

Pacific Regional Workshop on Legal Identity and Identity Security

8-10th July, 2019

SPC Headquarters, Noumea, New Caledonia

SPC/BAG 2019/ Background Paper 05

The Role of Legislation in Supporting Legal Identity: UN Guidelines on a Legal Framework for Civil Registration, Vital Statistics and Identity Management

Drafted and presented by Lynn Sferazza (Data for Health Initiative)

INTRODUCTION: THE UN GUIDELINES ON A LEGAL FRAMEWORK FOR CRVSID

The United Nations Statistics Division (UNSD) has been mandated with the development of the methodological framework for civil registration and vital statistics since the inception of the United Nations as an intergovernmental organization. In furtherance of this mandate, a series of international standards, guidelines, principles and recommendations were developed and adopted by the relevant United Nations bodies – the United Nations Statistical Commission and the Economic and Social Council. The most recent revision of these guidelines was adopted in 2014 in the form of the *Principles and Recommendations for a Vital Statistics System, Revision 3*.

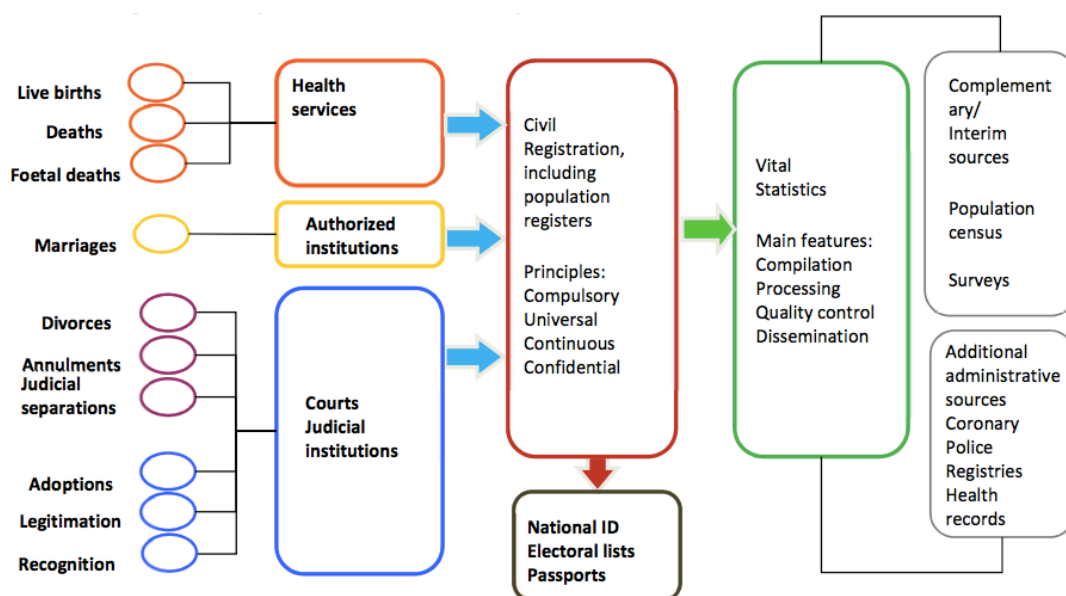
As companion guides to the *Principles and Recommendations for a Vital Statistics System*, UNSD has developed a series of *Handbooks* that deal with important aspects of civil registration and vital statistics improvement. The *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems* update one of these handbooks, the 1998 *Handbook on Civil Registration and Vital Statistics Systems: Preparation of a Legal Framework*.¹ The updated *Guidelines* present a topic not fully elaborated upon in the *Principles and Recommendations* or previous handbooks – national identity management. The 2030 Agenda for Sustainable Development, agreed by all UN Member States in September 2015, recognizes the importance of addressing the global identity gap and establishes a specific target within the Sustainable Development Goals (SDGs) – Target 16.9 – to establish “legal identity for all, including birth registration, by 2030.” As reflected in SDG Indicator 16.9.1, birth registration should be the primary means for the granting of legal identity, and civil registration remains the ‘gold standard’ by which legal identity should be maintained by Member States.² In accordance with this goal, the *Guidelines* recommend and present a holistic and integrated approach to civil registration, vital statistics, and national identity management.

CIVIL REGISTRATION AS THE FOUNDATION OF A NATIONAL IDENTITY SYSTEM

The *Guidelines* recommend and present a framework for integrated systems, where the civil registration system provides input into the vital statistics system and national identity management system, as graphically presented below.

¹ The other three *Handbooks on Civil Registration and Vital Statistics Systems* include: (1) *Management, Operation and Maintenance, Revision 1*; (2) *Policies and Protocols for the Release and Archiving of Individual Records*; and (3) *Demand Creation*.

² *Principles of Legal Identity in the Context of the 2030 Agenda for Sustainable Development, Working Paper of the Identification for Development Program, Series 1, September, 2018, paragraphs 2, 14.*



Strong civil registration, vital statistics and identity management systems are fundamental to the effective, efficient and fair functioning of government. A well-functioning national civil registration system, being continuous, permanent, compulsory and universal, is the best source of data for generating vital statistics, and therefore should be the foundation of the vital statistics system.

Likewise, a civil registration system with complete national coverage provides the strongest foundation for a national identity management system. Birth registration establishes legal identity and provides the entry point into the national identity management system through the issuance of a birth certificate - the foundational document necessary to establish one's identity. Death registration provides the legal basis for retiring an identity in the system, which is crucial to preventing identity theft and fraud. If there is no formal linking of the civil register and identity register, there are limited means to confirm the identity of those registered in the national identity system,³ and limited means to ascertain the death of those in the system in order to retire a legal identity. In addition, national identification systems, which generally enroll people at older ages, cannot ensure that children's rights and services are properly supported through legal identity if a connection with the civil registration system is not maintained.⁴

It is important to note that the Guidelines focus on the integration of the civil registration system with the national identification system, not all identification systems. A national identification system is a foundational identification system⁵ that provides a national ID credential - often in the form of a card - for a wide variety of purposes and uses, including public administration and public and private sector services and transactions.⁶ A foundational national ID system is distinct from functional ID systems, which are created for a particular service or transaction - such as voting, tax administration, social programs and transfers. Countries may maintain many functional ID systems and issue associated functional identity credentials.⁷ The Guidelines address a country's national identification system, with a focus on the integration of that system with the civil registration system.⁸

³ *Principles of Legal Identity in the Context of the 2030 Agenda for Sustainable Development, Working Paper of the Identification for Development Programme – Series 1, United Nations, September 2018, paragraph 10.*

⁴ *United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 61.*

⁵ *Foundational ID systems provide general identification and credentials to the population for public administration and a wide variety of public and private sector transactions, services, and derivative credentials.*

⁶ *ID4D, ID Enabling Environment Assessment, World Bank, 2018, p.9.*

⁷ *ID4D, ID Enabling Environment Assessment, World Bank, 2018, p.10.*

⁸ *For a broader discussion on all types of ID systems, as well a guide to assessing those systems, see ID4D, ID Enabling Environment Assessment, World Bank, 2018, available at: <http://id4d.worldbank.org/legal-assessment>.*

THE IMPORTANCE OF A LEGISLATIVE FRAMEWORK

The purpose of the Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems is to offer a tool for developing a strong rights-based legal framework for integrated civil registration, vital statistics and identity management (CRVSID) systems. A strong legal framework helps ensure complete civil registration through a system that is continuous, permanent, compulsory and universal; facilitates the compilation of comprehensive and accurate vital statistics; and enables and ensures the provision of legal identity for all, which fosters inclusion, the realization of human rights, and the enjoyment of services to which one is entitled.

The establishment of CRVSID systems in the laws of a country serve a number of important purposes. It makes specific agencies responsible for civil registration, vital statistics, and identity management functions. It specifies standards and quality control procedures for the collection and use of the records and information collected through the system and guarantees the privacy and security of those records. The legislative framework also offers a consistent and structured basis for performing all the tasks associated with the legal uses of the records of events and identification. In short, the legislative framework gives the system an essential foundation to be able to operate successfully and uniformly throughout the country.

HOW TO USE THE UN GUIDELINES

The Guidelines provide overarching principles as well as detailed elaboration on the legislative framework critical for implementing international recommendations, with a focus on ensuring a holistic, integrated approach to civil registration, vital statistics and identity management. There is great diversity in how countries organize and structure their CRVSID systems due to differences in government structures, culture and traditions, and socioeconomic conditions. However, the principles and concepts presented in the Guidelines can be adapted to the culture, traditions and legal systems of all countries, in a manner consistent with existing and chosen structures. Throughout the Guidelines, examples are presented demonstrating how the concepts have been put into practice in countries with diverse cultures, traditions and legal systems. These national practices are presented to provide a starting point for discussion among policy makers on how to adapt the principles and concepts to their own country conditions, rather than being put forward as examples to be copied wholesale by other countries.

While the Guidelines recommend and present a framework for integrated civil registration, vital statistics, and identity management systems, the principles and concepts on civil registration and vital statistics can also be used and followed by countries that lack a national identity management system. Moreover, integrated does not necessarily mean digitized and a country's systems need not be electronically linked to apply these principles. The principles can be adopted in countries that maintain manual systems which have not yet been digitized, or where parts of the country do not yet have sufficient computer or internet resources to digitize in those specific locations.

While the Guidelines present a framework for legislation addressing integrated civil registration, vital statistics, and identity management systems, it is not necessary for a country to include all these concepts in one comprehensive piece of legislation. These concepts may be applied and integrated into one or more new or existing pieces of distinct legislation governing the civil registration system, vital statistics system, and identity management system.

THE STRUCTURE OF THE UN GUIDELINES

In addition to an introductory chapter, the material in the Guidelines is presented in five chapters, starting with broad concepts in Chapter Two, which is then followed by more detailed discussions of best practices and policy options in later chapters.

- Chapter Two presents an overview of CRVSID systems including: concepts and definitions; principles of civil registration and identity management; functions of civil registration and national identity management systems; types of vital events; identity management and identity lifecycle;

interoperability between civil registration, vital statistics, and identity management systems; and accountability and governance.

- Chapter Three provides an overview of the importance of civil registration and identity management to the realization of human rights, including not only civil and political rights but also economic, social, and cultural rights.
- Chapter Four explores the wide diversity of institutional arrangements that exist globally for CRVSID systems, and focuses on how institutional arrangements can support the effective and efficient functioning of CRVSID systems.
- Chapter Five provides detailed guidance on elements that should be included in CRVSID legislation and regulations to support comprehensive civil registration coverage, meaningful vital statistics compilation and dissemination, and strong identity management that provides for robust legal identity, protects privacy and promotes security. This chapter discusses in greater detail the topics introduced in previous chapters. This Chapter provides best practices and policy options for: civil registration; identity management; a population register, compilation and dissemination of vital statistics; data protection, privacy and security; compliance, enforcement, rights and remedies; and transitional provisions.
- Chapter Six addresses other laws that can support CRVSID systems by providing incentives that help increase rates of civil and identity credential registration as well as improve the quality of information in the system.

REFERENCES

United Nations United Nations methodological guidelines on civil registration and vital statistics can be accessed at

<https://unstats.un.org/unsd/demographic-social/standards-and-methods/?search=&Id=&Desc=Civil+Registration+and+Vital+Statistics&Title=&Year=&topics=>.

These include:

- Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management (Final draft subject to edition)
- Handbook on Civil Registration and Vital Statistics Systems: Management, Operation and Maintenance, Revision 1
- Principles and Recommendations for a Vital Statistics System, Revision 3 (2014)
- Handbook on Training in Civil Registration and Vital Statistics Systems (2002)
- Handbook on Civil Registration and Vital Statistics System: Policies and Protocols for the Release and Archiving of Individual Records (1998)