



## INFORMATION NOTE E

# Civil Registration, Nationality and Human Rights

### I. Purpose

This is a non-official document, for information only, prepared by the Working group of co-organizers of the Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific to be held in Bangkok, 24 November to 28 November 2014. It provides additional background information to delegations attending the Regional Preparatory Meeting for the Ministerial Conference on 28 and 29 August 2014. Published in English only.

### II. Background and relevance to CRVS

Civil registration and vital statistics has an important role to play in facilitating the enjoyment of human rights. Birth, marriage and death registration all have vital and distinct contributions to make. However, the relationship between birth registration and the acquisition of nationality is often misconstrued resulting in misplaced concerns that registering the birth of a child automatically grants the child the nationality of the State which has registered its birth. This can result in unnecessary barriers in registering the births of vulnerable children, including the children of migrants and refugees, impeding realization of the goal of universal civil registration. This note will therefore clarify the relationship between civil registration, nationality and the realization of human rights.

### III. Outline of key international conventions, recommendations and/or standards

The right of every child to have his or her birth registered without discrimination is recognized in a number of international human rights law treaties and is particularly linked to the right to identity, the right to a nationality and the right to be recognized as a person before the law. The United Nations Human Rights Council has adopted resolutions on “Birth registration and the right to recognition everywhere as a person before the law”. UNHCR’s Executive Committee adopted a conclusion on Civil Registration in 2013. Civil registration and vital statistics generated from registration records can also contribute to the



achievement of human rights, in particular through facilitating the progressive realization of social and economic rights.

- United Nations. *International Covenant on Civil and Political Rights* (Article 24). 16 December 1966. Treaty Series, vol. 999, p. 17.  
<http://www.refworld.org/docid/3ae6b3aa0.html>
- United Nations. *International Covenant on Social, Economic and Cultural Rights*. 16 December 1966. Treaty Series, vol. 993, p. 3  
<http://www.refworld.org/docid/3ae6b36c0.html>
- United Nations. *Convention on the Rights of the Child* (Article 7). 20 November 1989. Treaty Series, vol. 1577, p. 3.  
<http://www.refworld.org/docid/3ae6b38f0.html>
- United Nations. *Convention on the Rights of Persons with Disabilities* (Article 18). 13 December 2006. Treaty Series, vol. 2515, p. 3  
<http://www.un.org/disabilities/convention/conventionfull.shtml>
- United Nations Human Rights Council. Resolutions on “Birth registration and the right of everyone to recognition everywhere as a person before the law”  
A/HRC/RES/19/9, 3 April 2012. <http://www.refworld.org/docid/503cdba52.html>  
A/HRC/RES/22/7, 9 April 2013. <http://www.refworld.org/docid/53bfacfa4.html>
- United Nations High Commissioner for Refugees (UNHCR). *Conclusion on civil registration*. 17 October 2013. No.111 (LXIV)-2013  
<http://www.refworld.org/docid/525f8ba64.html>

#### IV. Key considerations

Civil registration is defined as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital life events in a population. The vital life events can include an individual’s birth, marriage and death. The registration of each of these life events can contribute to the realization of human rights. However, it is important to distinguish between birth registration and the mechanism by which individuals acquire nationality because, if this relationship is misunderstood, it can stand in the way of the achievement of the goal of universal civil registration.

##### *Birth Registration, the Registration of Marriage and Nationality*

Birth registration creates a permanent record of the child’s existence but registering the birth of a child does not automatically confer to the child the nationality of the State in which he or she is born. Rather, nationality is acquired as a result of the operation of each State’s nationality law. This can be either on the basis of descent, whereby children acquire the nationality of their parents (*jus sanguinis*), or through a child’s birth on a country’s

territory (*jus soli*) or, more usually, a combination of these approaches set out in the detailed provisions of the national law. Some States in Asia and the Pacific have established laws and procedures by which a child's nationality is identified and recorded when the child's birth is registered.

The registration of a child's birth can constitute a key form of proof of the link between an individual and a State by establishing a permanent record of key elements of a child's identity including date and place of birth and the identity of his or her parents. This information is often vital in establishing a child's nationality under the different nationality laws of the States to which he or she has a link. Consequently, the Executive Committee of the High Commissioner on Refugees has noted that "the lack of civil registration and related documentation makes persons vulnerable to statelessness and associated protection risks, and that birth registration is often essential to the reduction and prevention of statelessness".

The civil registration of marriage can also be essential for children to acquire nationality by descent from one or other parent, usually from the father when the mother is a non-national. In some States in the region, in these circumstances, if the marriage is not registered, the child will not acquire nationality of the father under the law.

#### *Civil registration and the realization of human rights*

It is important to note that everyone is entitled to the enjoyment and respect of their human rights. This includes the right of every child to have his or her birth registered, recognized in the *International Covenant on Civil and Political Rights* and the *Convention on the Rights of the Child*. Consequently, the United Nations Human Rights Council has reminded States of their obligation to register births without discrimination of any kind and irrespective of the status of the child's parents. It has called on States to continuously raise awareness at the national, regional and local levels of birth registration, including by engagement in collaboration with all relevant actors in public campaigns that raise awareness of the importance of birth registration for effective access to services and the enjoyment of human rights. It has also urged States to identify and remove physical, administrative, procedural and any other barriers that impede access to birth registration, including late registration, paying due attention to, among others, those barriers relating to poverty, disability, gender, nationality, displacement, illiteracy and detention contexts, and to persons in vulnerable situations.

Turning to the relationship between birth registration and the enjoyment of human rights, the Human Rights Council has unanimously recognized the importance of birth registration, including late birth registration and provision of documents of proof of birth, as a means for providing an official record of the existence of a person and the recognition of that individual as a person before the law. It has also expressed its concern that unregistered individuals have limited or no access to services and enjoyment of all the rights to which they are entitled and are vulnerable to lack of social and legal protection. Thus, registering a person's

birth is a vital step towards the promotion and protection of all his or her human rights and protection from violence, exploitation and abuse. The provision of birth certificates following registration can help to prove identity and can be used to apply for other key official documents such as a passport or voter registration card. In some States birth certificates can facilitate access to key services such as healthcare or education.

The Human Rights Council has also recognized the importance of birth registration, including late birth registration, for the development of vital statistics and the effective planning, implementation and monitoring of programmes and policies intended to achieve internationally agreed development goals, including the Millennium Development Goals. Consequently vital statistics generated from civil registration can facilitate State planning and particularly aid in the realization of social rights.

The civil registration of marriage and death can also facilitate the realization of human rights, particularly for poor and vulnerable groups, often through the provision of legal documentation that can help to establish legal identity. For example a recent large-scale study in Indonesia found that birth, marriage and divorce certificates play a critical role for the poor and the marginalized, for women and children, and for persons with disabilities, in accessing education, health services, social assistance programmes and legal protection. Proof of age, marriage and deaths are also critical requirements for claiming certain rights and benefits such as pensions, social allowances and exercising inheritance rights. Without a death certificate for their spouse widows are sometimes unable to access widowhood pensions and inheriting property can be prevented.

## V. Relevance to the Regional Action Framework

The Regional Action Framework (RAF) contains the key principle of “consistency with international human rights and legal principles”. Each of the three goals of the RAF is consistent with the requirements of international human rights law. For example the RAF recognizes the requirement for universal birth registration and non-discrimination in access to civil registration as well as the goal that all individuals are provided with legal documentation of civil registration of births and deaths, as necessary, to claim identity, civil status and ensuing rights. In addition, the generation and use of accurate and complete vital statistics can contribute to the realization of social rights.

Human rights principles must also be considered in several action areas including: sustained political commitment; public engagement and participation involving enhancing public awareness of the importance of declaring vital events; reviewing and updating relevant legislation, regulations, and policies; and paying attention to ensure that these frameworks are effectively and consistently applied through the designing and implementation of operational procedures and practices.

The RAF also recommends that “geographic location, gender, religion or ethnicity should not be barriers to civil registration” and, in setting targets, actors are “thus encouraged to set



separate targets, where appropriate, for civil registration coverage, provision of legal documentation and vital statistics for these subgroups, including... refugees and stateless people.”

In providing further details on Goal 2, the RAF states that: “This goal addresses the distinction between the civil registration of a vital event and the possession of formal proof that it took place, in the form of legal documentation.” It suggests the following targets:

- By 2024, at least ...% of all births registered in the territory and jurisdiction are accompanied with the issuance of an official birth certificate that includes, as a minimum, the individual’s name, sex, date, and place of birth, and the name of the parent(s) where known.
- By 2024, at least ...% of all deaths registered in the territory and jurisdiction in the given year are accompanied with the issuance of an official death certificate which includes, as a minimum, the deceased’s name, date of death, sex, and age.

## VI. Links to further information

Asian Development Bank. (2007). *Legal Identity for Inclusive Development*.  
<http://www.adb.org/sites/default/files/pub/2007/legal-identity.pdf>

Department of Foreign Affairs and Trade (Australian Aid), PEKKA and PUSKAPA UI. (2014). *AIPJ Baseline Study on Legal Identity – Indonesia’s Missing Millions*.  
[http://www.aipi.or.id/uploads/reports\\_publication/8\\_f\\_20140227-011003\\_FA\\_baseline\\_report\\_english.pdf.pdf](http://www.aipi.or.id/uploads/reports_publication/8_f_20140227-011003_FA_baseline_report_english.pdf.pdf)

Plan International. (2014). *Birth registration and Children’s Rights: A Complex Story*.  
<http://plan-international.org/about-plan/resources/publications/campaigns/birth-registration-research/>

Plan International and United Nations High Commissioner for Refugees. (2012). *Under the Radar and Under Protected*.  
<http://plan-international.org/about-plan/resources/publications/campaigns/under-the-radar-and-under-protected/>

United Nations Children's Fund. (2013a). *A Passport to Protection: A Guide to Birth Registration Programming*.  
[http://www.unicef.org/protection/files/UNICEF\\_Birth\\_Registration\\_Handbook.pdf](http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf)

United Nations Children's Fund. (2013b). *Every Child’s Birth Right: Inequities and Trends in Birth Registration*.  
[http://www.unicef.org/mena/MENA-Birth\\_Registration\\_report\\_low\\_res-01.pdf](http://www.unicef.org/mena/MENA-Birth_Registration_report_low_res-01.pdf)



United Nations Economic and Social Commission for Asia and the Pacific. (2014, forthcoming). Civil registration, human rights and social protection in Asia and the Pacific. In the *Asia Pacific Population Journal*.

United Nations High Commissioner for Refugees. (2011). *Report of the ASEAN Intergovernmental Commission on Human Rights and UNHCR Regional Workshop on Statelessness and the Rights of Women and Children*.

<http://www.refworld.org/docid/50f674c42.html>

United Nations High Commissioner for Refugees. (2014). *Report of the ASEAN Intergovernmental Commission on Human Rights and UNHCR Regional Workshop on Good Practices in Birth Registration*.

<http://www.getinthepicture.org/docs/unhcr-birth-reg-rpt.pdf>

## VII. Contacts

### Mr. Nicholas Oakeshott

Regional Protection Officer

United Nations High Commissioner for Refugees (UNHCR)

17th Floor, Wave Place Building,

55 Wireless Road, Lumpini, Pathumwan

Bangkok 10330, Thailand

Telephone: +66 2 342 3504

Email: [oakeshot@unhcr.org](mailto:oakeshot@unhcr.org)