil servants with legal credentials. They shall have all the powers assigned by this Law and shall operate within the hierarchical chain of command, being required to comply with the orders and instructions of the Director-General in all matters related to the registration service.

## Article 29

The status of all personnel of the civil registration service shall be governed by the corresponding Organic Regulations of the cadres employed by the State administration, whereby they shall be placed on an equal footing with the country's other civil servants in terms of circumstances disqualifying them from civil service employment, guaranteed job stability, pay, promotion, social rights, conflicts of interest, replacements, grounds for dismissal, and liability to disciplinary action.

## Article 30

Registrars shall have the status of public attestors, and all acts they perform in the exercise and within the limits of their jurisdiction shall be invested with the authority of public documents.

## Article 31

Local registrars shall be competent to make entries and complementary notations relating to registrable events after checking the identity and capacity of the informants. When the declarations have been made, or the documents presented, proving the occurrence of the events to be registered pursuant to this Law, the registrar shall make the entries in the register, or shall within 30 days make such checks as he deems appropriate to verify, as far as possible, the truthfulness, accuracy and legality of the events recorded, after which he shall make the entry in the register or issue a reasoned ruling denying registration. After the entry or complementary notation has been made, the registrar shall see to it that the duplicate is forwarded to the Central Archive within the time periods prescribed by the Regulations, so that the latter can file the duplicates and make any necessary complementary notations in the duplicates in its custody. The registrar shall be responsible for the preservation and custody of the registers. He shall similarly ensure the confidentiality and privacy of the information contained in the individual records, in accordance with the procedures and methods laid down by the Directorate.

## Article 32

In his capacity as a public attestor, the local registrar may authorize civil marriages. He may also act as the competent authority to handle recognitions of filiation, emancipations, etc. (as well as any

other private-law powers that may be assigned to him by the laws of the country: declarations on change of name, nationality, etc.).

#### Article 33

Local registrars shall issue full or partial certificates of the entries on file in the archives of the local registry in their charge, at the request of persons eligible to obtain them pursuant to this Law, taking care to preserve the interested parties' right to personal and family privacy. For this purpose the models and specifications adopted by the Directorate shall be used.

#### Article 34

All decisions by local registrars in the exercise of their duties shall be open to appeal, during a period of 30 days from the time they are notified to the interested party, to be ruled upon by the Director-General, to whom the documentation that gave rise to the appeal shall be forwarded. Such ruling shall exhaust the appeal process through registration channels without prejudice to the possibility, where appropriate, of appealing further to the ordinary courts.

#### Article 35

Local registrars shall make sure that the statistical reports are completed on the official forms, which must record the data corresponding to the register entries made in the local office for which they are responsible. These reports shall be completed by the persons legally required to make the declarations pertaining to the registrable events or, failing that, by registry office personnel. At the intervals prescribed in the Regulations they shall be forwarded directly to the appropriate statistical agency and the Director-General informed accordingly.

#### Article 36

Local registrars may address inquiries or incidents relating to the exercise of their official duties directly to the Director-General.

#### Article 37

When a registrable event has occurred abroad, the same persons legally required to notify the civil registration system shall be required to make such declarations to the respective consul, presenting for this purpose the certificate of the entry made at the local registry office, which shall be authenticated by the consul in his capacity as public attester. The documentary evidence of the entry shall be periodically forwarded by the consul directly through official channels to the Central Archive so that the corresponding entry can be made, subject to verification by the competent registrar that the foreign register is legal and authentic and that the event which occurred abroad

is in conformity with the domestic legislation in effect. (In the light of the functions assigned to the consuls under domestic law, it would be desirable to regulate and broaden their powers with respect to events affecting civil status that involve national residents abroad, at least they can play a minimal role in forwarding the data items to be recorded to the competent agency so that the entries can be made in the home country).

#### Article 38

The absence of an entry in the corresponding foreign local register for an event that requires registration under the terms of this Law shall not preclude its being recorded in the Central Archive provided that its occurrence is documented by legally prescribed means.

## CHAPTER III

### SPHERE OF COMPETENCE OF THE CIVIL REGISTER

#### Article 39

The country's civil register shall record all registrable events prescribed by this Law that involve nationals of the country, even if they occurred abroad.

#### Article 40

The country's civil register shall record all registrable events prescribed by this Law that have occurred within the national territory, even if they involve foreign subjects. In these cases account shall be taken of the law of the country of origin which regulates civil status, provided that there is no threat to public order. If it is not possible to determine what law is applicable to the registrable event, the registrar shall apply the domestic law.

#### Article 41

Births, marriages, deaths and divorces shall be registered at the local civil registry in the place where they occurred, regardless of where the interested parties reside. Complementary notations relating to each of these events shall be registered in the local office where the main record is kept. Certificates needed to make the corresponding complementary notations shall be forwarded automatically to the competent local offices.

#### Article 42

Births and deaths occurring during travel shall be registered in the local office in the place where they occurred.

#### Article 43

If the place of birth or death is not known, registration shall take place in the local office corresponding to the place in which the abandoned child or the corpse was found.

#### Article 44

When extraordinary circumstances occur, like wars or epidemics, that prevent the normal operation of the local office which is competent to make the entries of births, marriages or deaths, the local registrar himself, the delegate specially appointed for this purpose by the Directorate, or, failing that, the local government authority shall travel to the site where the events occurred to make the corresponding entries in the competent local office, irrespective of how much time has elapsed since the event occurred. (If the registration system uses

books, a record shall be made of the event to serve as documentation for its subsequent registration. If the system uses loose leaves, the entry can be made directly for subsequent incorporation and filing in the corresponding register).

#### Article 45

Any civil or military authorities who have knowledge of a registrable event within their jurisdiction, or the officials in charge of public establishments, such as prisons, barracks, or hospitals, inside which a registrable event has occurred, shall make a record of such event giving a detailed account of the circumstances leading up to it. The records made by these authorities or officials shall constitute the documentary basis for subsequent registration in the competent local office regardless of how much time has elapsed. The authorities and officials involved shall have the same duties and powers as the local registrar in terms of verifying such events and shall be required to register them.



## CHAPTER IV

### MAKING OF ENTRIES IN THE REGISTERS

#### Article 46

Entries in the registers shall be made when the occurrence of the event in question has been proved on the strength of the declarations made and the documents prescribed in this Law.

#### Article 47

The following shall be required to make the corresponding entries within the time periods prescribed in the Law or as soon as they learn of the registrable event:

- (a) Those designated by the Law in each specific case;
- (b) The competent registrar once he has the appropriate documentary evidence to make the entry ex officio;
- (c) Any authorities or officials who by reason of their positions have knowledge of the registrable events are required to notify the local registrar thereof for purposes of registration.

#### Article 48

The identity of persons appearing before the civil registry to make declarations in connection with registrable events shall be verified by means of the birth certificate of the informant or official identity documents, and shall be recorded. In the absence of identifying documentation, declarations by two qualified and duly identified witnesses who can vouch for the informant's identity shall be admitted.

#### Article 49

Basic references to identity consist of full name, identity document, names of parents, place and date of birth, marital status, domicile and nationality.

#### Article 50

If any of those appearing does not know how to or is unable to sign, the informant's fingerprints shall be taken, failing which a qualified witness shall sign at the request of the person who is required to sign but does not know how or is unable to do so.

#### Article 51

No entry in the register shall be deemed completed without those appearing being informed of its contents. If they do not know how to or

are unable to read, the civil registry personnel shall read aloud the entire written entry in duplicate. When they have expressed their agreement those appearing shall sign both copies.

#### Article 52

Entries made in the registers shall contain only the data items prescribed by the Law or the Regulations. Entries shall be made even if not all the data required are available, without prejudice to appropriate steps being taken subsequently to complete them. Upon petition by a party and subject to prior authorization by the registrar competent to make the entry, note may be taken for information purposes of any facts affecting civil status whose registration is not expressly prescribed by the Law or the Regulations.

#### Article 53

Entries of births, marriages, deaths and divorces shall be considered as primary records and shall be made on the official printed forms; the other registrable events shall be recorded as complementary notations which shall be made successively in the spaces for this purpose on the official forms, without leaving blank spaces in between. All entries in the registers shall be made in duplicate.

#### Article 54

Appropriate measures shall be taken to ensure complete agreement between the two copies of register entries that must be made for each registrable event. The duplicates shall each bear an original signature. One of the copies shall be kept on file by register and consecutive number in the archive of the local office that is competent to make the entry, and the other, which is deemed the original, shall be forwarded to the Central Archive.

#### Article 55

Entries in the registers shall be made using the forms, specifications and technical means provided by the Directorate to the local offices. The Directorate shall supply printed forms, duly numbered, to all local registry offices. The Directorate shall maintain strict control of the blank forms to prevent frauds and falsification. In the event that entries are handwritten, efforts shall be made to use clear and legible letters and indelible ink to ensure their preservation. Amounts shall be stated in figures (arabic numerals). The use of abbreviations is not allowed.

#### Article 56

Entries in the registers shall be made without leaving sheets or spaces blank. Blank sheets or spaces between two complementary

notations shall be duly rendered invalid by imprinting the registry stamp.

#### Article 57

All additions, interlinings or erasures that are made on entries shall be null and void unless signed at the end, before they are dated and signed, by the person who physically made the entry. Words that are wrong or unnecessary shall be stricken through in such a way that they can still be read.

#### Article 58

Where errors committed when making entries in the registers cannot be signed at the end, the sheet shall be cancelled and a new entry made. The cancelled sheet shall not be destroyed but filed in chronological order.

#### Article 59

Cancellation of an entry may be full or partial. Full cancellation shall not entail destruction of the cancelled sheet, which shall be rendered invalid by crossing it through and stamping it "cancelled". Partial cancellation of an entry shall be done by striking through the cancelled words or phrases. In all cases, a complementary notation of the cancellation shall be made stating its scope and content.

#### Article 60

Every entry of a birth, marriage, divorce and death shall state as essential data items:

- (a) Registration area (territorial district) and local office;
- (b) The nature of the event or act being registered;
- (c) Date and place of the occurrence of the event registered;
- (d) References to the identity of the registrant;
- (e) Date and place of the entry;
- (f) Identity, signature and seal of the registrar making the entry.

#### Article 61

All entries made in the registers shall be signed by the competent local registrar, who shall state his full name and the capacity in which he is signing. Based on the needs of the service, the registrar may delegate the signing to qualified registry personnel who shall be

similarly identified. Once an entry has been signed, no subsequent alteration may be made to it other than by the legal procedures established for this purpose.

#### Article 62

Except for emergencies, the civil registry shall perform the functions assigned by this Law during the working hours set for this purpose by the Director-General. Emergencies are construed as the celebration of a civil marriage where there is danger of imminent death or for any other serious reason, and the issue of a burial permit. Whenever the registrar learns of any of these events he shall immediately provide the service regardless of the day or time.

#### Article 63

Other than in exceptional circumstances provided for in the Law or the Regulations, all registration work shall be performed at the site of the local office that is competent to make the entry concerned. Registration records and the relevant documentary evidence shall remain in the safekeeping of the registrar, who shall take appropriate steps to ensure their confidentiality and safety. When special circumstances occur that jeopardize the documents in his custody and cannot be prevented by the registrar, the Directorate shall be notified immediately so that the necessary measures can be taken in a timely fashion.

#### Article 64

All registration work that does not have to be carried out immediately for reasons of urgency, or within a period expressly prescribed by the Law or the Regulations, shall be done within a period of five days.

#### Article 65

The documents that substantiate the events registered shall be stored and kept safe in the local office in which the entry was made and shall be arranged chronologically together with the entry to which they refer. If the originals of those documents are stored in public, court, notarial or administrative archives, they shall, once the corresponding entry has been made, be returned to the person who presented them. Persons who may pursuant to this Law legitimately obtain certificates of the events registered shall also be eligible to obtain certificates of the archived documents on the basis of which the corresponding entry was made.

CHAPTER V

REGISTER OF BIRTHS

Article 66

The births of all children born alive shall be registered. The entry of birth shall be made on the basis of a declaration made within 30 days following the delivery. In the case of a multiple birth, the child born first shall have whatever rights are recognized by law as belonging to the firstborn.

Article 67

The following are required to declare the birth and request the corresponding entry:

- (a) The mother, the father or both;
- (b) The closest relatives;
- (c) Any person of adult age present at the place of the birth;
- (d) The head of the medical establishment at which the birth took place;
- (e) Whoever picked up the abandoned newborn child;
- (f) The head of the establishment that took charge of the newborn child;
- (g) The party concerned himself when of adult age;
- (h) The legal or voluntary representative of the interested party;
- (i) Any person with a legitimate interest.

Article 68

Aside from the declaration which the persons mentioned in the preceding article are required to make, any medical personnel who attended the delivery shall be required in all cases to issue immediately a medical certificate documenting it to the registrar competent to register the birth. The medical certificate shall record the identity of the physician and the circumstances of the delivery, time, date and place, sex of the child, and references to the identity of the mother either noted directly or through documentation presented subsequently.

Article 69

If there is no medical certificate, or if the certificate is incomplete or conflicts with the information from the informant, the

registrar may have the facts verified by the coroner attached to his district or, failing that, by a physician living in the place closest to that of the birth. In the absence of a physician, verification shall be obtained through a declaration of two qualified witnesses present at the delivery or having certain knowledge thereof.

#### Article 70

Entries of birth shall state:

- (a) The time, date and place of birth;
- (b) The sex of the child;
- (c) The names and surnames of the child;
- (d) The names and surnames of the child's parents;
- (e) The place and date of birth of the parents;
- (f) The nationality of the parents;
- (g) The usual place of residence of the mother;
- (h) The nationality of the child;
- (i) The time, date and place of registration;
- (j) The identity, signature and seal of the registrar.

#### Article 71

Entries of birth for foundlings shall be contingent upon a medical report to establish the date of birth based on apparent age. In addition to the data referred to in the preceding article, the entry shall state what circumstances led to the discovery in order to facilitate subsequent identification, the identity of the person who found the abandoned child, the place and date of the discovery, and what objects were found.

#### Article 72

If the 30-day period allotted for registering a birth expires without it being registered, registration may still take place at any time, even if the child in question has died, provided that the fact of birth and its circumstances are duly proved to the registrar competent to register the birth. The registrar shall take timely steps to verify the existence and identity of the child and the circumstances to be recorded in the entry.

#### Article 73

The entry of birth constitutes proof of birth and its circumstances but does not of itself prove the child's filiation. Birth in wedlock is documented on the basis of the entry of marriage of the parents celebrated before the birth of the child. Filiation out of wedlock shall be documented on the basis of the entry of marriage of the parents celebrated after the birth of the legitimated child, by voluntary recognition or court ruling, which shall be registered as corresponding complementary notations on the child's entry of birth.

#### Article 74

It is compulsory that the entry of birth state the full name of the child. (The legal rules regulating naming according to domestic law shall be followed; if no legal regulations exist, the Law on Civil Registration may include rules for naming children). Whoever declares the birth shall have the power to name the child. In all cases, the name chosen by the father, the mother or both by mutual agreement shall prevail.

#### Article 75

If there is no agreement or the designation of the child's name is omitted, or if the designated name would be offensive to human dignity or render the child's identity open to confusion, the registrar, before making the entry, shall require the interested parties to explain themselves with respect to their declaration. After five days have elapsed, the entry of birth shall be made stating ex officio a name in common use.

#### Article 76

With respect to the child's surname(s), they shall be registered in the order and in the manner provided for by the relevant substantive laws.

#### Article 77

It shall be compulsory to state the full names of the child's parents on the entry of birth. Where filiation is not stated, the entry of birth shall bear, instead of the names of the father or mother, those indicated by the informant, provided that they are in common use. Failing that, the registrar shall make the entry by entering commonly used paternal or maternal names for purposes of identifying the child. The same procedure shall be followed in imposing surnames in the absence of filiation through both lines (when there is filiation through one line, the customary procedure is to impose surnames corresponding to the known line in accordance with the domestic law).

#### Article 78

Public documents recording legitimation, voluntary recognition, judicial determination of filiation, or adoption, as well as all those that record the impugment, voiding or revocation of those acts and judicial changes in capacity, shall be registered as complementary notations on the relevant entry of birth. Complementary notations on the birth record shall also be used to register circumstances relating to the nationality of the registrant, any changes authorized in name and surname(s), date of registration, registry references to marriage, divorce, separation or annulment, and death.

#### Article 79

Voluntary recognition of filiation may be registered, in accordance with the provisions of the substantive laws, or by means of a declaration made by the father or the mother who is recognizing, at any time before the competent local registrar, who shall determine whether the legal requirements for validity and effectiveness of the recognition have been met.

#### Article 80

The complementary notation for an adoption shall result in the cancellation of the entry of birth of the adoptee and the making of a new entry of birth which shall state only the identity of the adoptive parents. Appropriate cross references shall be made on the cancelled page and the new page. Certificates of birth of the adoptee shall be made only from the new entry on which the names of the adoptive parents appear, and the references or notations shall be omitted.

#### Article 81

When there is any complementary notation relating to the filiation of the registrant, no other subsequent notation may be made contradicting the previous one unless and until a final court ruling ordering otherwise has been handed down.



## CHAPTER VI

### REGISTER OF MARRIAGES

#### Article 82

The local registrar for the place in which either of the intending spouses has resided for the previous three years shall be competent to process and celebrate their civil marriage. (Any period may be set for such residence, making due allowance for the mobility of the population and how residence is to be documented).

#### Article 83

Persons wishing to contract a civil marriage shall present their request to the competent local office and appropriately prove their identity, domicile for purposes of jurisdiction, capacity to consent to marriage, minimum legally prescribed age for marriage, absence of any legal impediment to marrying, and any appropriate waivers. The interested parties shall present two qualified witnesses, who shall state their conviction that there are no legal impediments or prohibitions to the celebration of the marriage.

#### Article 84

The applicants shall prove their identity with their birth certificate and identity documents. Where appropriate they shall document the dissolution of earlier marital ties by producing registry proof of such dissolution. Widowhood shall be documented by producing certificates of the marriage to and the death of the former spouse. Annulment shall be documented by a marriage certificate containing the relevant marginal note recording the annulment. Divorce shall be documented by a certificate of divorce or a marriage certificate with a marginal note recording the divorce.

#### Article 85

The registrar shall take whatever steps he deems necessary to satisfy himself that there are no ties stemming from a prior valid marriage or any other legal impediment to the marriage. If he has doubts concerning the mental capacity of either intending spouse, he may call upon the coroner or physician living in the closest place to the registry office to issue a medical opinion on the mental capacity of the intending spouse to consent to the marriage.

#### Article 86

Civil marriage ceremonies shall take place in the registry office before two qualified witnesses and the persons designated in each case by the Law. The registrar authorizing the marriage shall make the entry at the time the marriage is celebrated, stating that all circumstances and requirements prescribed by law have been met and that both intending

spouses consented mutually and unequivocally to enter freely into marriage, and shall declare them formally and solemnly married in the name of the law.

#### Article 87

If by the civil marriage the contracting parties recognize children they have had together before the marriage, such legitimation shall be recorded on the entry of marriage. The contracting parties shall supply the registration data relating to the entries of birth so that the corresponding complementary notations can be made.

#### Article 88

After the celebration of the marriage and after the entry has been registered, the registrar shall hand the spouses a Family Book containing a partial certificate of the marriage and, where appropriate, the partial certificates of the children legitimated by the marriage.

#### Article 89

If prior to the marriage the intending spouses signed articles of marriage pursuant to domestic law, they shall present them to the registrar who is to celebrate the marriage so that the appropriate complementary notation can be made on the entry of marriage. If they are signed after the marriage, they shall similarly be recorded in the form of a complementary notation.

#### Article 90

In the event of imminent danger of death, the registrar is required to travel to the location of the person who is unable to attend the registry office, in order to celebrate the civil marriage in the presence of two qualified witnesses and in the manner prescribed by law. The marriage shall be documented in the form of a record constituting documentary proof of the marriage, which may be entered in the register only after it has been established that there are no impediments that would preclude valid consent to the marriage.

#### Article 91

In special circumstances where a person applying for a civil marriage is unable to attend the registry office because he or she is confined in a prison, hospital, or similar establishment, the registrar may celebrate the civil marriage outside the office, indicating for this purpose what day and time is most convenient for the registration service and taking into account the situation of the contracting party concerned.

#### Article 92

Religious or any other marriages celebrated recognized as valid by the State shall be registered at the competent local office. The intending spouses themselves are required to apply to have the marriage registered within 30 days of its celebration. The religious authority who celebrated the marriage is similarly required to forward to the civil registry, within the same period, the document recording the celebration of the marriage for purposes of its being entered in the register.

#### Article 93

The document proving the celebration of a religious marriage shall be the corresponding certificate issued by the competent authority of the religious denomination involved or by any other entity whose form of celebration is legally acknowledged by the State to be valid for civil purposes.

#### Article 94

Consensual, traditional, sociological or customary marriages that domestic laws do not recognize as valid for civil purposes shall be declared at the local office of the place where they were celebrated and be vouched for, as appropriate, by the corresponding certificate issued by the celebrating authority, for purposes of filling in a statistical report.

#### Article 95

Marriages validly celebrated abroad, which shall be entered in the competent civil register (Central Archive), shall be documented by the certificate issued by the competent authority in the country where the marriage was celebrated. The certificate shall where necessary be translated and notarized.

#### Article 96

A marriage celebrated within the national territory between two aliens shall be registered on the basis of the certificate issued by the competent authority vouching for the fact that it was celebrated in accordance with the form prescribed by the law of the country of origin that regulates the civil status of either party.

#### Article 97

After the period prescribed in article 92 has elapsed without the marriage being registered, it may be registered at any time, even if the contracting parties have died, at the request of either party, upon due proof that the marriage was validly celebrated. The registrar who is

competent to make the entry may make such checks as he deems necessary to verify that the event took place and conforms to the law.

#### Article 98

Entries of marriage shall state:

- (a) The time, date and place of the marriage;
- (b) The full name of each of the spouses, their date and place of birth, the names of their father and mother, marital status, nationality, identity document;
- (c) The usual place of residence of the spouses;
- (d) References to the identity of the witnesses attending the celebration;
- (e) References to the identity of any other persons involved in the celebration in the capacity of proxy, interpreter or supplementing the capacity of either spouse. In the case of marriage by proxy, it shall be clearly stated who is the grantor and the date and party authorizing the proxy;
- (f) References to the identity of the children legitimated by the marriage and registry data relating to their entries of birth;
- (g) Whether the marriage celebrated was civil or religious;
- (h) Identity of the party authorizing the marriage;
- (i) The formula legally prescribed by domestic law for declaring the spouses joined in matrimony;
- (j) A complementary notation on the entry of marriage recording the articles of marriage;
- (k) The signatures of the contracting parties, the witnesses and all other persons who were involved in the celebration of the marriage;
- (l) The place and date of the entry of marriage;
- (m) The identity, signature and seal of the registrar celebrating or entering the marriage.

#### Article 99

Any final rulings decreeing the annulment, separation or divorce of the spouses shall be recorded as complementary notations on the entry of marriage. Complementary notations shall also be used to record any legal instruments executed by the contracting parties before or after the celebration of the marriage that modify the financial regime applicable to the marriage. Third parties of good faith may be adversely affected only after the date of the notation in the register.

CHAPTER VII

REGISTER OF DIVORCES

Article 100

Final divorce decrees are entered in the register of divorces in the local office corresponding to the district where the issuing judicial authority is located.

Article 101

The entry shall be made at the request of either of the contracting parties upon presentation of an authentic copy of the final divorce decree within 30 days of its becoming final.

Article 102

Any judicial authority that issues a final divorce decree shall ex officio within 30 days forward an authentic copy thereof to the local office that is competent to enter it.

Article 103

When the divorce has been entered, the competent registrar shall forward a certificate of divorce to the local office in which the marriage was registered so that the corresponding complementary notation can be made. He shall also send a certificate of the divorce to the local office in which the birth of each of the divorcees is registered so that the appropriate complementary notations can be recorded.

Article 104

Entries of divorce shall state:

- (a) The date and place of the marriage dissolved by divorce;
- (b) Registration data from the entry of marriage;
- (c) References to the identity of the spouses;
- (d) Nationality of the divorcees;
- (e) Identity of the judicial authority which issued the divorce decree;
- (f) Place and date of the judicial ruling;
- (g) Registration data from the judicial archives;
- (h) The date and place of the entry of divorce;

(i) The identity, signature and seal of the registrar entering the divorce.

#### Article 105

The reasons for the divorce and any decisions in the court ruling concerning parental authority and guardianship or custody of the children shall be recorded in complementary notations. If any change occurs in parental authority or in the care of the children, the registrar who entered the divorce shall ex officio notify the local office in which the children's entries of birth are registered so that the appropriate complementary notations can be made.

CHAPTER VIII

REGISTER OF DEATHS

Article 106

Entries of death shall be made on the basis of the declaration made immediately after the death of a person is known.

Article 107

The following are required to declare the death and request that it be entered:

- (a) The spouse;
- (b) The closest relatives;
- (c) The director of the hospital or establishment in which the death occurred;
- (d) Any other authority or individual having certain knowledge of the death.

Article 108

Apart from the declaration which the persons referred to in the preceding article are required to make, any physician who treated the decedent during his last illness or, failing that, who treated him at any time, shall in all cases be required to immediately give the registrar who is competent to make the entry a medical certificate of death. The medical certificate shall state the identity data of the issuing physician, together with the circumstances of the death, the time, date and place, with a statement as to both the basic and the immediate cause of death. It shall also give the identity data of the decedent, indicating the sources of such information.

Article 109

If there is no medical certificate, or if it is incomplete or conflicts with the information from the informant, the registrar may verify the facts with the aid of the Coroner attached to his registration district, or, failing that, with a physician living closest to where the death occurred. In the absence of a physician, verification shall be based on the declaration of two qualified witnesses who witnessed the death or have certain knowledge of it, or even by the registrar himself examining the corpse.

Article 110

Any verification made by the registrar who is competent to make the entry may not extend beyond 48 hours.

#### Article 111

In the event that there are signs of death due to violence, the registrar shall suspend the burial permit and immediately notify the competent law enforcement authorities so that an appropriate investigation can be made.

#### Article 112

After the entry has been made, the registrar or the law enforcement authority on duty shall grant the permit for the burial of the corpse, which may not take place before 24 hours nor after 48 hours have elapsed since the time of death. Burial may take place at any location referred to in the permit subject to the relevant health permits being obtained for removal of the corpse. Burial in the national territory shall take place in accordance with the laws of the country.

#### Article 113

In the event of exceptional circumstances, such as epidemics, wars, danger of contagion or the like, special measures may be taken with respect to the time, place and manner of burial, taking account of the instructions from the health or government authorities or from the Directorate itself.

#### Article 114

When the corpse has disappeared or been buried prior to registration, a court order shall be required indicating appropriate measures to establish the death and identity of the decedent beyond any doubt. When death has been proved a certainty, the judicial authority shall order the corresponding entry of death to be made in the competent local office. When the death has been entered in the register, the local registrar shall forward a certificate ex officio to the local office in which the individual's entry of birth was made so that the appropriate complementary notation can be made.

#### Article 115

Entries of death shall state:

- (a) Full name of the decedent;
- (b) Names of his or her mother and father;
- (c) Sex;
- (d) Marital status;
- (e) Residence;
- (f) Nationality;



- (g) Identity document;
- (h) Time, date and place of death;
- (i) Date and place of birth;
- (j) Registration data relating to birth;
- (k) Place, date and time of the entry of death;
- (l) Identity, signature and seal of the registrar.

#### Article 116

When not all data on the identity of the decedent and the circumstances of death are available, the entry shall record all data items that may facilitate subsequent identification, such as distinguishing marks, apparent age, and clothing or objects found with the corpse. The entry may be added to at any later date when the data items omitted initially come to light.

#### Article 117

In preparing the statistical report corresponding to the entry of death, the same physician who certified the death or, failing that, the registrar himself, shall record in particular the basic and immediate causes of death.

#### Article 118

Foetal deaths, that is creatures born dead irrespective of gestational age, are not registered as deaths. The persons required by law to declare births and the physicians who attended the delivery and wrote the compulsory medical record, are also required to make a timely declaration of the foetal death to enable the statistical report to be completed, within a period of 48 hours. The medical certificate shall record in particular the approximate gestational age of the foetus and whether it died in the mother's womb or before being completely separated from the mother. If delivery occurred in a hospital, the head or director of the establishment shall be responsible for declaring the event to the competent local registrar so that the corresponding statistical report can be prepared, and shall dispose of the remains if not claimed by family members.

#### Article 119

When the statistical report for a foetal death has been completed, the registrar shall issue the permit for burial of the remains.

CHAPTER IX

AMENDMENT OF REGISTRATION RECORDS

Article 120

Once the register entries have been signed by the competent registrar they may be amended only on the strength of a final court ruling or a registry ruling in the cases, and pursuant to the procedures, set forth in this Law and its Regulations. This provision is intended to safeguard the authenticity of register entries and prevent fraudulent or criminal actions against the authenticity of the civil register.

Article 121

Corrections to register entries may be instigated by the registrants or their legal representatives. Corrections may also be requested by the registrant's spouse, relatives and legitimate heirs. The registrar of the local office in whose archives the erroneous entry is stored may make the correction ex officio if he has in his possession the necessary documents to do so.

Article 122

The registrar of the local office in which the entry to be corrected is stored is authorized to make the correction in the cases expressly provided for by the Law, the Regulations or the Director-General. He shall be authorized to make the following corrections:

(a) When the error made in the register entry is obvious when it is checked against another entry or entries that have not been impugned and that constitute full proof of the events registered;

(b) When the error made in the register entry is obvious when it is checked against the documents used as a basis for proving the event registered;

(c) When the error made in the register entry results from an error committed in the document which formed the basis for proving the entry. If the error involved was made in a legal instrument, the register entry shall be corrected only when the original instrument on file in the corresponding public archives has been corrected in accordance with the appropriate legal procedure;

(d) When the error relates to references to identity of the person to whom the entry relates, provided that there is no reasonable doubt as to the registrant's identity based on the other data items in the entry.

Article 123

The registrar shall also be authorized to cancel register entries made for events already registered with the same circumstances. If both

entries are in the same local office, that with the earlier date shall be cancelled. If the entries for the same event are in different local offices, the one issued in the office where it ought not to have been registered shall be cancelled. In all cases appropriate cross references between both entries shall be made.

#### Article 124

Register entries improperly made because they relate to non-existent events or events not requiring registration shall be cancelled, as shall entries in the preparation of which physical errors were made in the form of additions, interlinings or erasures that were not discovered prior to signature.

#### Article 125

The registrar shall automatically consent to the completion of any entries made and signed, some circumstances of which were not known at the time the entries were initially made.

#### Article 126

Errors of form committed by registry staff when making entries may be corrected.

#### Article 127

The registrar shall ex officio reconstitute register entries that have been destroyed, have disappeared, or are illegible. The copy stored as an original in the Central Archive shall serve for this purpose as proof of the events entered in the record to be reconstituted. If the register entry to be reconstituted is in the Central Archive, admissible means of proof shall include the copy in the local office competent to make the entry, certificates issued, the remains of the actual entry to be reconstituted, its documentary evidence, statistical reports, or any other means of documenting that the entry was made in accordance with the provisions of law.

#### Article 128

After the pre-existence of the entry to be reconstituted has been adequately proven, together with the circumstances of the event registered, it shall be re-entered by reproducing the entry which has been destroyed, has disappeared, or is illegible, with a notation of the ruling by virtue of which the reconstituted entry is being made. In all cases, it is essential that the re-entry unequivocally state this fact. The new entry shall reflect the registry data corresponding to the entry which has been reconstituted.

#### Article 129

Once reconstituted entries have been made, the old, partially destroyed, entries shall be cancelled, with references to the new ones on the cancelled sheets. If a register entry has been totally destroyed, the registration of the new one shall be recorded in the indexes for the year in which the reconstituted entry was made.

#### Article 130

When reconstitution of the register entries affected is complete, the registrar shall notify the Directorate, stating the number and type of entries reconstituted, as well as any cases in which it was not possible to reconstitute the entries because the pre-existence of the register entries in question was not proven.

#### Article 131

Should it prove impossible with the means of proof adduced to reconstitute a register entry, an interested party may request that a marginal entry be recorded for the purpose, in any event, of proving pursuant to the requirements of this Law and the Regulations that the registrable event actually occurred.

#### Article 132

When a register entry is amended on the basis of a final judicial ruling or registry decision, a complementary notation shall be made on the amended record, the old entry cancelled, and a new replacement entry made in duplicate. The cancelled entry and the new entries made shall include appropriate cross references to the registry data of both. The duplicate of the new amended entry shall be forwarded to the Central Archive.

#### Article 133

Whenever the competent registrar agrees to correct, cancel, reconstitute, or in any other way amend register entries, he shall put his decision in writing together with the justification therefor.

## CHAPTER X

### PROOF OF REGISTRATION

#### Article 134

As public attestors and custodians responsible for the preservation, integrity, confidentiality and privacy of civil registration records, local registrars and those in the Central Archive may be authorized to certify the records in their archives, issuing certificates to persons legitimately entitled thereto pursuant to this Law, upon payment of the charge set by the Director-General.

#### Article 135

Certificates are official documents which prove the occurrence and circumstances of the event to which they relate.

#### Article 136

Certificates may be full or partial. A verbatim certificate shall contain the entire record to which it relates, including complementary notations. Partial certificates shall contain only the data items from the register entry to which the request relates, but shall expressly state that the portions omitted contain nothing that would expand, restrict or modify their content. Should this not be the case, the certificate must state so.

#### Article 137

Partial certificates shall contain the essential data items from the respective entries of birth, marriage, divorce or death as listed in article 60 of this Law. Partial certificates of marriages must contain the identity and capacity of the authority who celebrated them.

#### Article 138

Certificates shall be written on the official forms prepared by the Directorate, which shall be uniform throughout the national territory and shall embody safeguards and controls to guard against fraud and falsification. In all cases they shall state that their content is identical to the register entry being certified, which shall prevail in the event of any discrepancy between the two.

#### Article 139

Verbatim certificates may be issued in the form of full photocopies of the corresponding register entry. In this case use shall be made of official paper, duly numbered and stamped by the civil registry.

Article 140

Multilingual certificate forms may be prepared to facilitate documentation of civil status abroad. The registrar shall issue these certificates upon advance request.

Article 141

Certificates shall state:

- (a) The record being certified: birth, marriage, divorce, or death;
- (b) Registration area, local office, and chronological number of certificate;
- (c) Registry data from the entry being certified;
- (d) References to the registrant's identity;
- (e) The circumstances that, depending on the case, may not be omitted;
- (f) Whether the certificate is full or partial;
- (g) Place and date of issue of the certificate;
- (h) Identity, signature and seal of the certifying registrar, with a statement to the effect that the certificate conforms fully to the register entry to which it relates.

## CHAPTER XI

### STATISTICAL REPORTS

#### Article 142

Each of the events recorded in the civil register pursuant to this Law shall be accompanied by the preparation of the corresponding individual statistical report.

#### Article 143

Each individual statistical report shall be made on a form separate from the register entry resulting from the legal registration of the event declared.

#### Article 144

Statistical reports shall be filled in on the official printed forms prepared on a coordinated basis by the Directorate and the competent statistical agencies (national statistical service, national health service, etc.), which shall agree upon the content and format of those reports. A separate form shall be filled in for each vital event subject to registration.

#### Article 145

The national statistical service shall consult with the Directorate on any non-substantive variants that it considers desirable to introduce in the official statistical report forms to tailor them to statistical objectives.

#### Article 146

The statistical reports shall be filled in by the same persons as those legally required to make the declarations relating to the registrable events or, failing that, by the local registrar who made the entry in the register.

#### Article 147

The informants or declarants are obligated to provide the data required by the statistical report on births, marriages, divorces, deaths and foetal deaths. In their absence, the data shall be filled in by the staff of the local office in which the register entry was made. Private individuals are not required to disclose their identity on the statistical reports that they complete.

#### Article 148

Physicians present at the birth, death or foetal death are required to fill in the data on the statistical report that relate to their professional work and the circumstances of the event being declared. Physicians completing the statistical reports shall identify themselves both personally and professionally and shall sign the reports. In their absence, the data shall be filled in by the staff of the local office in which the register entry was made.

#### Article 149

The statistical reports relating to the death of a person shall expressly and clearly state the main cause of death, as well as the immediate cause which finally resulted in death. They shall also record any other circumstances present at the death.

#### Article 150

In foetal deaths, the physician who was present at the delivery and who issued the medical certificate of death stating the cause of the foetal death and the characteristics of the foetus is required to complete the corresponding statistical report and forward it to the competent local office, which shall store the medical certificate and forward the statistical report to the competent statistical office.

#### Article 151

Statistical reports relating to legitimations, recognitions, adoptions, annulments of marriages, judicial separations, and any other acts requiring registration in the form of complementary notations pursuant to this Law shall be completed by the staff of the local office in which the register entry was made.

#### Article 152

The local registrar shall fill in the data on the statistical report that relate to the number of the register entry made for each vital event declared. Each report shall bear the seal of the issuing local office.

#### Article 153

The local registrar shall make such checks as he deems appropriate to ensure as far as possible that the information provided on the statistical reports by individuals or physicians is truthful, accurate and complete.



#### Article 154

After the statistical reports have been duly filled in, or corrected or completed in the event that erroneous or insufficient information was supplied, the local registrar shall in the first week of each month forward the statistical reports prepared for the preceding month to the competent national or regional statistical office, using the channels or media prescribed by the Director-General of civil registration in close coordination with the vital statistics compiling agency, for subsequent processing in accordance with the legislation in force on statistical matters.

#### Article 155

In all cases the regional or national statistical office receiving the reports may ask the local civil registration offices directly to clarify or complete the data contained in the respective reports forwarded.

#### Article 156

Events recorded in the civil register after the legally prescribed time limits have expired shall also prompt completion of a statistical report, which shall clearly state the reason for the late registration of the event declared and indicate the date on which the event occurred and the date on which it was registered.

#### Article 157

A basic data item to be recorded for statistical purposes is the domicile or usual place of residence of the person to whom the registered event relates, irrespective of the place in which it occurred and in which the corresponding register entry may have been made pursuant to the jurisdictional rules established by the Law. In the case of a live birth or a foetal death, the mother's place of residence shall be recorded.

#### Article 158

Apart from its obligation to forward all statistical reports monthly, the local office shall also forward to the recipient statistical agency and to the Directorate lists showing the number of register entries of each kind made during the month. In the event that no entries were made, this shall be stated on the transmittal report.

#### Article 159

Failure to comply with the obligations set forth in this Law with respect to statistical reports shall be punishable pursuant to the provisions thereof.

## CHAPTER XII

### INSPECTION AND PENALTIES

#### Article 160

Responsibility for inspection of the civil registration system is entrusted to the Directorate and shall be exercised through staff of the technical corps assigned to the Inspection Division, without prejudice to the powers of the Director-General.

#### Article 161

The inspectors shall work under instructions from the Director-General.

#### Article 162

Ordinary inspections of the local offices and the Central Archive shall take place at the intervals and on the terms set forth in the Regulations.

#### Article 163

Private individuals, authorities and officials may report directly to the Director-General any irregularity in the performance of the registry service, indicating the local office in which the alleged infraction occurred.

#### Article 164

In the light of the reports filed, or whenever the needs of the registry service so require, the Directorate may carry out special inspections to check whether the service is being operated properly.

#### Article 165

The inspectors are required to check whether there has been any violation or unwarranted delay in the operation of the service. As circumstances warrant, they shall report to the Director-General on proven violations and propose corrective measures, as well as any sanctions to be imposed on the violators.

#### Article 166

In all cases, when the inspection is complete, the inspectors shall report to the Director-General the results of the ordinary or special inspections carried out.

#### Article 167

Registration channels may be used to punish only those violations not classified as criminal. In criminal cases, the Director-General shall lay the facts before the competent law enforcement authorities for purposes of determining the pertinent criminal liabilities set forth in the Penal Code.

#### Article 168

Registry violations committed by staff in charge of the civil register shall be punishable by monetary fines the amount of which shall be determined taking into account the seriousness of the violation committed and the circumstances pleaded by the violator in his defence, but which may in no case exceed (it is advisable to place a ceiling on monetary fines to be imposed [for example, two months' pay], with the Regulations spelling out in greater detail what fines should be imposed for each particular infraction. It is not advisable to set a fixed amount in domestic currency since over time inflation could render the amount insignificant. Laws are difficult to change). Fines shall be payable in an officially negotiable form (national stamps, money order, etc. to avoid handling money in the registry offices).

#### Article 169

The imposition of a monetary fine does not preclude the corresponding disciplinary sanctions that may result from the registry violation committed and that, depending on its gravity, can include suspension and even dismissal. Both sanctions, monetary and disciplinary, as appropriate, shall be imposed by the Director-General after he has duly served notice on the violator.

#### Article 170

Private individuals who commit violations in connection with the registration and statistical obligations prescribed by this Law shall be punishable through registration channels by fines whose amount shall be set in the regulations and may not exceed (to be established depending on the country). In these cases, the fine shall be imposed by the registrar of the competent local office, without prejudice to any appeal that the individual concerned may file with the Director-General.

#### Article 171

The Director-General's power to impose sanctions shall also extend to violations committed in connection with the registry service by officials not directly subject to his authority. Upon documented proof that an irregularity has been committed in connection with the registry service or with the collaboration provided mandatorily by any authorities or officials, the Director-General may impose appropriate monetary sanctions, without prejudice to his notifying the violator's hierarchical superiors for disciplinary purposes.

CHAPTER XIII

FUNDING ARRANGEMENTS

Article 172

Register entries for births, marriages, divorces and deaths shall be free provided they are made within the time periods prescribed by this Law. The registration of vital events beyond the prescribed time limits shall be subject to charges set by the Director-General. Complementary notations in respect of changes of name, the establishment of filiation, legitimations and adoptions shall also be subject to a fee payable by the applicants. All other complementary notations shall be free.

Article 173

The medical certificates needed to document births and deaths, as well as all registry activities required to verify such events, shall be free of charge.

Article 174

Registry activities performed for the celebration of a civil marriage are free of charge.

Article 175

Burial or cremation permits are issued free of charge.

Article 176

All certificates, whether full or partial or family books, relating to any register entry shall be subject to charges set in the Regulations or by the Director-General. Certificates requested by public agencies as part of their normal duties shall be free of charge.

Article 177

Charges in the appropriate amounts shall be paid in an officially negotiable form (national stamps, etc.). The amount may be stated on the official forms used for certificates.

Article 178

The Director-General may each year revise the amounts of the charges set for registry services to ensure that their purchasing power is maintained.

CHAPTER XIV

TRANSITORY AND DEROGATORY PROVISIONS

TRANSITORY PROVISIONS

1

The present Law shall govern in respect of all registrable events that occur from the time it enters into force. It shall further apply to those events registrable under the Law that occurred but were not registered before it entered into force.

2

This Law shall begin to take effect within a period (a period of at least six and no more than twelve months is proposed). Within such period the Government shall enact the necessary Regulations to implement the present Law.

3

Until such time as the civil registration system becomes operational in accordance with the provisions of this Law, the authorities currently responsible for the registration service shall continue to perform the functions assigned by the current legislation. Upon the entry into force of this Law, the authorities entrusted with the registration service being repealed shall transmit the pre-existing records to the appropriate local registry offices, with a copy of the detailed inventory forwarded to the Director-General. The events registered up to the entry into force of this Law shall be documented by means of certificates issued by the new registration authorities.

4

On the date of entry into force of this Law, the Director-General shall be appointed in accordance with the established procedure. After taking over his position, the Director-General shall proceed immediately (within 30 days) to appoint the local registrars and the officials in charge of the Central Archive, as well as the rest of the staff attached to each local office, in accordance with the provisions of the pertinent regulations applicable to staff employed by the State administration.

5

Within no more than (six months, one year) from the entry into force of this Law, the Directorate shall establish the local civil registration offices in each registration area and provide them with the necessary staff, office equipment and official forms. The Central Archive shall be established and organized within the same period.

Until such time as the Directorate has demarcated the territory for registration purposes, the registration areas in use at the time this Law entered into force shall be maintained (or an alternative demarcation deemed more desirable for the registration service shall be established, taking higher population density and topography into account).

The existing staff of the registration service may be placed in corresponding positions under the new organization established by this Law. Such posts shall be filled by competitions based on merit, to be organized and decided by the Director-General in the manner specified in the Regulations, and existing staff shall be given preference in joining the civil registration system.

If upon the entry into force of the present Law registration work is in progress that was started under the previous legislation but has not yet been concluded, the interested parties may within (30 days) expressly opt for either legislation to be applied. If no express option is elected, the previous legislation shall be applied.

From the time this Law enters into force only register entries made pursuant to it shall be accepted as proof of registrable events. Events affecting civil status registered under the previous regulations shall be documented by means of the certificates issued by the registration authorities in whose safekeeping the pertinent records happen to be.

The present national statistical service shall adapt its procedures for processing the country's vital statistics to conform to the provisions of this Law in terms of the necessary coordination between the registration service and the agencies responsible for compiling statistical data, making the statistical report forms, gathering data, and any other matters arising from the obligations imposed by this Law to accommodate the statistical function assigned to civil registration.

The Government and the Directorate are hereby authorized to issue whatever regulations are needed to carry out and enforce this Law.

Within the period established for the entry into force of this Law, the General Budget of the State shall provide the funds needed for the normal and efficient operation of the entire registration service established hereunder.

#### DEROGATORY PROVISIONS

1

With effect from the entry into force of this Law the following lesser-ranking laws and regulations shall be repealed (to make the system more transparent, it is advisable to make an exhaustive list of all the provisions of laws or lesser-ranking regulations being repealed by the new law).

2

All laws and regulations of equal or lesser rank that conflict with the provisions of this Law are hereby repealed (even though the earlier legislation being repealed has been expressly listed, it is good practice to include this general formula of derogation).

## CHAPTER VII

### PREPARATION OF THE REGULATIONS IMPLEMENTING THE CIVIL REGISTRATION LAW

404. By way of example, the following pages present regulations for one chapter of the Regulations implementing the Civil Registration Law. Given the procedural character of most registration work, it has already been stressed that the Regulations should be passed and enter into force at the same time as the Law, so that it will be possible to start providing registry service at once, down to its most minute details. The same committee which prepared the draft organic law should also prepare the regulations to ensure they are finalized without delay. Chapter IV of the law, on the making of entries in the registers, was selected as a basis for this exercise since it includes provisions on the mechanics of registration that would ideally be placed in the regulations and not in the law. In this case, the wording of this chapter of the law would be made more generic and less detailed than in the draft prepared.

405. The regulations implementing the civil registration law should enter into force simultaneously with the law to allow the registration system to start operating immediately. To this end, the law itself provides in its transitory provisions the requirement that the regulations be prepared within the time limit planned for the entry into force of the law, so that both items of legislation will become effective at the same time. In drafting the regulations, given the case-by-case nature of their provisions, account must be taken not only of substantive civil regulations on registrable events but also of the civil registration law which they implement - and which constitutes at once their framework and their boundaries - as well as of all those administrative provisions of varying rank that will still be in effect at the time the new registration system comes into force, so that they can be replaced or so that those considered compatible with the new registration regulations can be incorporated, since they may be useful as practical solutions to problems that have arisen under the earlier system. In keeping with the principles set out in the civil registration law being introduced, the regulations expand on the organization and operation of the registration system, defining in minute detail the mechanics of making register entries and completing the corresponding statistical reports. The registration process that will result from the implementation of the law and these regulations, as well as foreseeable changes in substantive regulations on civil registry matters as a result of successive reforms, will at times call for the registration system to adapt quickly to new legal situations and to issues that arise in registration work itself. The fact that regulations can be recast using more flexible procedures than those available in domestic legislative processes for amending laws, will make it possible for the registration system to quickly incorporate or adjust to substantive reforms or solutions decided upon by the Director-General - in the exercise of the regulatory power conferred upon him by the law - through the expedient of administrative orders settling problems and practical questions that may arise in application of registration rules. Basically, therefore, the regulations should elaborate on the civil registration law not only because of the markedly procedural nature of actual registration work but also because of the need to respond swiftly to any legal uncertainties that may be occasioned by the rigidity of the law.



CIVIL REGISTRATION REGULATIONS

CHAPTER IV

MAKING OF ENTRIES IN THE REGISTERS

Rule 1

Basic references to identity consist of:

- (a) Full name (in accordance with the applicable laws in the country where the entry is being made);
- (b) Names of parents;
- (c) Identity document;
- (d) Place of birth;
- (e) Day, month and year of birth;
- (f) Marital status;
- (g) Place of usual residence;
- (h) Nationality.

Rule 2

The identity of persons appearing at the civil registry to make declarations in connection with registrable events shall be verified through the informant's birth certificate or official identity documents and shall be documented in the register. In the absence of identifying documentation, a declaration by two qualified, duly identified witnesses who state that they know the informant's identity shall be accepted. Qualified witnesses may or may not be related to those involved in the registration provided that they: are of adult age; are not disqualified by court ruling or the law; are in full possession of their mental faculties; are not deprived of their liberty; can prove that they are legally resident in the country; are not employed in the local registry office making the entry; and speak and understand the language in which registration is taking place.

Rule 3

If any of those appearing does not know how or is unable to sign, a print of the informant's right index finger or, failing that, of his left index finger shall be taken. If such fingerprints cannot be taken, a qualified witness shall sign at the request of the person who ought, but does not know how or is unable, to sign.

#### Rule 4

Any authority, official or private individual with a request to make related to the civil register may make it through the local registrar in his place of residence when the jurisdiction to rule on the request rests with a different local office.

#### Rule 5

The civil registry in the domicile of the requester shall immediately forward the request and any accompanying documentation to the competent local office situated in another registration area. Communication between the two registries shall be direct.

#### Rule 6

The local office in which any request is made shall give the requester a filing receipt. The receipt shall state what kind of request was made, what documents, if any, accompanied it, and the date, signature and seal of the person who handled the request.

#### Rule 7

In all local civil registration offices there shall be copies of the Law and the Regulations, as well as of the official forms for register entries, certificates and other forms for the registration of vital events, available for perusal by the public to provide information on registry work.

#### Rule 8

The staff in charge of the civil register are required to assist individuals in filling in the data needed for register entries and statistical reports. To this end, they shall make available the texts of the Law and the Regulations or shall provide first-hand information in connection with the events being declared. In the event that the interested party cannot or does not know how to write, the official shall fill in the official forms. When completed, entries shall always be read aloud in full in the presence of the interested parties.

#### Rule 9

The register entry shall be deemed completed as soon as the informants have been read its contents to verify that no errors have been made. If the informants do not know how, or are unable, to read, the civil registry staff shall read to them the complete entry in duplicate. After they have signified their agreement, those appearing shall sign both copies.

#### Rule 10

Every event legally required to be registered shall be registered in duplicate. Register entries and the duplicates thereof shall be made using the technical means and the forms instructed by the Director-General. If they are handwritten, carbon copy paper may be used, and in all cases every effort shall be made to ensure that the letters are clear and legible and written in indelible ink to ensure their preservation. Amounts shall be stated in figures (arabic numerals). The use of abbreviations is not allowed.

#### Rule 11

When photocopying or any other mechanical or electronic means of copying is used to make duplicates of register entries, care must be taken that the copies are faithful and legible. In all cases both original and duplicate must bear original signatures and, if there is more than one sheet, all shall be signed by the registrar.

#### Rule 12

Entries in the registers shall be made without leaving sheets or spaces blank. Blank sheets or spaces between two complementary notations shall be duly rendered invalid by imprinting the registry stamp.

#### Rule 13

All additions, interlinings or erasures that are made on register entries shall be null and void unless signed at the end, before they are dated and signed, by the person who physically made the entry. Words that are wrong or unnecessary shall be stricken through in such a way that they can still be read.

#### Rule 14

Where errors committed when making entries in the registers cannot be signed at the end, the sheet shall be cancelled and a new entry made. The cancelled sheet shall not be destroyed but filed in chronological order. The duplicate of the cancelled sheet shall be kept and forwarded to the Central Archive for control purposes.

#### Rule 15

Cancellation of an entry may be full or partial. Full cancellation shall not entail destruction of the cancelled sheet, which shall be rendered invalid by crossing it through and stamping it "cancelled". Partial cancellation of an entry shall be done by striking through the cancelled words or phrases. In all cases, a complementary notation of the cancellation shall be made stating its scope and content.

#### Rule 16

All register entries shall be made on the official printed forms supplied in advance by the Directorate. In the absence of such forms, the entries shall be made following the format of the official forms and stating why the latter have not been used. Certificates shall be issued in the same way when the official forms are not available, as shall the statistical reports. The official authorizing these documents shall sign and stamp them, similarly stating why the official printed version is not being used.

#### Rule 17

Primary entries in the registers of births, marriages, deaths and divorces shall be made on white official forms (if the loose-leaf system is used, double sheets can be used in folded form to ensure there is sufficient space for any corresponding complementary notations).

#### Rule 18

In the first week of each month the local offices shall forward to the Central Archive the duplicates made in respect of the preceding month, including any cancelled sheets, for storage and safekeeping as original documentation of the events registered.

#### Rule 19

Emergencies are construed as the celebration of a civil marriage where there is danger of imminent death or for any other serious reason, and the issue of a burial permit. Whenever the registrar learns of any of these events he shall immediately provide the service regardless of the day or time, travelling, if necessary, to the location of the person who is prevented from appearing at the local office.

#### Rule 20

Each entry of birth, marriage, divorce and death shall be logged in a card index kept in alphabetical order by registrant's surname. The card index for marriages shall be kept by the surnames of both spouses. Each card shall be referenced to the register entry (book, page, and record number), the date of registration, and the place of occurrence of the event registered. The duplicate of the card index shall be forwarded to the Central Archive.

#### Rule 21

Each of the primary registers shall, apart from the card index referred to in the preceding rule, be used to create an annual index arranged by registrant's surname, which shall state: the number of the register entry, the number of the book, and the day, month and year of occurrence of the vital event; and the day, month and year of registration. Register entries made beyond the legally prescribed time

Limits shall be placed in the index for the year in which they should have been made, with an indication of the registry data and the year in which the event was registered.

#### Rule 22

Complementary notations corresponding to each primary entry shall be made in duplicate on the printed forms prepared by the Directorate.

#### Rule 23

The Directorate shall provide each local office and the Central Archive with the stamps required for the compulsory processing of register entries, which shall state the registration area, the local office, and the name of the registrar that signs the entries.

#### Rule 24

Registration records and the relevant documentary evidence shall remain in the safekeeping of the registrar, who shall take appropriate steps to ensure their safety. When special circumstances occur that jeopardize the documents in his custody and cannot be prevented by the registrar, the Directorate shall be notified immediately so that the necessary measures can be taken in a timely fashion.

#### Rule 25

The local offices shall communicate with each other directly. They shall also communicate directly with the Central Archive, as well as with any other authority or official that they need to contact for business reasons.

#### Rule 26

In the margins of entries of birth, complementary notations shall be made to cross-reference them to the registrant's entries of marriage, divorce and death. The local registrar who registers in his local office a marriage, divorce or death shall automatically forward the corresponding certificate to the local office in which the births of the contracting parties or the decedent are recorded so that the corresponding complementary notations can be made.

#### Rule 27

It is compulsory that for every vital event registered pursuant to the Civil Registration Law and these Regulations there be an individual statistical report using the format of the printed forms prepared on a coordinated basis by the Directorate of Civil Registration and the corresponding national statistical services. Statistical reports shall also be completed for foetal deaths and consensual marriages. Blank

statistical report forms shall be provided to local registry offices and to local suboffices at six-monthly intervals by the agency which compiles the vital statistics.

#### Rule 28

The competent statistical agencies shall supply the statistical report forms. These forms shall be filled in by the declarants themselves, the physician present at the event being registered, or by the staff in charge of the register, in accordance with the instructions on each form. In all cases the registrar shall record on them the data relating to the register entry being prompted by the event or legal act involved. Entries made beyond the time allowed by the Law shall also be accompanied by statistical reports, which shall clearly indicate the date on which the event being registered occurred and the date on which it was registered.

#### Rule 29

Statistical reports shall also be completed for registrable events and acts affecting nationals living abroad. In these cases, the corresponding statistical reports shall be forwarded to the competent compiling agency through the consulate in whose jurisdiction the registrants live or through the Central Archive, to which the register entries made or the data needed to make them will have been forwarded beforehand along with the statistical reports filled in according to the rules. (In the event that it is desired to gather statistical information on vital events occurring abroad involving legal residents in the country, it is also possible to make it compulsory to declare them at least for statistical purposes).

#### Rule 30

In the first week of each month, the local offices shall forward to the competent statistical agencies (at the regional or national level) the statistical reports for the preceding month. Communications between these agencies shall be direct. The statistical agency may contact the local office to request clarification of the data collected on the statistical reports sent in. The statistical reports shall be accompanied by a transmittal report with a summary of all statistical reports by type of vital event. In the event that no events were registered and there are therefore no statistical reports in a given month, the local registrar shall state this fact on the transmittal form.

#### Rule 31

Each local office is required to send the Directorate each month a list of the register entries made in the previous month, classified by register, for purposes of registration statistics.

#### Rule 32

When an authority makes an ex officio request for certification of more than one register entry, the local registrar may opt to issue several certificates or to issue a single certificate covering the data requested in respect of several entries.

#### Rule 33

The local registrar must reside within the registration district in which the local office for which he is responsible is located.

#### Rule 34

The local registrar and the staff attached to the local office may not be involved in any registration activity, sign register entries, or issue certificates relating to events that concern themselves, their spouses or their relatives.

#### Rule 35

The local registrar is directly accountable for the loss, destruction, deterioration, unauthorized alteration, and any breach of confidentiality of the registration records and documentation in his permanent custody, in accordance with the system of penalties set forth in the Law.

#### Rule 36

The Directorate shall provide the physical, financial and human resources needed to assure the permanent conservation of the documents stored in the Central Archive and in each local office, taking appropriate steps in each case to avoid the deterioration or destruction of such records, including the incorporation of modern technology for the storage, processing and retrieval of register entries for purposes of certification, updating, and the like. The Directorate shall, as a minimum, provide the necessary furniture, as well as temperature control equipment and fire extinguishers, and shall arrange for periodic fumigation of the storage areas.