

**REPORT ON LEGAL FRAMEWORK ASSESSMENT
ON CIVIL REGISTRATION, VITAL STATISTICS AND
IDENTIFICATION MANAGEMENT IN VIETNAM**

Hanoi, 10/2021

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LIST OF ACRONYMS

MOJ	The Ministry of Justice
CID	Citizen's ID cards
CRVSID System	Civil Registration, Vital Statistics and Identity Management
CRVS	Civil Registration and Vital Statistics
CSDL	Data Sharing
CSDLQGDC	The national population register
GHAJ	The Global Health Advocacy Incubator
UN	The United Nations
MCCD	Medical certification of causes of death
NSNN	State Budget
GSO	General Statistics Office
PC	People's Committees
UNFPA	The United Nations Population Fund
UIC	Unique identity code
LNDs	Legal normative documents
LDs	Legal documents
WHO	World Health Organization

INTRODUCTION

The report "Assessment of the legal framework on registration, civil status statistics and identity management in Vietnam" was carried out within the framework of the cooperation between the United Nations Population Fund (UNFPA) and Vital Strategies - partner in Bloomberg Philanthropies' Data For Health Initiative, to assist Vietnam (Ministry of Justice and relevant agencies) to improve civil status registration and statistics system for the period of 2020-2021. "Completing the system of legal documents regulating civil status registration and statistics" is one of the important tasks of the *National Action Program on civil status registration and statistics, in the period of 2017 -2024*, which has received great attention from the Ministry of Justice and relevant ministries, on which all have been working intensively.

Using a Toolkit developed by the Global Health Advocacy Organization (GHAI), a partner of Vital Strategies¹, the report examines the suitability of the country's legal system against international best practices in the field of civil status registration and statistics and identity management today. On that basis, (the authors) identify areas that need to be improved and supplemented in the current legal documents to meet the requirements set forth for civil status registration and statistics in Vietnam. The report consists of 7 main contents, each content will be divided into two parts: 1) Analyse current legal regulations of Vietnam, with assessment and comparison with best practices in the world; 2) Give corresponding recommendations.

Sincere thanks to the local expert, Mr. Nguyen Duc Lam and the international expert Ms. Chrystie Swiney of GHAI for their painstaking work in developing and finalizing the report. Thank you to the Department of Civil Status, Citizenship and Notarization and relevant units of the Ministry of Justice for working together with the experts in the process of developing the report, providing valuable contributions to finalize the report. Our sincere thanks go to UNFPA, Vital Strategies, relevant central agencies (Ministry of Health, Ministry of Public Security, General Statistics Office), and localities for their useful and practical suggestions in the finalization of this project.

¹ See introduction and download Toolkit at the following link: <https://advocacyincubator.org/ghai-advocacy-tools/legal-and-regulatory-review-toolkit-for-crvsid/>

I. INTRODUCTION

1. Background

To meet regulatory objectives, a country's system of civil status registration, statistics and identification management (CRVSID) management must be complete, accurate and timely to generate quality civil status statistics, serving public policy making. 15 of the 17 Sustainable Development Goals (SDGs), 72 of the 232 SDGs' indicators were set based on part or all of the information from registration and civil data or identity statistics². The proper and effective functioning of this system is a prerequisite for planning and making appropriate socio-economic and health policy decisions; assisting governments in tracking key demographic and health indicators, allocating resources, and providing support measures for population groups.

Vietnam has entered a new stage of development, the process of international integration is more and more extensive, and the population movement locally and internationally has been increasing. Viet Nam has committed to implementing the *Declaration on Civil Registration and Vital Statistics of the Asia-Pacific Region and the Regional Action Framework (2015-2024)*, confirming the country's international integration process. The work of civil registration, management and identity management increasingly affirm its position, role and importance in state and social management activities, contributing to better assurance of the legal rights and benefits of citizens and other citizen groups.

A full, effective legal framework, appropriately applying best practices in the world can create the foundation for a well-functioning CRVSID system. Implementing the cooperation plan between The Civil Status, Citizenship and Notarization Department (Ministry of Justice) and the United Nations Population Fund (UNFPA) for the period 2020-2021, The Civil Status, Citizenship and Notarization Department has coordinated with GHAI to select domestic legal experts to assess the legal framework on CRVSID, thereby making recommendations to improve the national legal system based on comparisons/references from international best practices/the most relevant areas, suitable to the conditions and circumstances of Vietnam.

2. Purpose

²UN Vietnam, <https://vietnam.un.org/vi/92526-hoi-thao-ve-cac-giai-phap-tang-cuong-hieu-qua-hoat-dong-chuong-trinh-hanh-dong-quoc-gia-ve>; Bali Process Civil Registration Assessment Toolkit, p.19-20, link to download: <https://getinthepicture.org/resource/bali-process-civil-registration-assessment-toolkit>

The legal assessment of CRVSID in Vietnam aims to assess current legislation through comparison with international best practices. Thereby, (it) detects barriers/gaps created by the legal framework for the management, registration, statistical works of civil status and identity management. The legal assessment will help stakeholders determine the scope and content of the amendment; select feasible solutions to complete the CRVSID system in Vietnam.

3. Scope

The scope of assessment is limited to reviewing and analyzing the current legal framework on CRVSID in Vietnam, including some 80 legal normative documents (LNDs) and other relevant legal documents (LDs).³ Law enforcement is important, but not within the scope of this report, but will be covered in another project. However, in rare cases, the report can analyze law enforcement examples to assess the pros and cons of relevant legislation.

Due to time constraints, the scope of the assessment does not include all the CRVSID-related content in Vietnam. The report focuses on key issues related to creating an enabling environment for CRVSID, the organizational structure of civil status registration agencies, birth and death registration (including fetal deaths,) identification and confirmation of medical causes of death, civil status statistics, personal identification (ID) management, and the National Population Register.

4. Methodology and Steps for Implementation

The CRVSID Legal Review Toolkit (Toolkit), which was developed by GHAI and other partners in the D4H Initiative, was used to complete the legal review process. GHAI, under the leadership of international lawyer Chrystie Swiney, oversaw the legal review process, including the completion of the Toolkit by in-country legal consultant, Mr. Nguyen Duc Lam. Assistance and support was also provided by the The Civil Status, Citizenship and Notarization Department. The legal review is focused on analyzing the existing Civil Registration, Vital Statistics and ID Management legal frameworks and comparing them to international best practices; the Toolkit helps to guide this process.

More specifically, the specific research and review steps that were carried out as part of the CRVSID legal review included:

³ See the complete list of LNDs and LDs on CRVSID reviewed in Appendix I.

- Gathering, reading and studying international best practices documents on CRVSID, especially those developed by the United Nations (UN); learning basic terms and UN definitions of all vital events⁴;
- Collecting, arranging, and analyzing LNDs and LDs related to CRVSID according to the directory corresponding to the contents to be assessed;
- Comparing, contrasting and evaluating the current legal framework (through collected documents) with international practices, chapter by chapter of the Toolkit, based on documents on international best practices mentioned above and relevant domestic sources. For each chapter, local experts have the following duties: (1) to present the relevant legal regulations; (2) to assess the compliance of the law with international practices; and (3) to make specific recommendations to address shortcomings and legal gaps.
- The national expert drafted a Summary Report on key findings and recommendations relevant to the Vietnamese context. The report describes the CRVSID system and highlights the key differences between Vietnam's CRVSID legal framework and international standards; analyse legal obstacles in improving the CRVSID system in comparison with international standards; propose to improve relevant contents in the legal system on CRVSID. [This report represents this final step in the legal review process, the development of a recommendations report].

⁴ International best practices are synthesized, analyzed in such UN documents as: The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014; can be downloaded at:

<https://unstats.un.org/unsd/demographic/standmeth/principles/M19Rev3en.pdf>; United Nations, Guidelines for the development of a legal framework for registration , civil status statistics and identity management systems, New York, 2019, can be downloaded at:

https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Handbooks/crvs/CRVS_GOLF_Final_Draft-E.pdf; United Nations, Guidelines and training on civil status registration and statistics, New York, 2018, can be downloaded at:

<https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Handbooks/crvs/crvs-mgt-E.pdf>.

II. CRVSID SYSTEM OVERVIEW

1. Existing legislation against international best practices

1.1. Scope, definition of vital events

Records of vital events are the primary source of information for generating vital statistics. To do so, it is necessary to have a clear definition to establish a data system mutually agreed among sectors, authorities of all levels, in accordance with international standards; which helps track the evolution of vital events, meet reporting and statistical requirements.

According to the UN, vital events include⁵: (1) birth and death events, including fetal deaths; (2) concurrent conjugal events for two individuals that would not have occurred again in either person's lifetime without a change in their civil status, including: marriage, registered cohabitation⁶, separation, divorce, registered annulment of cohabitation, marriage dissolution; (3) family expansion events include: adoption, legalization of the status and rights of children born out of wedlock (legitimation)⁷, recognition of parents of children born out of wedlock (recognition).

At the national level, the laws of many countries have almost no definition of "civil status", but only state civil status events that need to be registered, of which the most common are birth, death, marriage, divorce, adoption, child

⁵ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, paras. 12, 66-78; United Nations, Principles and recommendations for civil status statistical systems, 3rd ed., New York, 2014, para. 2; 290-291.

⁶ In many countries such as Austria, the Netherlands, and the United Kingdom, similar to marriage, legally registered cohabitation establishes a marriage relationship between two people, in which property rights and debts are shared by a contract with notarization, but the content of the contract is different from that in marriage; registration procedures have details different from that of marriage such as there is no church ceremony; divorce without going to court if there are no children under the age of 18; may not be recognized in another country. See more about the marriage regulations of 27 EU countries here, most of which admit to living together with registration:<http://www.coupleseurope.eu/>

⁷ In many countries, for example many states of the US, the UK, and the Philippines, after the necessary procedures have been carried out in court, children born out of wedlock are legalized, leading to corresponding legal rights and obligations for parents and children. Legalization can be done by following procedures such as: the father files an application to the court for legalization; father and mother giving birth out of wedlock marry each other; the father files a petition to the court for legalization when the mother gets married.

recognition, and fetal death⁸. Although not every country's laws cover all the vital events defined by the UN, it is recommended by the UN that if a vital event is recorded in the civil status registration system that it be defined using the UN definition; this is important for consistency and uniformity of civil registration practices throughout the country. Births, deaths, and fetal deaths are the most important vital events for countries to track, followed closely by marriages and divorces.

Meanwhile, in Vietnam, according to Clause 1, Article 2 of Vietnam's 2014 Law on Civil Status, "*Civil status is the events specified in Article 3 of this Law that determine an individual's personal status from birth to death.*" Compared with UN documents, a number of civil status events have not been recorded in Article 3 of the Law on Civil Status such as: fetal death; registered cohabitation; judicial separation; dissolution of registered cohabitation; legalization. In particular, the above regulation defines the limit "from birth...", so fetal death, which by definition never involves a live birth, is not considered a civil status event.

Conversely, Vietnam's Law on Civil Status provides for some civil status events not mentioned in the above document such as: guardianship; recording of civil status change; recognition of fatherhood, motherhood, childhood. Or according to international practices, the law has its own provisions on civil status change, correction and supplement of civil status information, but they are not considered civil status events like in Vietnam.

At the same time, the Vietnamese law's definition of separate civil status events has some differences from international practices. Within the framework of this report, the following concepts related to civil status were reviewed, contrasted and compared with the UN definition⁹:

Live Birth: The UN defines Live Birth as: "The complete expulsion or extraction from its mother of a foetus, *irrespective of the duration of pregnancy*, which, after such separation, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or any definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached."

⁸ See more about the scope of the concept of civil status in countries as shown in the regulations on civil status in the following document: The Ministry of Justice, Editorial Team of the Civil Status Law Project, Summary Report of experiences of some countries in the world on civil status, Hanoi, 2013.

⁹The UN definitions are extracted from the document: The United Nations, Principles and Recommendations for Vital Statistics Systems, Revision 3, New York, 2014. para. 2

In Vietnam, live birth is recorded in the legal system, but is not defined in any LNDs. Only Circular No. 37/2019 / TT- BYT¹⁰ on page 19, Appendix I has the concept "*live birth (or live newborn)*" being a child born at gestation of full 22 weeks or more with signs of life (crying, breathing, heart beating, reflex sucking, sucking) at delivery.

Thus, the basic difference here is: while the UN definition emphasizes as long as the baby is born alive "regardless of the length of pregnancy", gestational age is not a factor in determining live birth, Circular 37/2019 / TT-BYT addresses gestational period of 22 weeks or more when explaining the concept of "live birth (or live newborn)".

Death: According to the UN 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 excludes fetal mortality, with the implication of having its own definition of fetal mortality.

Meanwhile, death is recorded in Vietnam' legal system of civil status, but is not defined in legal normative documents related to civil status.

Fetal death; stillbirth: The UN defines fetal mortality as "death prior to the complete expulsion or extraction from its mother of a product of conception, *irrespective of the duration of the pregnancy*. The death is indicated by the fact that after such separation the foetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles." This definition emphasizes the fact that there is no living birth here at all. At the same time, the pregnancy period is not considered until the fetus dies.

In addition, there is also the concept of stillbirth, which is a form of fetal death that occurs before the onset of labor or during childbirth but before birth. Countries differ in regard to gestational age for determining stillbirth; some countries consider it from 20 weeks of age when stillbirth occurs; some other countries take the 22-week-old mark. At the country-by-country level, WHO recommends reporting stillbirths at 22 weeks or more of gestation. Globally, for statistics to be uniform, WHO recommends reporting stillbirths at 28 weeks of gestation or more.¹¹ (See more about registration or reporting of fetal death in Section IV of this report.)

¹⁰Circular No. 37/2019 / TT- BYT on statistical reporting system in the health sector.

¹¹ World Health Organization, Respect each baby: Examination and review of stillbirths and neonatal deaths, 2016, page 18.

The WHO recommends national legislation to provide for the registration or reporting of fetal deaths for fetuses of 22 weeks of age or older. The laws of countries such as the states of the United States, Australia, the Philippines, New Zealand, and Pacific island countries all have definitions of fetal death or stillbirth (late term fetal death), and stipulate civil status agencies to register and store separate information on fetal deaths. The laws of some countries, such as the states of Australia, the United States, the Philippines, and New Zealand, require registration of fetal death for fetuses from 20 weeks of age or older, because they consider the health system to be eligible to collect information about the fetus from the mark, not at a later stage, for example from 22 weeks, or 28 weeks as in other countries.

Currently, fetal death from 22 weeks of age is recorded in the health sector (hospitals, commune health stations, up to the Ministry of Health), but not separately in the civil status registration and statistics system.

Legal documents related to death notices, death registration, death statistics do not have definitions of fetal death, including circulars issued by the Ministry of Health. Circular 20/2019/TT-BYT¹² regulates the neonatal mortality rate (born alive and dies within 28 days after birth); Appendix 1, Circular 37/2019/TT-BYT also mentions neonatal mortality, but it is not fetal death. And although Circular 24/2020 / BYT¹³ mentions fetal mortality in the diagnosis form of causes of death, it does not explain this concept.

The tracking, storing and reporting of information on fetal death and stillbirth is very important for statistical and public health purposes. Data on these types of deaths form the basis for the development of policies and public health interventions to prevent and reduce fetal deaths, stillbirths, and protect maternal health.¹⁴ At the same time, the monitoring and reporting of fetal deaths and stillbirths also have legal and administrative functions, such as creating a basis for enjoying funeral benefits, parental benefits, etc. like paid maternity leave.¹⁵

1.2. Responsibilities and powers of relevant agencies

¹² Circular No. 20/2019 / TT-BYT on basic statistical indicators in the health sector.

¹³ Circular No. 24/2020 / TT-BYT Regulating the diagnosis form of causes of death, the issuance of death notices and statistics of death at medical examination and treatment establishments.

¹⁴ World Health Organization, Respect each baby: Examination and review of stillbirths and neonatal deaths, 2016, page 5. <https://www.who.int/publications/i/item/9789241511223>.

¹⁵ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, para. 309.

Regarding the responsibilities and powers of agencies related to CRVSID, according to World Bank data, out of 169 countries, in 77 countries the Ministry of Home Affairs manages both civil status and identity nationwide; in 12 countries, the Ministry of Justice is assigned to manage these two areas nationwide; in some countries these tasks are handled by the same independent body; in quite a few countries, each agency is in charge of a specific area.¹⁶ The task of civil status statistics is given by the law of most countries to the national statistics office; only in some countries the ministry in charge of civil status registration such as the Ministry of the Interior or the Ministry of Justice is responsible for producing and disseminating vital statistics.¹⁷ It should be noted that the application of any of the above models depends heavily on the political - legal context of each country; and regardless of the model, the law should clearly define the responsibilities of each agency, especially the responsibility for coordination between agencies.

In Vietnam, in order to help the Government perform unified state management in the field of civil status registration, statistics and management of citizen identification in Vietnam, there are many agencies assigned with responsibilities and powers, including: The Ministry of Justice, The Ministry of Foreign Affairs, The Ministry of Public Security, The Ministry of Planning and Investment (The General Statistic Office), The Ministry of Health, People's Committees at various levels. The Ministry of Justice is mainly responsible for civil registration, vital statistics; The Ministry of Public Security is mostly responsible for identity management.

The Ministry of Justice is the agency assisting the Government in performing the state management of civil status and has the tasks and powers in formulating and perfecting the civil status law, providing general guidance and direction on the implementation of civil status laws, legislation on civil status registration and management, national civil status database management; inspecting and examining civil status registration and management in localities, international cooperation in the field of civil status, etc. (Article 66, Law on Civil Status 2014; Decision 101/QĐ-TTg approving Vietnam's national action plan on civil status registration and statistics for the period 2017-2024).¹⁸

¹⁶ Gelb A.& Metz A., Identification Revolution: Can digital identification serve development? Center for Global Development, Washington DC, 2018, page 110.

¹⁷ The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para. 43

¹⁸ See more details about the system of civil status registration and management agencies in Part III of this Report.

- **The Ministry of Foreign Affairs** shall coordinate with the Ministry of Justice in performing the state management of civil registration at Vietnamese representative missions abroad. Representative agencies perform the state management of Vietnamese citizens' civil status abroad, register civil status for Vietnamese citizens residing abroad in accordance with the provisions (Article 67, Law on Civil Status 2014).
- **The Ministry of Health** coordinates with the Ministry of Justice in registration of births and deaths, specifically the issuance of birth and death certificates, and determination of causes of death; birth and death statistics for health policy making.
- **The General Statistics Office** helps the Ministry of Planning and Investment coordinate with the Ministry of Justice in the field of civil status statistics such as sharing statistical data, promulgating national statistical indicators on civil status, etc. (Decree. No. 85/2017/ND-CP stipulating the structure, tasks and powers of the system of centralized statistical organization and statistics of ministries and ministerial-level agencies; Decree No. 94/2016/ND-CP on the content of national statistical indicators).
- **The Ministry of Public Security** is the agency assisting the Government in performing the state management of citizen identification, managing the national population database and citizen identification database; coordinating with the Ministry of Justice, the Ministry of Information and Communications and relevant ministries and branches to ensure the connection between the National Database on population and the electronic civil status database and specialized databases of other sectors; ensure the safety and security of information in the National Population Database, Electronic Civil Registry Database and other specialized databases (the provisions of the 2014 Law on Citizen Identification; Articles. 68, The 2014 Law on Civil Status).¹⁹
- **The People's Courts at all levels** shall notify in writing, together with an extract of the legally effective judgments related to the change of civil status of an individual, to the People's Committee of the locality where the civil status of the individual has been registered to record in the civil status book; in case the place of civil status registration is a representative agency, it shall notify the Ministry of Foreign Affairs for transfer to the representative agency for recording in the civil status book. - They are civil status events such as divorce, identification of parents and child/children, declaration of the deceased, missing, adopting children ((Article 30, Teh 2014 Law on civil status).

¹⁹ See more details about the system of citizen identification management under the Ministry of Public Security in Part III of this Report.

+ **The People's Committees at provincial, district and commune levels** exercise state management according to their respective localities. The Department of Justice assists the Provincial People's Committee, the Division of Justice assists the District People's Committee, the Justice-civil status officer assists the Commune People's Committee to perform the duties and powers of each level in the registration and management of civil status (Article 69,70.71, The 2014 Law on Civil Status).

Besides, in the field of civil status there is a distinction between the task of state management and the task of registration of vital events. Such management tasks as: making laws, organizing the implementation of laws, guiding, checking and inspecting civil status affairs, handling violations, etc. are mainly under the Ministry of Justice, the Provincial People's Committee; The task of registering vital events is assigned to the District and Commune People's Committees.

Basically, Vietnamese law clearly stipulates the responsibilities and powers of agencies related to CRVSID, including the duties and powers of formulating and promulgating regulations governing this field, providing implementation guidelines, ensuring uniform application and enforcement nationwide.

On the other hand, although there are general provisions, in some cases, the law has not clearly defined the specific responsibilities of agencies in the implementation of tasks and powers in certain fields, for example in data sharing; civil status statistics. This has led to inadequacies in practice as civil status statistics differ among the judicial, medical and statistical sectors.²⁰ In addition, the participation of the Ministry of Health, the statistics agency, the people's courts generally has not been clearly shown in important legal documents in this area such as the Law on Civil Status and related decrees and circulars. The legal framework has also not paid attention to clarifying the roles and responsibilities of some players such as emergency response agencies, funeral, burial and cremation establishments in the CRVS system.

1.3. Coordination mechanisms

a) General coordination mechanism

The coordination mechanism between central agencies in the CRVSID system in Vietnam is operated based on the provisions of many relevant legal documents,

²⁰ Presentations by representatives of the General Statistics Office, the Ministry of Health, some localities at the consultation workshop for the Report on the assessment of the legal framework on registration, household statistics and identity management in Vietnam, Hanoi, August 2021. See more: Nguyen Quoc Cuong, Tran Thi Hong Lien, Report on assessing the implementation of Vietnam's National Action Program on civil status registration and statistics, Hanoi, 2021.

reflected in coordination in performing regular functions, tasks and powers in management, registration, civil status statistics, and identity management. For example, coordination in assigning people to participate in activities of other agencies; share information on request; participate in joint activities such as drafting laws, drafting decrees and circulars; link, connect databases, etc.

In which, the Judiciary, Health, Statistics, and Public Security branches have all been setting up the industry's electronic database to manage the population's personal data. The Judicial sector has a national electronic database, the Public Security has a National Population Register database and Civil Identification Database, the health sector has a database of the General Department of Population, database developed by medical facilities, and the Statistics sector has its own Statistics database. The Ministry of Public Security is completing the collection of citizens' data to fully operate the National Population Register. This will be the "core" database for specialized databases to connect, exploit and use.

However, industries have not been able to share and connect these databases, leading to data that is difficult to complete, unified and inefficient, wasting resources.²¹ As of September 2021, there has only been connection and sharing of data related to the number of cases of children registered for birth and personal identification numbers between the electronic database of the Judiciary sector and the National Population Register managed by the Ministry of Public Security.

Meanwhile, in many countries, including developed countries like Estonia, or developing countries like Armenia, Ecuador, and Namibia, digital technology is applied to quickly and timely transfer information between agencies in the CRVSID system. In particular, typically information is transferred on birth and death from health facilities to civil status registration agencies and national statistics offices. A separate software is built and operated at medical facilities, connected to the civil status registration platform, or as part of the civil status registration platform. In Ecuador, for example, in 2019, 95% of healthcare facilities had the REVIT-Births platform installed; 25% operated the REVIT - Deaths platform; in Armenia, all 350 health facilities had Electronic Health (E – health) as part of the household registration platform.²² Thereby, information on

²¹ The Ministry of Justice, Report on 3 years of implementation of Vietnam's National Action Program on civil status registration and statistics for the period 2017-2024, Hanoi, September 2020; Nguyen Quoc Cuong, Tran Thi Hong Lien, Report on assessing the implementation of Vietnam's National Action Program on civil status registration and statistics, Hanoi, 2021.

²²The Center for International Development Studies (Canada), Synthesis of good practices in connecting CRVS with identity management , 2019, page 13, 29, 53.

birth and death is immediately transferred to the civil status registry by the medical facility, even before the individual submits an application for birth or death registration.

Since 2010, Estonia has abandoned all paper documents, all data is now transferred electronically and stored in the National Population Database, which is managed by the Ministry of the Interior. Government agencies, when performing tasks for citizens, businesses, and organizations, must rely on information from this database to verify their identity, they must not require printed documents, but instead, they allow online applications to be submitted. They get their information directly from the National Population Database (such as local civil status statistics officials), or through the X-Road intermediary platform. For example, when a citizen requests child support allowance, tuition reduction, or train ticket exemption, the relevant agency will check the information from the National Population Database to meet the citizen's request.

b) Coordinate via the National Steering Committee

Particularly in the field of CRVSID, the Prime Minister issued Decision 101/QD-TTg approving Vietnam's National Action Program on civil status registration and statistics for the period of 2017-2024 with the participation of many different state agencies. To ensure uniform coordination and direction, the Prime Minister issued Decision No. 786/QD-TTg to establish a National Steering Committee for the implementation of the CRVS Program; The Minister of Justice is the Head of the Committee, the members are representatives of the leaders: The Government Office, The Ministry of Public Security, The Ministry of Foreign Affairs, The Ministry of Labor - Invalids and Social Affairs, The Ministry of Planning and Investment, The Ministry of Finance. This is an important legal basis for the implementation of coordination among agencies in the field of CRVS.

However, in reality, most members of the CRVS Program's Steering Committee do not have enough time to pay much attention to directing the implementation of the CRVS Program in their respective industry, as well as participating in the activities of the Steering Committee. The coordination by a number of ministries and agencies is not really effective. Some agencies have not yet met the implementation progress plan, especially in reporting the results of the CRVS program implementation.²³

According to the UN, coordination within CRVS can take the form of an interagency committee, comprised of members being officials from agencies

²³ The Ministry of Justice, Report on 3 years of implementation of Vietnam's National Action Program on civil registration, vital statistics for the period 2017-2024, Hanoi, 9/2020.

involved in CRVSIID systems, who meet regularly to discuss issues with impact over their respective agencies.²⁴ Modes of coordination may be included in the law (e.g. empowering a single government agency to coordinate the activities of the CRVSIID parties concerned and requiring stakeholders to cooperate with the coordinating agency). Any coordination mechanism must be established on a long-term basis, have clearly defined members and terms of reference, and meet regularly.²⁵ An Interagency Coordination Committee under these conditions has been established, and has operated effectively, in the Philippines and in Chile.²⁶ In the Asia-Pacific region and partner countries, as of 2019, 38 countries have established CRVS coordination committees.²⁷ The main parties of the Commission include the agencies in charge of civil status; General Statistics Office; Ministry of Health. In most nations, the agency responsible for civil status is the focal point for coordination. In addition, some relevant agencies may be invited to participate which is different from country to country.

Box: An example of an interdisciplinary coordination mechanism

1) In the Philippines: An interdisciplinary Coordinating Committee on CRVS was established, with permanent representatives from the Ministry of Health, the Ministry of Education, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Home Affairs and local government, and the National Committee on Muslim Philippines, National Committee on Ethnic Minorities, Philippine Statistics Authority (PSA). PSA is the focal point, appointing personnel to act as the specialized secretariat for the Coordination Committee. Among the tasks of the Commission is the implementation of the *Decade of civil status registration and statistics of the Asia-Pacific region (2015-2024)*; Sustainable Development Goals related to CRVS.

2) In Chile: In 1982, the Ministry of Health, the Registry of Civil Status and Identity, and the National Statistical Office signed a legal agreement and established the Tripartite Committee on civil status statistics. The civil status registries and identifiers use the forms prescribed by the Uniform Commission, which contain the same types of medical, legal and statistical information in the same form for each civil status event. These types of information are collected at the time of the event (if it occurs at a hospital with a secondary civil status registration office), or at the time of civil status registration. The civil status and identity registration agency provides secure access to

²⁴The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. Paras 52, 319-322.

²⁵ United Nations, Handbook and Methods of Vital Statistics Systems, Volume 1: Legal, Organizational, and Technical Aspects, New York, 1991. Para. 270.

²⁶ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, para. 209.

²⁷ United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), Report on achievement of the goals of the Decade of civil status registration and statistics in the Asia-Pacific region (UNESCAP). 2015-2024), 2020.

its database to the Ministry of Health and the National Statistical Office for health and civil status statistics. All statistical information is made public and published by the National Statistical Office only. This model has proved effective in practice, enhancing interdisciplinary coordination and improving civil status statistics.

Compared with the UN recommendation, the coordination mechanism in civil registration and vital statistics through the above Steering Committee is also an interdisciplinary committee, with the participation of representatives from most relevant agencies, with the Ministry of Justice being the focal point, which is regulated by a Decision of the Prime Minister. However, this coordination mechanism is not strong enough, not mandated by law, and not a permanent coordination mechanism that meets regularly; instead, it only exists during the CRVS program implementation period.

1.4. Financial and other resources

An effective CRVSID system needs sufficient funding, personnel and equipment. The regulatory framework should include provisions that ensure sustainable financing through national or local budgets for CRVS and identification systems, as well as key stakeholders. In some countries, operational funding for the CRVSID system usually comes from two or three sources: first, the national budget and/or the local budget; secondly, revenue from fees collected from providing public services on civil status and identification; thirdly, revenue from performing services by contract, for example contracts to verify personal identity for company or organization. In which, the first two sources of income are more popular; and revenue from the state budget accounts for the largest proportion.²⁸

In the source from the state budget, in the countries following the centralized management model, the CRVSID system operates mainly thanks to the national budget allocated nationwide through the ministries overseeing this field, for example the Ministry of Home Affairs or Justice. The local budget can allocate some funds for the civil status registration system, but not much. State budget for civil status registration and management for each management unit, for example for a commune, or a district, or for a civil status registration office depends on the number of employees; amount of work; infrastructure; equipment; in addition, activities related to civil registration, vital statistics of other agencies such as the Ministry of Foreign Affairs, Courts, and statistics are also allocated funds from the national budget.

²⁸ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, paras. 211-212.

Regardless of the model, it is especially important that the funding for the CRVSID system is sufficient to operate effectively and efficiently. At the same time, the UN recommends applying the best practice that the law should allow CRVSID agencies to retain revenue from fees to reinvest back into the operating system.

In Vietnam, although the Ministry of Justice is the unified state management agency on civil status nationwide following a centralized model in many countries, the budget for civil status management and registration at local levels is not allocated through the Ministry of Justice, but mainly through the budget allocated to localities. Meanwhile, with the current state budget decentralization mechanism, civil status work at the commune and district level depends heavily on the budget resources allocated under the authority of the Provincial People's Committee to implement the conversion of paper books to digitalization, equipping facilities, training civil servants, maintaining, repairing, upgrading the system, etc. Moreover, this budget has not been allocated separately, but is allocated in the operating budget of agencies and units that has been decided since the beginning of the year, leading to limited funding for civil status work, not being properly invested. According to the report of the Ministry of Justice, facilities and working facilities of some commune-level People's Committees, especially in remote and mountainous areas, areas with extremely difficult economic conditions, highland and border areas are still sparse, insufficient, not yet meeting the job requirements.

Regarding the resources devoted to the application of information technology in civil status registration and management, in implementing the general policy on e-government, the Ministry of Justice developed and approved the Project "National electronic civil status database" in 2015. In addition to the achieved results, the implementation of the Project has encountered difficulties, because the central budget is expected to allocate 173.8 billion, the local budget will allocate 1,118 billion, but the funds were slow to be put into the medium-term public investment plan, so there is a lack of funding.²⁹ It is also difficult to update paper-based data into the civil registration software due to a lack of funding.

According to current law, the revenues from civil status fees and fees related to citizen identification must be paid 100% to the state budget; and for fees

²⁹ The Ministry of Justice, Report on 3 years of implementation of Vietnam's National Action Program on civil status registration and statistics for the period 2017-2024, 9/2020.

collected from civil status and identification work, the fee-collecting agency may keep a part of it to spend on civil status work and identity management.³⁰

1.5. Use of Technology

The legal framework of Vietnam has quite sufficient regulations on the use of information technology in the operations of state agencies in general, as well as in the CRVSID field in particular.³¹ In addition, there are still a number of contents that need to be revised and supplemented compared to the United Nations recommendations, such as: online registration through the Internet; using electronic signatures during the registration process and for producing citizen identification cards.

Online registration: The Ministry of Justice has applied online civil registration on the Internet, but has not been providing the service directly. Under the provisions of Decree No. 87/2020 / ND-CP, citizens can submit civil registration papers and documents through the National Public Service Portal or the Public Service Portal of a province / city directly under the Central Government. It is worth mentioning that these systems are using many different platforms and softwares, and there are inadequacies and obstacles in terms of linking and synchronizing with each other.

A registrant can choose to receive results of civil registration by one of the following four methods: receiving electronic copies of civil status papers via email; receive electronic copies sent to digital equipment; receive civil status papers by post; receive civil status papers directly at the civil registration agency. In particular, the electronic forms of civil status papers are as valuable as (paper) civil status papers; agencies and organizations must accept, use and not require individuals to submit or present civil status papers for comparison.

On the other hand, Decree No.87/2020/ND-CP regulates that for quite a few civil status matters, the applicant must be present at the civil registration office to sign in the civil status book and directly receive the civil status papers

³⁰ See the specific terms in the following LNDs: Circular No. 281/2016 / TT-BTC Regulating the rates, collection, payment, management and use of fees for the exploitation and use of information in the civil status database, the fee for confirmation of Vietnamese nationality, fee for the certification of Vietnamese origin, nationality fee; Circular No. 59/2019 / TT-BTC regulates the rate, system of collection, payment and management of fees for granting citizen identification.

³¹ Some important legal documents on this topic include: The 2006 Law on Electronic Transactions; The 2014 Law on Civil Status, The 2014 Law on Citizen Identification; Decree 47/2020 / ND-CP on the Management, connection and sharing of electronic data of state agencies; Decree No. 87/2020 / ND-CP on electronic database and electronic civil status registration.

including: birth certificate; marriage registration certificate; guardianship; recognizing parenthood, adoption; changing, correcting civil status, supplementing civil status information, redefining ethnicity, death declaration. For many other civil status affairs, the applicant is not required to sign the civil status book, but must submit and present the papers and documents of the civil registration dossier before receiving the registration results according to one of the four methods above.

Use of electronic signature: This is one of the important issues in the application of information technology to state agencies' activities, including civil status and identity management. The 2005 Law on Electronic Transactions provides for electronic transactions using electronic signatures within state agencies, in transactions between state agencies, and between state agencies and organizations and individuals. In addition, Decree No. 45/2020/ND-CP on the implementation of administrative procedures in the electronic environment clearly states that the implementation of administrative procedures in the electronic environment has the same legal value as other forms of administrative procedures as regulated by law; the verification of digital signatures shall comply with the provisions of the Law on Electronic Transactions.

However, Article 1 of the Law on Electronic Transactions clearly stipulates that the Law (including regulations on electronic signatures) does not apply to the issuance of the following civil status papers: marriage registration; divorce decision; birth application; death registration. Moreover, as mentioned above, Decree 87/2020 / ND-CP stipulates more civil status matters that require the applicant's direct signature to receive results, i.e. electronic signatures are not accepted. Due to the regulation that the requester must be present at the civil status registration office, there are online civil status registration procedures that cannot be implemented at level 4 as prescribed by law.

Thus, compared with global practices, online civil status registration regulations in Vietnam have many similarities in terms of processes, procedures, registration scope, authority of agencies, validity of online registration documents etc. Meanwhile, in many countries, civil status registration agencies do not perform this service directly, but through the general National Public Service Portal. For example, in New Zealand, parents submit a birth registration application through the National Public Service Portal, then the National Registrar sends the birth certificate to the registered person.³² Or in the Philippines, in addition to registering directly at the registration office, an individual can submit an

³² For example, birth registration in New Zealand is done here: <https://smartstart.services.govt.nz/register-my-baby>

application for a civil status document to one of two online service portals, one of which is operated by the National Department of Statistics (in charge of civil status registration,) the other portal operated by another organization;³³ then the National Statistics Office (in charge of civil status registration) will send the documents to the registered person by post.

On the other hand, compared with other countries, Vietnam's law on online civil status registration has some differences. In particular, "the law of many countries only requires being physically present to sign when carrying out marriage, divorce, and adoption," the rest allows online registration, using electronic signatures. In many countries such as Peru, Uruguay, Botswana, Estonia, Netherlands, Korea, Armenia, Kirgystan, India, Bangladesh, and the Philippines, individuals only need to follow the steps to register birth and death online without having to sign and it is still considered complete and they shall receive an electronic or printed birth or death certificate³⁴ (see more in the box below). Signing in to the online platform to perform civil status registration is not considered an act of signing with an electronic signature. According to best practice, the law should provide for electronic signatures for civil status registration as in New Zealand,³⁵ Ecuador,³⁶ Taiwan, and many states in the US, such as Virginia. For example, Article 28 of Taiwan's Household Registration Law (issued in 1931, revised several times) stipulates that civil status registration applications must be signed by the applicant; for online registration via the Internet, the application must have an electronic signature.

Whether directly operating the online civil status registration, or through other public service portals, in many countries it is important to ensure the synchronization between the technology platforms of the different agencies and the integration and connections among agencies. For example, in Korea in the early 2000s, a data-sharing system was established between the Supreme Court (in charge of civil status registration nationwide) and the Ministry of Home Affairs and Safety (in charge of population registration) and the National

³³ Addresses of 2 online civil status registration websites in the Philippines: <https://psahelpline.ph/>;

³⁴ Further details are available here: Sa njay Dharwadker & Samuel Mills, Options for issuing electronic birth registration certificates, World Bank, 2019, pages. 3-6; Center for the Development of CRVS Systems (Canada), Summary of Good Practices in Connecting CRVS with Identity Management, 2019, page 49.

³⁵ Community of Pacific States, Guidelines and examples of the best practices in the law on civil status registration and statistics in the Pacific region, December 2019, page 44.

³⁶The Center for CRVS Systems Development (Canada), Synthesis of good practices in connecting CRVS with identity management , 2019, page 49.

Statistics Office (in charge of civil status statistics). Along with the advancement in technology, this system is becoming more and more perfect, smooth and seamless in Korea.³⁷ The examples of Botswana, Peru, Uruguay, and Estonia similarly show the connection between civil status, health, and identity agencies. In countries where civil status registration is done through local public service portals, data sharing with national authorities is ensured. For example, in the United States, each state's public service portals perform civil status registration services for citizens in the state, then periodically transfer registration information to the National Center for Health Statistics, which is the agency in charge of civil status statistics at the national level within the United States.

Box: Online civil status registration in some countries³⁸

Botswana: In 2011 Botswana implemented the Online In-Hospital Birth and Death Registration Strategy, to take advantage of the central role of the healthcare system. For a long time in Botswana, civil status registration officials have been assigned to work regularly at major hospitals. Medical staff present at the time of birth or death are responsible for filling out birth and death notification forms; the civil status officer then fills in the information on the birth and death certificates online. The family member has the right to double-check the information that has been filled out. A birth certificate with a Unique Identification Number (UIN) attached is obtained from the central database, printed and issued to the mother before her discharge from the hospital. In small hospitals that do not have on-site civil status officers, medical staff fill out birth and death notifications and forward them to the civil status office in the same area. There, the information is entered into the central database, the UIN is issued to the child and filled in the birth certificate; or the UIN is terminated in the central database if it is a death registration. Thanks to online registration, parents and family members can go to any civil status registration office to receive a hard copy if needed.

Uruguay: Each child born in Uruguay is assigned a UIN from a central database within a few hours of birth. Thanks to internet connection, the medical staff directly transfer the electronic birth certificate to the National Bureau of Civil Records where the UIN is issued with the personal identification card and then it is transferred back to the hospital; The UIN number is also transferred to the civil status registration's office to be included in the birth certificate. Thus, children born in Uruguay receive a UIN number, identification card, and birth certificate before leaving the hospital in both urban and rural areas.

Peru: In Peru, public and private hospitals that are connected via the internet with civil status registration offices will forward birth notifications directly to the same regional civil status registration office. There the office issues a birth certificate with a UIN number to the parents.

2. Recommendations on some general issues for CRVSID system

2.1. Modify and supplement some basic concepts

³⁷ Center for the Development of CRVS Systems (Canada), Summary of the Korean civil status system, 2020.

³⁸Source: Sa njay Dharwadker & Samuel Mills, Options for issuing electronic birth registration certificates, World Bank, 2019, pages. 3-5;

As the above analysis and comparison shows, Vietnam's civil status law "still has some areas to improve regarding key concepts compared to UN's recommendations" such as live birth, death, and fetal death. These foundational vital events need to be defined in the Law on Civil Status, which is the "original law" in this area; other LNDs only need to refer to the definitions contained in the Law on Civil Status when necessary, thus creating a consistent understanding in all other LNDs. In addition, the reference to UN concepts for application in Viet Nam's civil status law will enhance consistency with international practices and support the implementation of Viet Nam's international reporting obligations.

Among the above concepts, bear in mind that if stillbirths are reported through the civil registration system, they should be registered in a separate registry; they should not be included in either the birth or death registries. As experience in other countries has shown, stillbirths should be registered separate from other deaths; they should not be contained in the birth or death registries. Instead, a stand alone fetal death register should be created, if a country chooses to track late term fetal deaths, or stillbirths, through the civil registration system. Tracking late term fetal deaths is critical for improving fetal and maternal health, and in general, for undersatnding how best to prevent future stillbirths.³⁹

However, there is another way that stillbirths can be tracked, which is also considered best practice and that is through the health sector. Stillbirths, or late term fetal deaths are the one vital event that need not be tracked by the civil registration system.

While waiting for the Law on Civil Status to be amended and supplemented, at least the concept of fetal death should be more clearly defined in accordance with the UN recommendations in a circular of the Ministry of Health. (See more details on fetal death in the Section on registration of death and the Section on medical certification of causes of death.)

2.2. Define responsibility in a more comprehensive way

As analyzed above, the legal framework of Vietnam, although quite complete and comprehensive in terms of responsibilities and powers of relevant agencies, can be supplemented or more clearly shown in the Law on Civil Status or a relevant decree on the responsibilities of the following agencies:

³⁹ See more details about fetal death registration in Texas, USA in the following guide:<https://www.dshs.texas.gov/vs/field/docs/Handbook-on-Fetal-Death-Registration.pdf>; The United Nations, Principles and Recommendations for Vital Statistics Systems, Revision 3, New York, 2014. para.

- Responsibilities of all relevant agencies for coordination, especially information sharing with other agencies for state management and meeting the rights and interests of citizens; timely sharing among databases according to regulations.
- Responsibilities of the Ministry of Health related to birth and death, both inside and outside of medical examination and treatment establishments. Specifically, the responsibility to issue birth and death notifications; causes of death; birth and death statistics (see more specifically in the section on birth and death registration; determine causes of death; vital statistics).
- Responsibilities of the General Statistics Office related to vital statistics (see more details in the section on vital statistics).
- Responsibilities of other agencies within the scope of their respective duties and powers such as the People's Courts; medicolegal authorities; emergency response agencies; funeral and burial service providers.

2.3. Improving coordination mechanism

To enhance the effectiveness of the current coordination mechanism in the field of civil status registration and management, the following solutions can be considered:

- In the medium term (the next 3-5 years) the current interdisciplinary coordination mechanism for CRVS implementation can be upgraded to a more permanent, longer-term mechanism specified in the Law on Civil Status to enhance its status, ensure stability; can be a Steering Committee or a Coordination Committee.
- The head of the CRVS Coordination/Steering Committee should be a Deputy Prime Minister to uphold the status, the Minister of Justice is the Standing Deputy Chairman of the Steering Committee with direct responsibility for regular coordination. The members of the Steering Committee and the assisting office need to be fully represented by relevant agencies.
- The relevant agencies agreed to develop and promulgate the operating regulations of the current Steering Committee and the Secretariat to determine the specific content of coordination (in law formulation; law implementation; sharing and connection of databases and information; unifying standards related to many industries, such as the Chilean practice); coordination processes and procedures; timelines (if necessary,

eg. meeting once a quarter); specific responsibilities of agencies, units and individuals.

- It is possible to study the UN recommendation to establish a coordination mechanism for specific issues within the framework of the above overall coordination mechanism.⁴⁰ For example, a working group on death registration with the goal of improving death rates; mortality groups can play an important role in improving the completeness and quality of mortality data (implementation of the Medical Certification of Causes of Death, the application of verbal autopsy, medical certification on cause-of-death training, etc.). Similarly, a working group on vital statistics can help ensure that statistical data is shared among interested parties, establish statistical standards, etc.
- Based on the legal framework and guidance of central agencies, the agencies of the local CRVSID system should also establish regular interdisciplinary coordination mechanisms. In which, attention should be paid to such things as: it's necessary to have a regulation so as to actively coordinate and agree on citizen data, avoid requiring citizens to do more unnecessary administrative procedures; build a mechanism for coordination, sharing, provision and use of relevant information among sectors; clearly define the responsibilities of the People's Committees in monitoring and supervising the coordination between sectors in the locality.
- Studying the experiences of countries that have effectively applied information technology and digital technology into operation and coordination in the CRVSID system, such as improving the current connection between databases of industries by personal identification numbers; connecting and sharing information quickly between health facilities with civil status registration agencies and statistical offices such as in Botswana, Uruguay, Peru, Armenia, Ecuador, and Estonia. In particular, the National Document Interoperability Axis, which was just approved in September 2021, is expected to provide a total solution that integrates and connects text data from document management, as well as the operating systems of different ministries, sectors and localities. The goal is to build and develop a platform for integrating and sharing national data, including the CRVSID databases.

2.4. Budgeting, the collection and use of charges

⁴⁰ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, para. 208.

As mentioned, the actual use of state budget and funding in the CRVS sector shows some shortcomings in the law and the implementation of the law on the state budget, budget management and use, public investment, etc. That issue is outside the scope of this report, so in this report only recommendations for relevant content are made, that is, the collection, use and management of fees and charges from civil status and identity services.

Under the current legal framework, 100% of revenues from civil status fees and citizen identification-related fees must be contributed to the state budget; only for revenues from charges related to civil status and identification, the collection agency is allowed to retain a portion of the money to spend on civil status and identity management.⁴¹ Meanwhile, according to the experience recommended by the UN, all revenues from public services on civil status and identity are retained to re-invest in the operation of the civil registration and identity management system. Vietnam can study this practice to consider its application, thereby adding a source of funding to compensate for the current shortage of financial resources for civil status work, especially at the commune and district levels. However, this also depends on the amendment of regulations on fees and charges such as laws and decrees.

2.5. Online registration and the use of electronic signatures

Online registration and the use of electronic signatures are quite popular trends in public service provision in many countries, including registration of civil status and identity. Compared with this trend, in the field of civil status, citizenship identification, as previously presented, individuals can register for civil status online.

However, the LNDs in this field do not have any regulations on the use of electronic signatures in civil registration or the issuance of citizenship identification cards. With the increasingly developed infrastructure and technology, if it cannot be applied to all services, it is possible to study the application of electronic signatures to some civil status events and the issuance of citizen identification cards. It is necessary to amend Article 1, The Law on Electronic Transactions, and relevant provisions of Decree 87/2020/ND-CP to allow the use of electronic signatures for online birth and death registration; at

⁴¹ See the specific terms in the following LNDs: Circular No. 281/2016 / TT-BTC Regulating the rates, collection, payment, management and use of fees for the exploitation and use of information in the civil status database, the fee for confirmation of Vietnamese nationality, fee for the certification of Vietnamese origin, nationality fee; Circular No. 59/2019 / TT-BTC regulates the rate, system of collection, payment and management of fees for granting citizen identification.

the same time, it is possible to study and apply the experience of many countries to make a synchronous amendment, whereby, just carrying out the online procedure is eligible to complete the registration of birth and death without physically going to the civil status registration office.

III. APPARATUS OF CIVIL REGISTRATION AND MANAGEMENT, IDENTITY MANAGEMENT AGENCIES

1. Existing legislation against international best practices

This section will compare and contrast with international practices, thereby proposing some recommendations to improve the management system, civil status registration and identity management in Vietnam.

1.1. Apparatus of civil registration and management agencies

a) Vietnamese law provisions

- **Structure:** As mentioned in Part I, the current system of civil status management agencies in the country consists of the Ministry of Justice and the People's Committees of provinces, districts and communes. The Civil Status, Citizenship and Notarization Department under the Ministry of Justice assists the Minister of Justice in the state management of civil status. The Department of Justice, a specialized agency of the provincial People's Committee, advises and assists the provincial People's Committee in the state management of civil status in the locality.

Civil status registration agencies in the country are the commune-level People's Committee and the district-level People's Committee associated with each district-level and commune-level administrative unit. The Division of Justice, judicial-civil status civil servants assist People's Committees at district and commune levels in implementing state management and civil registration in the area.

In addition, the 2014 Civil Status Law, Joint Circular No. 02/2016/BTP-BNG specifically regulates civil status management and registration at Vietnamese representative missions abroad.

- **Duties and powers:** Vietnamese law on civil status makes a distinction between the task of state administration and the task of registering vital events. Such management tasks as: making laws, organizing the implementation of laws, guiding, checking and inspecting civil status affairs, handling violations, etc. are mainly under the Ministry of Justice and the Provincial People's Committee;

At the same time, the 2014 Law on Civil Status provides the authority for civil registration of the People's Committees at the commune and district levels, and with the Vietnamese representative missions in foreign countries. The authority to register civil status affairs with foreign elements was transferred to the District People's Committee (which is under the authority of the provincial People's Committee), making a big change with the past in the apparatus of civil status registration agencies. This regulation aims to decentralize civil

registration one step further, towards the subnational governments, and create conditions for the provincial People's Committees to manage the state of civil status.

- Civil status civil servants:

Under The 2014 Law on Civil Status, officers working in civil status include commune-level judicial - civil status civil servants; civil servants working in civil status in the Division of Justice under the District People's Committee; diplomatic and consular officers working on civil status at the representative missions. The law sets out professional requirements, specifically: judicial - civil status civil servants at commune level must have an intermediate, or higher, degree in law, civil servants working in civil status at the Justice Department must have bachelor qualifications in law or higher. All must go through extra training in civil status profession. Diplomatic and consular officers working on civil status at representative missions go through extra training in civil status profession. The Law on Government assignment provides for the arrangement of civil status-judicial civil servants to perform full-time civil status work at the commune level based on actual conditions in terms of area, population, judicial-civil status work volume in the locality.

Processes, procedures, conditions for recruiting, using, appointing, evaluating, training, retraining, discipline etc... are implemented in accordance with the law on cadres, civil servants and public employees in general; at the same time applying specific contents of the judiciary, as well as specialized contents on civil status. In addition, the Law on Civil Status stipulates the duties of civil status-justice civil servants to perform proactively and responsibly; negative acts that civil status officials are not allowed to do. The process and procedures for complaints and lawsuits about administrative decisions and administrative acts in the field of civil status follow the general processes and procedures.

b) Similarities with international practices

- Structure: Similar to the countries under the centralized system where there is a central ministry in charge of civil status, the Ministry of Justice of Vietnam is the central agency with the function of state management of civil status nationwide; The Minister of Justice is a member of the Government cabinet, a politician. In the Ministry of Justice, there is The Civil Status, Citizenship and Notarization Department with legal status, functions and nature of administrative jobs similar to those of the National Register of civil status (National Register) in other countries; and the General Director of the Civil Status, Citizenship and Notarization Department is similar to the head of that agency (General Registrar). According to the law, Vietnam has an intermediary

civil status agency (Provincial People's Committee, Department of Justice); civil registration at the grassroots level (at district and commune levels). Also according to international practices, the law on civil status of Vietnam not only regulates relations on civil status in the country, but also regulates relations on civil status of Vietnamese citizens living or occurring abroad.

- **Functions, duties and powers of central agencies:** The Vietnamese legal framework provides full and quite detailed regulations on the functions, tasks and powers of the Ministry of Justice, the Minister of Justice, and The Civil Status, Citizenship and Notarization Department. Those regulations are largely similar to those in countries with centralized management systems in terms of the functions, duties and powers of the aforementioned entities.⁴² In particular, that includes ensuring uniform regulations and uniform law implementation across the country.

- **Functions, duties and powers of civil status registration agencies:** The provisions of Vietnamese law on the tasks and powers of civil status registration agencies at district and commune levels are basically similar to those recommended by the UN. Such as: record information about civil status events according to the process; ensure the accuracy and completeness of each record; keep records; issue notarized copies of civil status records as required; provide public education on civil status registration, etc.⁴³

- **Civil status civil servants:** Similar to other countries, the law of Vietnam provides for the contents related to human resources in charge of civil registration such as legal status, professional conditions, recruitment process, use, assessment, appointment, discipline, settlement of complaints against administrative decisions of civil status civil servants, etc.

- **People's accessibility:** Vietnamese law has provided quite detailed regulations on the responsibilities of the communal civil registration agency and civil status judicial officers in actively organizing itinerant registration for a number of

⁴² See also international practices on regulating the responsibilities and powers of civil status authorities at the national level in this document: UN, Guidelines for the Development of a Legal Framework for a Civil Status Registration, Statistics and Identity Management System, New York, 2019, paras 168-170, 177, 236-238, 244, 245; United Nations, Principles and recommendations for civil status statistics systems, 3rd ed., New York, 2014, para. 311.

⁴³ See also international practices on regulating the responsibilities and powers of civil status registration agencies at the national level in this document: UN, Guidelines for the Development of a Legal Framework for a Civil Status Registration, Statistics and Identity Management System, New York, 2019, para 246; United Nations, Principles and recommendations for civil status statistics systems, 3rd ed., New York, 2014, paras. 328-334.

groups of people, thereby creating favorable conditions for people to access public services on civil registration .

In order to increase access to civil registration services in populous and areas with heavy workload, Decree 123/2015 / ND-CP has regulated, based on the number of communal cadres and civil servants according to government regulations, provincial-level People's Committees give priority to appointing judicial - civil status civil servants to work full-time in civil status in densely populated grade 1 and 2 commune-level administrative units with heavy civil status workload.

c) Some differences of Vietnamese law

Compared with international practice, regulations on organizational structure and relationship between civil registration and management agencies in Vietnam have some differences.

First, according to the law, the Ministry of Justice has only the authority to direct, inspect, check and provide *professional* guidance for the Department of Justice, the Division of Justice, judicial-civil status civil servants. The Provincial and District People's Committees have the authority to direct and manage the organization, employment positions, civil servant payrolls, and civil servant rank structure for the Division of Justice and the Department of Justice.⁴⁴ Communal People's Committees have similar authority over judicial-civil status civil servants at the commune level.⁴⁵ Meanwhile, civil servants under the Division of Justice at district level, judicial-civil status civil servants at the commune level are those who directly carry out civil registration .

Recently, in many localities, there have been many inadequacies in the arrangement of civil servants to undertake civil status work. For example, the allocation of payroll for civil status work has not met the requirements,

⁴⁴ Decree No. 96/2017 / ND-CP; Decree No. 24/2014 / ND-CP on the organization of specialized agencies under the provincial People's Committee and Decree No. 107/2020 / ND-CP amending and supplementing a number of articles of Decree No. 24/2014 / ND-CP; Decree No. 37/2014 / ND-CP on the organization of specialized agencies under the district People's Committee and Decree No. 108/2020 / ND-CP amending and supplementing a number of articles of Decree No. 37/2014 / ND-CP; Decree No. 07/2020 / ND-CP Guiding the functions, tasks and powers of the Department of Justice under the Provincial People's Committee and the Division of Justice under the district People's Committee.

⁴⁵ Decree No. 112/2011 / ND-CP on civil servants of communes, wards and towns; 34/2019 / ND-CP Amending and supplementing a number of regulations on cadres and civil servants at communal level and part-time workers at commune, village and neighborhood group levels; Circular No. 13/2019 / TT-BNV guiding the functions, specific standards, tasks and recruitment of civil servants at commune, ward and town levels.

especially in densely populated communes / wards with many civil status affairs; judicial - civil status civil servants also have to concurrently do more jobs assigned by the leadership of the People's Committee; civil servants with other specialized training (economics, agriculture...) are arranged to work in civil status; those recruited for the position of judicial - civil status civil servants but assigned to work as a commune military officers or commune police officers or tasked with another part-time job.⁴⁶ Or when it is discovered that a civil servant has committed a mistake, does not meet professional standards, the umbrella judiciary authority cannot actively handle it, but only requests the People's Committee to handle it according to its competence, but the People's Committee does not strictly handle the case according to regulations.⁴⁷ Part of the reason for this situation is because the aforementioned regulations assign great power to local authorities in state management of organization, employment position, payroll of civil servants, and structure of the rank of civil servants; while state management agencies at higher levels lack a legal mechanism to intervene.

According to the recommendation of the United Nations, the head of the national civil registration system (commonly called the Registrar General) should have the power to cover the activities of the sector, including: recruitment, supervision, human resource training; changing location of the office; management of material resources; supervision and checking of the local registration offices.⁴⁸ The laws of such countries as New Zealand, Singapore, and Malaysia grant the concerned Director General or the Minister with such authority (*see further details in the Appendix II*). In particular, the Director General should have direct rights over the local civil servants in charge of civil registration, especially the power to recruit, appoint and replace civil servants. It is noteworthy that the status, functions, duties and powers of the national civil registration agency, the General Registrar - the head of that body are often specified in parliamentary statutes, or at least in sub-law documents that are equivalent to a decree of the Government of Vietnam. This is to clearly confirm the position of this subject towards civil status work. In Vietnam, the legal position, functions, duties, powers, organizational structure of The Civil Status,

⁴⁶ The Ministry of Justice, Report on 3 years of implementation of Vietnam's National Action Program on CRVS for the period 2017-2024, Hanoi, 9/2020.

⁴⁷ Nham Ngoc Hien, Challenges and difficulties for the judiciary sector in implementing the National Action Program on civil registration and vital statistics, Journal of Democracy and Law, No. 10/2017, page 7 .

⁴⁸ UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, para. 244.

Citizenship and Notarization Department are specified in the Minister of Justice's Decision, i.e. legal documents within the Ministry of Justice, not legal normative documents.

Secondly, in terms of location and accessibility, according to Vietnamese law, civil status registration agencies in the country are permanently arranged by administrative units at district and commune levels. The Ministry of Justice has no authority to adjust the number, geographical location, and administrative scope of these agencies according to the number of population, topographical characteristics, travel conditions, etc., under the laws of Vietnam there are no regulations for the arrangement of secondary offices or civil servants in locations with a high demand for civil registration , for example in large hospitals in populous cities.

Meanwhile, in many countries, civil registration offices are flexibly arranged according to geographical areas, depending on actual conditions. For example, the German Civil Status Law in Article 67 stipulates that each state has a civil registration center. Each state is divided into zones and districts, each zone, district can establish 01 to 04 civil status registration offices operating independently of the local government. The Ministry of the Interior is the agency that oversees the civil registration offices.

On the basis of synthesizing international practices, the United Nations recommends that the location and number of civil status offices must be suitable to the geographical conditions, population and travel needs to serve people in the country in the most convenient way.⁴⁹ For example, in densely populated areas, whether urban or rural, more offices are needed to bring services closer to residents, or extend working hours. In locations with a high demand for civil registration, such as large hospitals in big cities, it is necessary to have a secondary registration office or appoint civil status civil servants to serve inside the hospital to assist with registering births and deaths occurring within that hospital. Language is also an issue to consider if people in some regions use a language other than that in the civil status forms.

Thirdly, according to Vietnamese law, at the commune level, there are judicial - civil status civil servants, who are not specialized professional civil servants as in international practices. In addition to assisting the commune-level People's Committee in the management and registration of civil status, judicial-civil status civil servants have to undertake 12-16 other job items (meeting with

⁴⁹UN, Guidelines for the Development of a Legal Framework for Civil Status Registration, Statistics and Identity Management Systems, New York, 2019, paras 171-173, 239; United Nations, Principles and recommendations for civil status statistics systems, 3rd ed., New York, 2014, para. 329, 347, 348.

citizens, settling complaints and denunciations, overseeing administrative procedures, reviewing documents, propagating the law, mediation...⁵⁰ Due to the very different characteristics of the profession, the parallel responsibilities of these tasks can overload civil servants, greatly affecting the quality of civil registration work at the commune level. However, if assigning 01 full-time civil servant to work on civil status for 01 communal administrative unit, then in many places it will be a waste of manpower because of the light workload.⁵¹ In addition, this contingent of civil servants is often fluctuated, or changed according to the term of the People's Council and the People's Committee, so the arrangement of qualified people to replace, the civil status profession training and retraining is difficult. This reduces the efficiency of state management in the field of civil status, and can lead to mistakes in civil registration.

Fourthly, in Vietnam, according to The 2014 Law on Civil Status, except in some cases, vital events involving foreign elements are registered at the district People's Committee; while the communal People's Committee registers civil status for Vietnamese citizens in the country. The transfer of the authority to register civil status with foreign elements to the district-level People's Committee has been a big step forward of the Law on Civil Status. However, according to international practice, registration of civil status doesn't make a distinction between domestic and foreign nationality, even when a country has decentralized registration of civil status. Because countries think that such regulations can lead to unequal discrimination between citizens of the host country and foreigners, when domestic citizens are registered at the nearest grassroots level, which is more convenient, this is compared with foreigners who have to go to the further district level, there are fewer registration agencies. For example, in Korea, both the ward and district governments have the authority to register civil status. Korean citizens as well as foreigners can come for civil registration at any civil status agency at any level. These agencies are connected to the network of online data systems, so it is very easy to look up information related to a person.

⁵⁰ Ministry of Justice, Report on 3 years of implementation of the Vietnam National Program on CRVS for the period 2017-2024, Hanoi, 9/2020; TS. Nguyen Cong Khanh, The Law on Civil Status after more than 3 years of coming into life, Journal of Democracy and Law, No. 8, 2019, page 6; Nham Ngoc Hien, Challenges and difficulties for the judiciary sector in implementing the National Action Program on civil registration and vital statistics, Journal of Democracy and Law, No. 10/2017, page 7 .

⁵¹ Nham Ngoc Hien, Challenges and difficulties for the judiciary sector in implementing the National Action Program on civil registration and vital statistics, Journal of Democracy and Law, No. 10/2017, page 6.

1.2. Apparatus of identity management agencies

Vietnamese law uses the concept of “citizen identification management.” This concept is similar to "identity management" in UN documents, whereby identity management is the provision of forms by the competent state agency to prove an individual's identity (personal identification card/citizen identity card, personal identification number, driver registration, passport, household registration book, etc...), as well as the maintenance and operation of an information and document management system related to personal legal identification.⁵² In the framework of the report, these two concepts are used with equivalent meanings for the purpose of comparing and contrasting.

a) Vietnamese law provisions

- **Structure:** As mentioned in Part I, the current system of citizen identification management agencies in Vietnam at the central level includes the Ministry of Public Security, the Police Department for the Administration of Social Order under the Ministry of Public Security. At the local level, different from the civil status field, the system of citizen identification management agencies at various levels is organized vertically, independent of the local government.

Responsibilities and powers: Under Article 34, the Law on Citizen Identity, The Ministry of Public Security is responsible before the government for the implementation of the state management of citizen identification, National Population Register, and the citizen identification database. Article 35 of this law specifies the contents of the above-mentioned responsibilities related to law-making in the domain of citizen identification; database management; production and management of citizen identification cards; professional guidelines; state statistics; the examination, inspection and handling of violations; and international cooperation.

Citizen identification management agencies are responsible for collecting, updating and correcting information about citizens; public posting and guiding relevant administrative procedures; ensuring safety and confidentiality of information; providing information, documents about citizens when required according to regulations, etc.

The citizen identification management agency: the Ministry of Public Security, the Public Security of the province/city directly under the central government, the Public Security of the district/town/town/city under the provincial level are responsible for the management of citizen identification; National database on population; building and managing the citizen identification database; issue,

⁵² UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, paras. 80.

change and re-issue citizen identification cards. Commune-level police are tasked with assisting police at other levels in carrying out procedures for granting, changing and re-granting citizen identification cards in some cases; collecting and updating information into the National Population Register, and overseeing the citizen identification database.

- Identity management personnel: Those in charge of citizen identification, the National Population Register, and the citizen identification database (collectively referred to as “identity personnel”) include: Manager; the person assigned the task of collecting, updating and storing information and documents; people who carry out the procedures for granting, exchanging and re-issuing citizen identification cards.

The law does not provide specific professional requirements for persons in charge of identity management as for civil servants working on civil status affairs. Processes, procedures, conditions for recruiting, using, appointing, evaluating, training, retraining, discipline etc. are implemented in accordance with the law on officers and soldiers of the People's Public Security force in general. Besides, the law states that negative acts that are not allowed. The processes and procedures for complaints and lawsuits about administrative decisions and administrative acts in the field of citizen identification follow the general processes and procedures.

b) Similarities with international practices

- Organizational Structure: Similar to countries with a centralized system, a central agency such as the Ministry of Home Affairs, the Ministry of Justice, or the police is assigned to manage national identity, in Vietnam, the Ministry of Public Security has the function of state management of citizen identification (identity) nationwide; citizen identification management agencies of provincial police, district police and commune police. The Ministry of Public Security at the central level has quite a lot of authority over local citizen identification management agencies.

- Functions, duties and powers of central agencies: The Vietnamese legal framework provides full and quite detailed regulations on the functions, tasks and powers of the Ministry of Public Security, the Police Department for the Administration of Social Order. These provisions are largely similar to those in countries under the centralized management system over identity management.⁵³

⁵³ See also international practices on regulating the responsibilities and powers of identity management authorities at the national level in this document: UN, Guidelines for the development of a legal framework for civil status registration, statistics and identity management systems, New York, 2019, paras. 236; Gelb A.& Metz A., The personal identity

In particular, that includes ensuring uniform regulations and uniform law implementation across the country. LNDs quite often directly or indirectly stipulate the legal status, functions, duties and powers of the Police Department for the Administration of Social Order.

- ***Duties and powers local agencies:*** The provisions of Vietnamese law on the tasks and powers of citizen identification management agencies at provincial, district and commune levels are basically similar to those recommended by the UN regarding identity registration agencies. Such as: collecting personally identifiable information including personal background and biometric information; ensuring the completeness and accuracy of the registration information; confirming identity; issuing identification papers; transferring identification information to central authorities, etc.⁵⁴

- ***itinerant issuance of citizen identification card:*** Vietnamese law has provided quite detailed provisions on the responsibilities of citizen identification management agencies in actively organizing the itinerant issuance of identity cards in a number of cases, thereby creating favorable conditions for people in implementing administrative procedures on citizen identification cards.

c) Some differences of Vietnamese law

Compared with international practices, regulations on organizational structure, tasks, relationship between identity management agencies in Vietnam have some differences.

First, according to Vietnamese law, similar to civil status affairs, citizen identification management agencies at provincial, district and commune levels are permanent units performing along the administrative agency of the same level. The number, geographical location, and administrative scope of these agencies are not adjusted to suit the population, topographical characteristics, travel conditions, etc.

Secondly, according to the UN recommendation, the issuance of personal identification documents such as personal identification cards should be done from the lowest administrative unit, for example the commune level. Meanwhile, in Vietnam, only the police of a district /town/city of a province or higher has the authority to issue, change, or reissue a citizen's identity card. The

revolution Can digital identification serve development? Center for Global Development, Washington DC, 2018.

⁵⁴ See also international practices on regulating the responsibilities and powers of identity management registration agencies at the grassroots level in this document: UN, Guidelines for the Development of a Legal Framework for Civil Status Registration, Statistics and Identity Management Systems, New York, 2019, paras. 237-239.

commune / ward / ward-level towns only assists the district / town / city police to perform this task when necessary.

Thirdly, those in charge of identity management-related jobs in other countries are administrative civil servants providing public services, working under the general system of recruitment, use, promotion, evaluation, and wages. Meanwhile, the citizen identification management agencies in Vietnam under the Ministry of Public Security are the armed forces; people in charge of citizen identification management are officers and soldiers of the people's police force belonging to the armed forces with separate recruitment, use, promotion, evaluation and salary systems.

2. Recommendations to complete the system of CRVSID agencies

By comparing with international practices in the regulations on the organization of civil registration , management and identity management agencies, taking into account the factors of the domestic context, this section recommends that some relevant legal provisions be amended to contribute to overcoming problems in Vietnam.

2.1. Regarding civil registration and management agencies

a) Research the application of the model of civil registration by regions

One of the main contents of the CRVS Program for the period 2017-2024 is to renew and perfect the organization of the system of agencies in charge of civil registration, ensuring professionalism and efficiency. To contribute to the implementation of this content of the Program, it is possible to study and apply in Vietnam the model of the civil registration agency suitable to the domestic context.

Thereby, civil status registration agencies will be arranged according to area, some communes share a civil registration office depending on the number of population, terrain characteristics, traffic conditions. Such offices will take on the civil registration tasks currently assigned to the commune and district people's committees. Specialized civil servants (civil status registrars) of this office will be trained and educated more professionally, more often and professionally. These offices will be directly managed by the Ministry of Justice in terms of personnel, supervision, inspection and professional guidance by the Ministry of Justice. Also, the Law on Civil Status or at least a Decree gives general regulations over the legal status, functions, duties and powers of The Civil Status, Citizenship and Notarization Department in the field of civil status. Because they belong to the Ministry of Justice, the operating budget for these offices should be allocated through the Ministry of Justice in accordance with the State Budget Law.

Each registration office should have officers in charge of accounting - cashier, administrative - clerical in addition to civil status civil servants. This alternative, though, would neither increase funding, nor overall payroll significantly; it is more economical than arranging each commune to have a full-time civil status official. Because if on average there is a civil registration office in every 3 communes, then there are about 3,500 offices nationwide. The current number of civil servants working on civil status affairs at the commune and district levels combined can meet the manpower requirements of these new offices, while a proportion of existing civil servants are retained to be in charge of existing judicial responsibilities at the commune level.⁵⁵ Meanwhile, the depth of specialism and professionalism of the personnel will increase significantly, all their time, capacity and mind are focused on civil status work, better meeting job requirements. At the same time, the direction, supervision, guidance and handling of violations, ensuring the consistency in task implementation are concentrated on one focal point nationwide. In addition, there will be no distinction between civil status affairs in the country and civil status affairs involving foreign elements, ensuring fairness in service provision. Moreover, thanks to the operating budget that will be allocated through the Ministry of Justice, funding, facilities and equipment can be better improved.

However, this model will lead to difficulties for people in large areas, with difficult-to-travel terrain; while they want to be registered at the “nearest” place where they reside and live. Additionally, this is a difficult, complicated and challenging task for the Ministry of Justice because it will lead to major changes in the organizational model, administrative payroll structure, and civil registration authority by administrative level, allocating resources; training, retraining etc...⁵⁶. To implement this option, it is not only necessary to amend the Civil Status Law and its accompanying decrees and circulars, but also to amend many legal normative documents related to the organization of the state apparatus; cadres, civil servants, etc. In addition to the funding for paying salaries for civil status civil servants, the State will have to allocate a large amount of money to build facilities and regular operating expenses for these offices every year. The direct management of the Ministry of Justice with all the Offices will entail a huge amount of work, especially professional guidance.

⁵⁵ According to the Ministry of Justice, by 2020, more than 11,000 commune-level administrative units had over 17,000 judicial and civil status officials; over 700 district-level administrative units had more than 3,100 civil servants of the Justice Division nationwide.

⁵⁶ Nham Ngoc Hien, Challenges and difficulties for the judiciary sector in implementing the National Action Program on civil registration and vital statistics, *Journal of Democracy and Law*, No. 10/2017, page 6-7 .

For such reasons, it should only be considered as a long-term option, with the earliest implementation being in 10 years' time. In the medium term in the next few years, this model can be piloted in a limited range, then reviewed, with experiences and lessons learned for further expansion. For example, it is possible to pilot the establishment of civil registration offices in convenient-to-travel commuting areas in communes with the same office with a shared location with commune-level People's Committees. It might also be useful to pilot the establishment of a few offices in sparsely populated areas and difficult-to-travel terrain to have a more comprehensive comparison and reflection basis. At the same time, there should be accompanying solutions such as allocating more human resources to enhance mobile registration, and having a allowance policy for mobile registration to overcome problems in terrain and population. In the remaining areas such as mountainous, remote and isolated, sparsely populated, difficult-to-travel terrains, to ensure convenience for people it's possible to only improve the current model to be more efficient but not yet apply the new model. In addition, the role of the Department of Justice can be considered when applying this model, including professional guidance.

b) More decentralization of civil registration to communal People's Committees

While studying the application of the regional civil registration office model, it is possible to consider amending the law to assign the authority to register all civil status affairs to the communal People's Committee.

Such a regulation will face some problems; for example, there may be errors in dealing with complicated civil status matters such as civil registration with foreign elements due to the uneven professional qualifications of commune-level civil servants.⁵⁷ This will both incur costs for both the State and the people to overcome the error. Therefore, it is necessary to allocate funds to provide professional training for commune-level civil servants, especially for civil servants who have not had an intermediate law degree or higher. At the same time, it is necessary to recruit more judicial-civil status civil servants to the commune level to meet the requirements of dealing with the decentralized work volume.

However, if the law decentralizes the commune-level People's Committee to register all civil status affairs, there could be even greater benefits. First of all,

⁵⁷ By the end of 2018, out of the total number of judicial - civil status civil servants , the number of people without a law degree accounts for over 21%. Source: PhD Nguyen Cong Khanh, The Law on Civil Status after more than 3 years of coming into life, Journal of Democracy and Law, No. 8, 2019, page 6;

the civil registration will become quicker and more timely because the commune level has a better understanding of the civil status of the people; there is no cost for the Division of Justice to verify civil status information in the commune. At the same time, that provision can help the Division of Justice civil servants focus on the state management in the field of civil status in the district. Citizens will easily identify the agency that has the authority to handle civil registration requests; enjoy more convenience in traveling to the place where civil registration is handled. This solution will make no distinction between civil status affairs in the country and civil status affairs involving foreign elements, ensuring fairness in service provision. Moreover, in the past years, there is a precedent for the communal People's Committees in some border districts to register some civil status with foreign elements. This shows that, the commune-level People's Committee may have the capacity to perform this task, especially if they are properly trained and retrained.

At the same time, it is necessary to amend regulations so that the district People's Committee (through the Justice Division) concentrates on performing the state management function in the area; directing, inspecting and guiding the commune level in professional matters. In particular, it is necessary to pay attention to supplement the regulations on responsibilities and procedures for professional guidance of the district People's Committee for the commune level when the commune level encounters problems and has a written request for advice and professional guidance of the district level.

In parallel with the stronger decentralization of civil status registration authority to the Commune People's Committee, it is possible to pilot the model of a professional civil status registration office by area as mentioned. In the localities with such a pilot office, the Commune People's Committee does not carry out civil status registration. Thus, the central agencies will be in better conditions to compare and evaluate the effectiveness of the two models after a period of operation to make appropriate decisions. In the long term, if the regional civil status registration office operates nationwide, the commune-level People's Committee will no longer perform the civil status registration task.

c) Regarding civil servants working in civil status

Due to the importance, scope and nature of civil status work that affects the entire population of a country during their lifetime, in many countries, civil registration civil servants have a professional and stable status and work full time on civil registration. Studying these international best practices, Vietnam should consider amending the law to stipulate that the title of Civil Status Registrar implies full-time civil status work. This is the legal basis to overcome

the current overload in the work of judicial-civil status civil servants; ensure stability, progress to professionalism at work; civil status members are trained in civil status professions and operations; improve efficiency in civil status work. The processing time for civil registration can be shortened because the civil status members do not have to spend time to handle other judicial affairs which is convenient for people in civil registration.

The title of civil registrar requires the development of detailed documents on systems and policies for this contingent of commune-level civil servants; allocation of funds for additional payroll incurred when building such title. In order to contribute to ensuring the qualifications and capacity for civil status registrars, on the basis of performing the tasks set out by the CRVS Program 2017 - 2024, it can be specified in the Decree or Law on the inclusion of civil status registration and management profession in the law college training program; development of a separate training program for the title of civil status officer. At the same time, develop a process for appointing this title to ensure the requirements of specialized skills and expertise. At the same time, there should be clearer regulations on the responsibilities and authority of provincial and ministerial management agencies in the assessment and appraisal of standards, conditions and professional capacity to arrange and use civil registrars as required.

According to the roadmap, at the beginning, based on the needs of different localities, the law may assign the provincial People's Council to decide which communes, wards and ward-level towns in the locality have civil status registrars who concurrently handle other judicial services at the request of the People's Committee of the same level. At the same time, it is necessary to amend the current regulations to make it clearer and more direct the mandatory responsibilities of the Provincial People's Committee in arranging the judicial-civil status civil servants to take charge of full-time civil status work in accordance with the sepecific conditions in respective localities. This is to overcome the situation that there are localities that have not yet arranged enough judicial-civil status civil servants in densely populated areas with many civil status jobs.

d) Improve accessibility of civil registration services

To make civil registration easier and more convenient for people, in addition to the existing regulations on mobile registration, or supplementing the regulations on the foundation of a civil registration office by region, or transferring all civil registration authority to the the commune level as proposed, some existing legal provisions can be supplemented. For example, it is possible to regulate to have a greater number of judicial-civil status civil servants in densely populated

commune-level administrative units such as wards in big cities; pilot establishment of secondary offices in big cities; study The UN's recommendations to regulate the use of some ethnic minority languages in addition to Vietnamese in civil status papers.

One of the experiences in many countries that can be studied and learned is the regulation on the arrangement of civil status civil servants so that they work regularly or routinely in locations with high demand for civil registration such as major hospitals. In order to increase the rate of birth and death registration in this case, it is necessary to have a mechanism for close coordination and information between hospitals and civil status registration agencies; strengthen the application of information technology in coordination. The experiences of this model can be applied to the implementation of the pilot project on inter-issuance of birth certificates and birth registration, chaired by the Ministry of Justice and coordinated with the Ministry of Health. The above model can speed up the process and increase the rate of birth and death registration for births and deaths taking place in those locations.

2.2. Regarding citizen identification management agencies

According to the recommendation of the United Nations, it is necessary to study and amend legal regulations so that the citizen identification management agency of the commune-level police has the authority to participate in the organization of the issuance, change and re-issuance of citizen identification cards. However, equipment and human resources to perform all stages of this task are very expensive. Therefore, in addition to helping higher levels, the commune-level police should be assigned to regularly carry out procedures for the issuance, change and re-issuance of citizen identification cards; and other stages are carried out by the higher-level citizen identification management agency. At the same time, it is possible to regulate to reduce the task of issuing citizen identification cards of the citizen identification management agency of the provincial police.

This option will create more favorable conditions for people in accessing the service of the issuance, change and re-issuance citizen identification cards; the issuance, change and re-issuance of the cards is faster and more timely. At the same time, such a regulation could help the citizen identification management agencies at the district and provincial level to focus more on state management tasks in the area of citizen identification.

2.3. Transfer and storing civil status and identity information among various levels

According to a synthesis of international practices of the United Nations, complete and accurate vital statistics depend on the timely transfer of civil registration information from the local to the national level. According to Decree 87/2020 / ND-CP, Clauses 1 and 2 of Articles 12, Decree 123/2015 / ND-CP on the archival of civil status books were abolished after the effective date of Decree 87 on September 15/ 2020.⁵⁸ That is, there is no longer the form of transferring or storing civil status information in hard copy records among management levels, but information update is done only through the shared civil registration and management software, and the electronic civil status database. In the field of citizen identification, there is also a citizen identity database stored, connected and shared among citizen identification management levels.

Currently in Vietnam there is an Internet platform, digital, electronic civil status database and citizen identification base are connected to the computer network and the Internet from the grassroots level to the central level; simultaneously connected to the national population register. This is a necessary condition to implement the UN recommendations on the prompt and timely transfer of civil status and identity information among management levels.

However, because it has just been put into operation and connected on the Internet, so different sectors have not achieved synchronization nationwide, when information and data stored on hard-copy records and paper documents have not been fully digitized, even many localities have had many difficulties in digitizing paper data before; or there have been also some technical errors here and there. This is one of the barriers to the transfer of personal civil status and identity information in the Internet environment. Stemming from this fact, Decree 87/2020/ND-CP has transitional regulations, whereby People's Committees at all levels and representative missions overseas have until January 1, 2025 to converting and digitizing civil status.

In the field of citizen identification, according to Article 7, Circular No. 59/2021/TT-BCA, the collection, update, correction of information in the citizen identification database is carried out in the place where the procedures for the issuance, change and re-issuance of citizen identification cards are handled. This means that only the citizen identification management agency of the police at the district level or higher can collect, update and correct information in the citizen identification database during the issuance process, change and re-

⁵⁸ Decree 87/2020 / ND-CP Regulating electronic civil status database, online civil status registration.

issuance of citizen identification card. Along with the proposal on amending the law, assigning the citizen identification management agency of the commune-level police station to receive the dossier and participate in the procedures for the issuance, change and re-issuance of citizen identification cards, there should be accompanying regulations on this agency's collection and updating of information on citizen's identity into the database of the Civil Identification Database.

Although converted to electronic format, the legal framework of civil status and identity still needs to stipulate the timelines for sending information and specify which information is sent and to which agency. The details of the information transfer process need not be specified in the legal normative documents but should be mentioned in the sectoral internal documents to be updated easily and flexibly.

IV. REGISTRATION OF BIRTH, DEATH AND FOETAL DEATH

1. Existing legislation against international best practices

1.1. Universality

As recommended by the UN, civil registration should be universal, available to all, regardless of gender, ethnicity, geographic location or nationality status, or on any other basis. To compare with this recommendation, Article 6 of the Law on Vietnamese civil status states: “Vietnamese citizens and stateless people permanently residing in Vietnam have the right and obligation to register civil status. This provision also applies to foreign citizens permanently residing in Vietnam, unless otherwise prescribed by the international treaties to which Vietnam is a member.” The above provision implies that everyone resident in Vietnam, regardless of gender, ethnicity or geographical location, has the right and obligation to carry out civil status registration when a civil status event occurs, ensuring equality in the provision of civil status registration services.

Other regulations, though not directly mentioned, have shown indirectly the spirit of non-discrimination, ensuring the universality of civil registration, for example, mobile registration to support those who do not have the ability or face difficulty in traveling to register; creating favorable conditions for disadvantaged groups such as birth registration for abandoned children; registering some civil status affairs for people in some border districts, etc. In which, the provisions of Vietnamese law on mobile civil registration and birth registration for abandoned children are similar to the UN recommendations.

In particular, the Civil Status Law and legal normative documents guiding the implementation of the Law have provisions ensuring the principle that all civil status events arising in the territory of Vietnam shall be registered, including civil status events of foreigners temporarily residing in Vietnam, refugees, asylum seekers, immigration applicants, etc. The practice of implementing the Law also confirms this.

In terms of wording, some concepts in Article 6 above do not fully express the spirit of the above principle. For example, it’s unclear whether "stateless person" includes asylum seekers, immigration applicants or not; or "foreign citizen" only refers to "foreign citizen permanently residing in Vietnam" but does not include "foreign citizen temporarily residing in Vietnam", or a foreign citizen traveling within a limited period in Vietnam. The Ministry of Justice explains, foreign citizens temporarily residing in Vietnam have the right to choose (request or not request civil status registration); for special cases (refugees, asylum seekers, etc.), immigration authorities are responsible, so the Civil Status Law does not regulate it but it’s assigned to the Government, relevant ministries and branches

for providing guidance.⁵⁹ Even so, the Civil Status Law or the legal document under the law has not yet provided clarification on this topic.

Besides, according to Article 30, The 2015 Civil Code , it is not compulsory to register birth and death for children who die within 24 hours after birth, unless the parents request it. For cases in which a child is born alive, then dies after 24 hours, the birth registration and declaration shall be concurrently registered. This practice, allowing the father and mother to choose whether to register the birth and death of a newborn that dies within the first 24 hours, stem from the culture and psychology of the Oriental people, in order to prevent the father and mother from having to unnecessarily suffer additional pain or loss. However, this information is critical for public health purposes, for understanding why infant mortality occurs and how it can be prevented. In other words, this data is critical for fetal and newborn health; and without registering these very early births and deaths, that data will not be incorporated into usable mortality statistics.

For reference, the laws of many countries such as France, Germany, Japan, and South Korea stipulate that in case a child is born and then dies, the birth registration will be performed simultaneously with the death registration regardless of the will of the father and mother. For example, in France, according to Article 79-1, Law No. 93-22 in 1993, “in case a child dies before being born, the civil status officer shall issue a birth certificate and a death certificate for the child if someone presents the medical certificate which certifies that the child was born alive and lived for some time, and clearly states the date and time of birth and the date and time of death of the child...”. According to the law of the Federal Republic of Germany, if the child is born with signs of death, the fetus weighs at least 0.5 kg, it is required to register the birth and record the case as a stillbirth; unless the fetus weighs less than 0.5 kg then there is no obligation to birth and death registration. As a reminder, one of the foundational principles underpinning a well functioning civil registration system is that it be compulsory, this means that all births and all deaths, including those occurring in the first 24 hours of life, be recorded in the civil registry.

1.2. Information Captured at Registration

The United Nations recommends the specific types of information to collect for live birth, death and fetal death (*see the Table below for details. Appendix III*).⁶⁰

⁵⁹ The Civil Status, Citizenship and Notarization Department - The Ministry of Justice, "Remarks on the Report on the assessment of the legal framework on civil status registration, statistics and identity management in Vietnam", presentation at the Workshop consultation on the aforementioned Report, Hanoi, 8/2021.

Certain basic information is collected for legal purposes, while other information is gathered for statistical purposes. On the other hand, it is important that no one be denied registration if certain information cannot be obtained, for example the identity of the child's father.

Vietnamese law has regulations outlining what information must be collected when registering a birth or death. It specified the information that should be listed on birth certificates and contained in a death notice and a death declaration extract. Some types of information are even required by Vietnamese law to be collected but are not included in the recommendations of the UN. For example, information about hometown, citizen identification number, and ethnicity. At the same time, Vietnamese law stipulates that in some cases when it is not possible to collect complete information, birth and death registration are still possible. For example, the birth registration for children with unidentified parents, or abandoned children.

However, some types of information collected upon birth and death registration in accordance with Vietnamese law are insufficient in comparison with the UN recommendations. Specifically, the law has not specified the following types of information that should be prioritized for collection when registering for birth: marital status, parents' education level; period of residence in the place of permanent residence; fetal death occurred during the mother's life (if any); the time of the mother's last birth; time of the last live-born pregnancy; marriage time.

Regarding deaths, the relevant legal normative documents lack regulations on some information that should be prioritized to collect when registering a death: marital status of the deceased; place of permanent residence of the mother (in the case of the death of a child under 1 year old); parents' names.

Fetal mortality, as outlined in the previous section, is not regulated separately so information is not collected (review the definition of fetal death in the Overview). Circular 24/2020 / TT- BYT on the issuance of death notices, the cause of death forms mentioning fetal mortality in the form, but the Circular's Appendix does not guide the collection of peculiar information related to fetal death.

Table: Information to be collected in the process of birth registration, death registration

The type of information regulated in Vietnam that meets UN	The type of information that is recommended by the UN, but not yet regulated in Vietnam	The type of information that is specified in Vietnam,
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⁶⁰ The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019.

recommendations		but not in the UN recommendations
1. Regarding birth		
Time of birth	Marital status of the mother/father	The child's hometown
Place of registration	Educational attainment of the mother/father	The child's ethnicity
Place of birth	Place/country of birth of the mother	
Attendant at birth	Length of time living at the mother's permanent place of residence	The child's citizen identification number (for Vietnamese citizens)
Number of children born (twins, triplets, etc.)	Foetal deaths to mother during her entire lifetime	The child's health status
Sex	Time of the last live birth	Citizen identification number/passport number of the mother
Birth weight		
Date of birth of the mother/father		
Permanent residence of the parents		
The number of children born alive to mother during her entire lifetime		
The child's full name		
The parents' full names		
Nationality of the child		
Nationality of the parents		
Identity, Signature, and Seal/Stamp of the registration agency		
2. Regarding death registration		
Time of death	Midwife (in case of death under 1 year old)	The citizen identification number of the deceased (if any)
Place of death	Date of birth of the deceased	Name, address of the Health Facility
Place of registration	Marital status of the deceased	Ethnicity of the deceased
Cause of Death	Medically determined cause of death for out-of-hospital death	
The person who medically determined the cause of death (for in-hospital death)	The person who medically determined the cause of death (for out-of-hospital death)	
Sex of the deceased	Place of permanent residence of the mother (in case of death under 1 year old)	
Full name of the deceased	Identity papers, registration data related to birth	

Citizenship of the deceased	Full name of the parents of the deceased	
Place of permanent/temporary residence of the deceased		
Identity, Signature, Seal/Stamp of the registration agency/registrar		

1.3. Informant

Informants providing birth and death information to the civil status registration agencies may be individuals or agencies or organizations. As recommended by the United Nations, national legislation should clearly identify key informants and other alternative information providers in the order of priority as shown in the table below.

Table: Informants provide birth and death information in order of priority

Informant	Live Birth	Natural deaths	Deaths Unusual
The head of the medical facility where the event occurred, or a delegated person; medical staff present at the time of the event	1	1	1
Mother	2		
Father	3		
The nearest relative of the mother	4		
The next of kin (e.g., the living spouse or partner; or a brother, a sister, the father or mother of the decedent)		2	2
Any other adult person having knowledge of the event.	5	3	3
Medicolegal officer (police, coroner, medical examiner)			1

Compared to the United Nations recommendation, the law of Vietnam has a fundamental difference, that is, in most cases, parents and family members are the subject of notifying the civil status registry about the birth, death. Specifically, parents or family members receive a birth notification form, death notification or other alternative document, submit it to the civil status registration agencies for birth registration and death registration procedures. This is called a two-step process: step one – the medical facility or other entity issues documents to the family member to prove the fact of the vital event (birth

or death); step two – the family member provides the civil status registration agencies.

Based on experience from other countries, this process may lead to lower registration rates as family members may not complete the registration process. Or, this process may lead to late registration by some months or even years later. Failure to register or delayed registration prevents the timely and accurate compilation of vital statistics.

Therefore, the UN recommends that countries adopt a one-step process. Accordingly, for births and deaths inside and outside a medical facility under the supervision of medical staff, the medical facility or medical staff shall notify the incident (transfer of birth certificate, death notice) and based on that information, the registration agency proceeds with the birth and death registration. No additional steps are needed by the parents or family in order to register the birth or death.⁶¹ With the connection to the network, the application of information technology and digital technology, the one-step process has better and better position to be applied as in Namibia; New Zealand, Singapore, states in Australia..

Box: Example of a one-step birth and death registration process in some countries

1) Botswana: In Botswana, as soon as a birth or death takes place in a hospital, medical staff must immediately issue a birth certificate, a death notification and transfer them to a civil status registration center situated inside the hospital within an hour (there are 13 such hospitals); and if the Civil Registration office is located outside the hospital, the hospital must transfer it to the office within a week. The registration office or center will check the birth certificate, death notification, it will be accepted if eligible and the event will be registered. That completes the registration process. If there is a Civil Registration center at the hospital, the birth certificate will be returned to the mother before hospital discharge; the death certificate is returned to the next of kin or registrant before the body is relocated. If the Civil Registration office is located outside the hospital, the process of reviewing and completing the registration is the same; but the family members have to go to the office to receive the death certificate.⁶²

2) Philippines: In the Philippines, in all cases of death, the local health officer is responsible for forwarding the death notification to the relevant civil status registration office. In case of natural death at the hospital, the hospital shall forward the death notification to the local medical officer; in case of natural death outside the hospital in the presence of medical staff, the medical staff shall forward the death notification to the local

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

⁶² Botswana Birth and Death Law; World Bank, Connecting registration, civil status statistics with identity management: Botswana Success Stories, 2015.

medical officer; in case of natural death outside the hospital without any medical staff present, the family member or person who knows the facts well shall notify the local medical officer to issue a death notification; in case of unnatural death, the forensic agency/staff issues the death notification.⁶³

3) Singapore: Any medical practitioner who is the last present before the death occurs must sign the confirmation of the cause of death and, within 12 hours, deliver the death notification by a form to the civil status registration office where the death occurred; the name of the healthcare worker will be included in the registration file. If death occurs in a home or other location, within 24 hours, a family member, or in many cases, the owner of the building, any person present at the time of death, the person burying the body, the captain etc. is responsible for transferring the death notification by a form to the civil status registration office where the death occurred.⁶⁴

4) India: For cases of death in a medical facility, the medical officer in charge or any person authorized by him/her is responsible for sending a written notification form for death or stillbirth to the civil status registration office for death registration. For death outside a medical facility in the presence of medical staff (doctors, midwives), that medical staff is responsible for sending a written notification for death and stillbirth to the relevant civil status registration office for death registration. The owner of the establishment of burial and handling of the dead body is responsible for notifying the civil status registration office of the death.⁶⁵

5) Sri Lanka: If the death occurred in a hospital (public and private), the medical staff present at the time of the death, or the hospital staff must complete a death notification form, and this will be mailed along with the medical certification of cause of death to the civil status registration agency to complete the issuance of the death certificate. If the death occurs at home, the family member shall notify the commune chief within 7 days; the commune chief must send a written notice to the civil status registration office of the area where the death occurred so that this agency can issue a death certificate.⁶⁶

6) Estonia: In Estonia, right after the birth of a child, the hospital sends a request to transfer the child's personal identification number from the National Population Database, and at the same time prepares the birth certificate online. When the online birth certificate is completed, the child's data has been entered into this database. Thanks to the child's identification number connected to the mother's data, when a parent registers the birth of a child, the officer in charge only needs to enter the mother's ID number to check the child's data and proceed with the birth registration for the child. This official digitally signs the

⁶³ Philippine Department of Health, Ordinance No. 2020 – 0008: Regulations on Medical Certification of Causes of Death

⁶⁴ Singapore's Birth and Death Registration Law;
<https://sso.agc.gov.sg/Act/RBDA1937#pr15->

⁶⁵ Singapore's Birth and Death Registration Law:
https://www.indiacode.nic.in/bitstream/123456789/11674/1/the_registration_of_births_and_deaths_act%2C_1969.pdf

⁶⁶Source: Website of Sri Lanka Registration Bureau
<http://www.rgd.gov.lk/web/index.php/en/services/civil-registration/death-registration.html>

birth certificate and issues an electronic copy to the parents. If a paper copy is needed, the parents need to pick it up at the civil status registration office. In 2020, this birth registration platform will be improved, allowing even single mothers to use it. Online death declaration (E-death) is also implemented, so that people do not need to go to the civil status office to register a death, but the medical facility will transfer the death notification containing information about the death via the Internet for the national population database. After that, the death registration process is completed; electronic certificates will be delivered to family members.⁶⁷

1.4. Place of Registration

According to Clause 4, Article 5 of the Law on Civil Status, individuals can be register their vital events at the civil registration office located in their permanent place of residence, temporary residence or living place. The respective provisions of the Law on Civil Status have more specific regulations on the place of birth and death registration or at the commune People's Committee or district People's Committee, depending on the authority to register. In most cases, birth and death registration is performed in the individual's place of residence, except for certain unique cases, such as birth registration for abandoned children, which is done where the child is found; death registration is carried out at the place where the deceased's body was found when the last place of residence of the deceased is not known.

Meanwhile, most countries have adopted the place of occurrence of the event as the location for the registration of births and deaths, as this facilitates and accelerates the registration process by putting civil registration within reach of stakeholders at the time of the occurrence of the event. In many countries, registration in both place of occurrence and place of residence is permitted. If only one is permitted, place of occurrence is preferred in order to make registration more convenient. If a country has a fully networked data system, it is possible to allow registration at any location or office to which the system can be accessed, because all registrars will have the ability to access the central system.

Table: Birth and death registration place in some countries

Country	Birth registration place	Death registration place
Cook Islands (The 1973 Law on Registration of Births and Deaths in)	Birth place Registration Office	Place of Burial's Registration Office
Kiribati (The 1968 Law on Registration of Births, Deaths and	Birth place Registration Office	Death place Registration Office

⁶⁷ Sa njay Dharwadker & Samuel Mills, Options for issuing electronic birth registration certificates, World Bank, 2019, pp. 6-7.

Marriages, revised in 2007)		
Mozambique (The Law on civil status registration)	Birth place Registration Agency	Death place Registration Agency
Namibia (The 1963 Law on Birth, Death and Marriage Registration)	Registration Office/registration point at the hospital where the baby was born	Registration Office/registration point at the hospital where the death took place
Armenia (The 2004 Law on civil status events, revised several times)	Registration agency at the child's place of birth; the place of residence of the parent; where the abandoned child is discovered; in the case of birth on board a train or vehicle, the case must be registered at the registration office of the parent's place of residence, or anywhere along the way.	The registration agency in the last place of residence of the deceased; place of death; the place where the body was discovered; where the headquarters of the organization that issued the death certificate is located.
Kyrgyzstan (The 2005 Law on civil status events)	Registration agency at the child's place of birth; the place of residence of the parents; where the abandoned children were discovered; if born on a means of transport, then register at the registration agency in the parent's place of residence, or anywhere along the way.	The registration agency in the last place of residence of the deceased; place of death; the death took place on a means of transport, it must be registered at the registration office where the body was taken out of the vehicle.
The Neitherland (The Civil Code)	The child's Birthplace Registration Office	Deathplace Registration Office
France	Civil registrars at the commune of birth	Civil registrars at the commune of death
Ireland	Birth place Registration Office	Place of death; other locations, it depends
Britain and Wales (The UK government's website: https://www.gov.uk/browse/births-deaths-marriages)	Registration Office in the child's birthplace It's possible to go to another office to register, then the office will send information about the child to the district office where the child was	Registration Office in the place of death or any place; Death on board a foreign aircraft or ship shall be registered in the country where the ship is registered.

	born.	
Sri Lanka (The Law on Birth and Death Registration)	Birth place Registration Office	Death place Registration Office
Bangladesh (The 2004 Law on Birth and Death Registration)	Registration Office in the birth place or permanent residence of parents	Registration Office in the deathplace or permanent residence of parents
Japan	Birth place Registration Agency	Registration agency in death place; the location where the cadaver was found
Korea	Registration agency at the commune or district level in the place of residence	
Philippines (Administrative Ordinance No.1 1983; Administrative Ordinance No.1 1993)	Registration Office in the birthplace; if the birth is on a means of transport, depending on the case, for example, register at the office of the destination of that vehicle, or the place of residence of the mother, etc.	Registration Office in the deathplace; if the death took place on a means of transport, depending on the case, for example register at the place of burial, or the last place of residence of the deceased, etc.

1.5. Deadline for registration

According to the provisions of the Civil Status Law, the deadline for birth registration is 60 days after the birth; the deadline for death registration is 15 days after the death event occurs. Meanwhile, the time limit for birth registration in other countries is usually 14-30 days and death registration is about 3-5 days, depending on the country.⁶⁸ For example, in the Australian state of Victoria, the time limit for notifying the civil status registration agency of a live birth event is 21 days, in Queensland it's within 2 working days; in the Pacific, from 10 to 21 days.⁶⁹ Thus, the time limit for birth and death registration in Vietnam is quite long compared to the practice in other countries.

Besides, Vietnamese law stipulates that delayed registration must pay a fee. Most of the cases of delayed registration are registered under the general procedure. Particularly for cases of death registration for an event that took

⁶⁸ The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019.

⁶⁹ Community of Pacific States, Guidelines and examples of the best practices in the law on civil status registration and statistics in the Pacific region, December 2019, page 26.

place a long time ago without a death notification or a replacement paper, the registrant must provide papers, documents or other evidence issued by a competent agency or organization or validated proof of the death event.

While Vietnamese law provides for overdue registration, in other countries there are concepts of late registration and delayed registration. Late registration is registration after the requested deadline but before the end of a specific grace period, usually 1 year, according to the usual process. Delayed registration is the registration after the grace period, with more complicated requirements and proofing procedures.

1.6. Documents and evidence required when registering

In other countries, the verification of a vital event can be achieved through documentary or oral evidence. The most common form of documentary evidence is a birth certificate or death notification from a health facility. If an event occurs without medical supervision outside of the facility, without documentation as evidence, then information can be obtained directly from witnesses. Many countries require proof of identity of parents (in case of birth registration) or a family member (in case of death). In that case, care should be taken so that no refusal of registration occurs for those who do not have an identification document.

Similarly, in Vietnam, birth certificates, death notification (and papers replacing death notification) are documents proving that birth or death events took place (except for cases of death registration for people who died a long time ago without a death notification or a replacement document).

Vietnamese law does not provide for the collection of oral evidence of civil status facts, but to a certain extent, there are similarities. Specifically, according to Circular No. 04/2020/TT-BTP, in some cases the civil status registration applicant can make an Affidavit about the contents of the civil status registration request and take responsibility for the legal consequences for the untrue statement. The application of provisions on affidavit is applied to certain types of civil status registration such as: re-registration of births, birth registration of persons with personal documents or with written recognition over common children (in case of combination of birth registration and recognition of father, mother and child).

In addition, the regulations on the issuance of the Birth Certificate are still relatively simple and not strict⁷⁰. The recording of information about the mother

⁷⁰Before the newborn comes home, the medical examination and treatment establishment is responsible for writing all the contents according to the birth certificate form. Relatives of the newborn have the responsibility to read and check the information before signing. The birth

in the birth certificate is completely dependent on the information provided by the birth certificate applicant, leading to the situation of people “playing around with the law”, for example, borrowing another identity card to register birth for cases of law violation (hired delivery, surrogacy not in accordance with the law...). Therefore, the civil registration agency has registered the child's birth with information about the mother recorded in the birth certificate inconsistent with reality, leaving complicated consequences that the civil registration agency has to deal with.

1.7. Supplementing and modifying civil status papers

According to best practice recommended by the United Nations, civil status registration agencies should have the authority to correct errors such as obvious typos, dates or typographical errors free of charge; supplement missing information such as late naming of the child or unverified parent-child relationship information.⁷¹ To correct errors or add information due to changing circumstances or related to the rights of another person (e.g. a spouse or child), the applicant or their legal representative usually have to apply directly to the court. These types of modifications typically include adoption, surrogacy, parent recognition, divorce, annulment of marriage, legal separation, name change. In some countries, changing sex requires a court order, which requires proof of sex reassignment surgery. However, it is now allowed in some countries to change the gender of identity documents without this requirement.⁷²

Compared with the above best practices, the Civil Status Law and other relevant legal normative documents have quite full and detailed regulations on the competence of civil status registration agencies in changing, rectifying and supplementing civil status information, as well as the procedures for performing such work. On the other hand, the civil registration offices of Vietnam are assigned some greater authority than those in many other countries in supplementing, modifying civil status papers related to changes in circumstances or affecting the rights of others such as surrogacy, parent adoption, gender change, name change; with a less complicated, less time consuming, and less expensive process than going through the courts.

certificate is made into 02 copies with the same legal validity, one is handed over to the newborn's father, mother or relatives for birth registration procedures and the other is kept at the medical examination and treatment establishment.

⁷¹The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 408-412.

⁷²The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 413-418.

1.8. Measures to improve birth and death registration

Similar to many countries, Vietnamese law has many provisions that require birth certificates to be presented when performing other administrative procedures such as issuing citizen identification cards, issuing passports to people under the age of 14, registering lists of voters, adopting children, claiming health insurance, education, etc. Especially, when registering a birth, Vietnamese citizens are given a personal identification number, connecting administrative procedures with issuing a health insurance card for children under 6 years old and permanent registration for them. These regulations are very effective in encouraging birth registration in many countries, including Vietnam.

However, in Vietnam as well as in other countries, there is less incentive for death registration. According to the current regulations of Vietnam's law, people need to present death notification to the burial facility in order to carry out funeral and burial procedures; and the family relatives must complete the next steps for death registration. Meanwhile, according to good practice in the world, the law stipulates that the death must be notified to the civil status registration office in order to be allowed to carry out burial procedures. This is the strongest measure for people to register a death.⁷³ In addition, there are incentives such as in Namibia, death registrants receive the equivalent of 100 USD if registered on time.⁷⁴ Under the laws of different countries, not only family members responsible for notifying the death to the death registration agency, but also certain other individuals such as the owner/manager of the building where the death occurred; any adult with knowledge of the event of death; owner or manager of a funeral home, village head, etc. In India, civil status registration agencies can collect information on deaths from people it deems necessary. These measures have the effect of helping the civil status registration agency to obtain information about deaths in the area, thereby taking measures to register death.

2. Recommendations on improving birth and death registration

Section 2 makes the following recommendations to improve some aspects of the legal framework on birth and death registration. For other contents analyzed, this Section doesn't make any recommendations because Vietnamese law already has appropriate provisions.

2.1. Common Issues:

⁷³The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras.

⁷⁴The Center for Development of CRVS Systems (Canada), Synthesis of good practices in connecting CRVS with identity management, 2019.

a) Information to be collected during registration

In order to both ensure the requirements of civil registration are met and sufficient data collection for statistical purposes, helping policy makers to better grasp population characteristics, there are some points to consider:

First, it is necessary to collect various types of information as recommended by the UN when registering births and deaths, especially to prepare detailed statistics tables according to international standards⁷⁵, but it can be difficult to do in Vietnam today due to limited capacity and resources. Consequently, the law can create a suitable step-by-step roadmap for gradually achieving the goal of gathering all such types of information.

Second, when prescribing the type of information required to register a vital event, there is a need to harmonize the ease of registration with the completeness of statistics. If a minimum amount of information is required, that makes the registration more convenient but reduces the completeness of the statistics, and vice versa. In Vietnam today, birth registration has reached a high rate, but death registration rate is still low. In that context, it may be required that more types of information be collected when registering a birth. But for death registrations, careful consideration is needed, whether asking for more information reduces the rate of registration.

b) Informants

As mentioned, the one-step process can increase the rate of birth and death registrations because it does not depend on parents or family members. Research can be done to appropriately apply the one-step process to the Vietnamese context. The one-step process will increase the workload for the relevant agencies, requiring the State to ensure additional resources. For this reason, combined with the fact that birth registration has reached a very high rate⁷⁶ and the death registration rate is still low, so it is possible to study the application of a one-step procedure for death registration while birth registration still follows the two-step process.

In addition, it is possible to consider applying another option, which is to amend the law to require medical facilities, medical staff, relevant agencies and organizations, and parents and family members, all of them need to submit birth and death certificates to the civil status registration agency for birth and death registration. This option can increase the number of birth and death certificates

⁷⁵ For a detailed breakdown of vital events, see the section on vital statistics.

⁷⁶ Furthermore, the current birth registration requires parental involvement, such as a naming agreement for the child, so a two-step process is unavoidable.

submitted to the civil status registration agency; thereby increasing the number of registered cases.

c) Birth and death registration place

According to the experience of other countries, in addition to the current regulations on birth and death registration according to the place of residence, Vietnamese law can supplement the provision that the place where the event occurs is the place for birth and death registration for all cases (currently provided for in some cases). This facilitates and accelerates the registration process, placing civil registration within the reach of interested parties at the time of the event. Moreover, with the civil status registration software deployed nationwide and the electronic civil status database already in operation, there are more conditions to stipulate the civil status registrar where the birth, death registration events take place.

At the same time, the law should provide clearer provisions on birth and death registration in some special cases, such as death on the way to the hospital; birth or death on means of transport such as cars, trains, planes, ships. Currently, there are only instructions on how to write in the civil status form in such cases, but it is not clear who is responsible for registration, the registration process and procedures, etc.

d) Certify birth and death events

In order to overcome the situation where it is difficult to confirm birth and death events by paper, in addition to making an affidavit, it is necessary to supplement regulations on direct verbal confirmation of people who know the facts. In addition, regulations on the issuance of birth certificates need to be stricter to avoid violations such as borrowing citizen identification cards to make birth certificates.

e) Birth and death registration deadline

As mentioned earlier, Vietnamese law specifies the time limit for birth and death registration which are quite long compared to international practices. This does not seem to affect birth registration rates, and is not necessarily the main cause of the current low mortality registration rates. However, the provision of a long registration period will greatly affect vital statistics, making vital statistics not updated in time. Therefore, it is still necessary to amend legal regulations to shorten the time limit for birth registration and death registration.

Vietnamese law has exempted fees for timely birth and death registration of Vietnamese citizens, in line with international best practices recommended by the United Nations. However, for cases of birth and death registration with foreign elements on time, the fee is not exempted. Therefore, in order to encourage timely birth and death registration for all groups of people and ensure

fairness, it is necessary to remove the regulation on paying fees for cases of birth and death registration with foreign elements related to the birth and death registration.

2.2. Recommendations regarding death registration

Firstly, according to the one-step process described, medical facilities, medical staff, and other relevant people directly transfer death notices to the civil status registration agency to carry out the procedures for death registration, then hand over the death certificate to the family member. Thus, parents and family members will not have to directly register for death, which has been a psychological and cultural obstacle. The pilot project on coordination between the Ministry of Justice and the Ministry of Health birth and death registration in a number of large hospitals is a great opportunity to apply this one-step process. Especially as mentioned, experience in many countries shows that the application of online registration makes this one-step death registration process more convenient, increasing the death registration rate.

Secondly, there should be different regulations on who provides information on death to the civil status registry. Specifically:

- In cases of death at a medical facility, or outside a medical facility but under the supervision of medical staff, the medical facility or medical staff is responsible for directly transferring the death notice containing the death information to the civil status registration agency.
- For deaths in the community without the supervision of health workers, the current grassroots health system has the qualifications and capacity to perform the task of notifying the death event to the civil status registration agencies. Moreover, according to the Circular on statistical reporting system in the health sector, the grassroots health system has long been performing the task of collecting and reporting statistical information on births and deaths in the area. At the same time, the Ministry of Health has a plan to apply the model of determining the cause of death through verbal autopsy. This measure will make the issuance of death certificates containing information about the cause of death more favorable for deaths in the community without the follow-up of health workers.
- In other cases, based on existing regulations, responsibility may be assigned to various actors such as the police, investigative agencies, forensics, emergency response agencies, and burial facilities etc., to forward papers to replace death notices to the civil registration agency.

Thirdly, in Vietnam today the majority (about 86%) of deaths take place outside medical facilities or without medical staff monitoring. It is difficult to ask for information on the causes of death in all cases. Therefore, the law should have

flexible provisions on this type of information, if medical confirmation of the causes of death is not possible, the death registration still goes ahead to ensure that the above deaths are recorded in the system (see more details in the Section on Medical Certification of Causes of Death).

Fourthly, it is necessary to amend the provisions of Article 30 of the Civil Code 2015 to register the birth and death of all children born alive but die within 24 hours, regardless of the will of the father and mother. To overcome the cultural and psychological obstacles in such cases, the application of a one-step death registration process is an appropriate and feasible solution. This not only ensures children's right to birth and death registration, but also helps to make birth and death statistics more complete and accurate; thereby helping policymakers have more grounds to issue policies, prioritize resources to prevent and reduce such deaths.

Fifthly, in order to increase the rate of death registration, it is possible to add a provision that requires proof that a death notice or alternative papers have been submitted to be allowed to bury and handle the body. Depending on the civil status registration authority, the commune-level People's Committees and the district-level People's Committees may be assigned the authority to allow burial and handling of corpses after receiving death notices or alternative papers. If amendments to the law give commune-level People's Committees to register death for all civil status events, the People's Committees should have the authority to authorize burials.

At the same time, it is necessary to stipulate that the burial place of the corpse is the location that has been determined by the local government, avoiding the case of burial in the family's garden or field. It may be stipulated that in many countries it is compulsory for the funeral parlors or those participating in the burial of the dead to notify the civil status registry of the death event. Besides, it is possible to study the experience of some countries such as Namibia, those register deaths on time receive a certain amount of money. These regulations may increase the current low death registration rate.

2.3. Recommendations regarding foetal deaths

First, there should be a separate regulation on fetal mortality according to the current mechanism, serving the purposes of legal, administrative, civil status statistics and health policy formulation. Here you can choose one of the following options, which are all considered good practices in the world.

Plan one: Separate death registration for fetal deaths from 22 weeks or older through the system of civil status registration agencies. It is necessary to store fetal death statistics and information separately from that of other deaths and separately from live births, because fetal deaths do not create a legal identity,

nor do they create or impact civil status. The head of the medical facility (or the designated person of the medical establishment), the grassroots medical staff is responsible for transferring information to the civil status registration agency for civil status registration.

Plan two: Information on fetal death (from 22 weeks of age or older) is collected from the diagnosis/ confirmed causes of death card, kept separately from normal death through medical examination and treatment facilities; the head of the medical facility (or its designee), the grassroots medical staff is responsible for reporting to the local health management agency, vertically up to the Ministry of Health; the Ministry of Health compiles, produces statistics on fetal deaths, or transfers the data to the central statistical office to do this work.

Plan three: Combining the two options mentioned above, whereby the local health system reports on fetal deaths between 22 and 28 weeks of gestation up to the Ministry of Health for record keeping and medical statistics. The civil status registration system records and stores fetal deaths from 28 weeks of age or older; and statistics on these cases are made by the agency in charge of civil status statistics.

Of the above options, the second option is considered to be the most suitable with the legal framework, implementation practice, working relationship between the relevant agencies, and the operating mechanism and apparatus. Therefore, the monitoring, reporting and keeping of information on fetal death should be assigned to the health sector in charge from the localities up to the Ministry of Health.

Secondly, for fetal mortality, it is necessary to study the WHO and United Nations recommendations to regulate the collection of the following types of information:

- Characteristics of the event, including: The date and place of the fetal death event; date and place of registration (if regulated); cause of fetal death, type of place of event (hospital or home). In which, information about the date and place of the event, the date and place of registration are given priority.
- Fetal characteristics, including: sex, weight and gestational age; for late fetal death, gestational age information should be preferred.
- Characteristics of the mother and father, including: information about the mother's permanent residence; the number of children born to the mother and the number of fetuses who die during the mother's lifetime; date of last live birth.

Currently, Annex I, Diagnosis of the cause of death according to Circular 24/2020/TT-BYT has many fields of information about the above contents. However, it is still necessary to supplement in Appendix I of the Circular other fields of information on: the sex of the fetus; the mother's regular residence; the number of children born to the mother and the number of fetuses who die during the mother's lifetime; date of last live birth. Moreover, it is necessary to add regulations to use the form for fetal deaths occurring outside of medical facilities. Only then will there be sufficient information to help public health professionals develop public health interventions to help prevent fetal death. (See additional information on the Form in Part V: Medical Certification on Causes of Death).

V. CERTIFYING CAUSES OF DEATH

Understanding causes of death is very important for generating mortality statistics as the basis for the development of public health policies towards improving the health of the population. Therefore, this part of the report assesses the provisions of Vietnamese law against good practices and recommends the improvement of legislation related to the medical certification of causes of death, who is responsible for certifying causes of death, the form used in determining causes of death, verbal autopsy, intensive training of human resources in determining causes of death, transfer and access to information on causes of death.

1. Review of domestic law compared with international best practices

1.1. Medical Certification of Causes of Death

A medical certification of causes of death means a certification by a trained medical doctor of illnesses, circumstances, or injuries that result in death or contribute to death, elements of accident or violence causing that injury.⁷⁷ Compared to this definition, the death notice issued by a medical facility under the provisions of Circular 24/2020 / TT-BYT qualifies as a medical certification of causes of death. Because, the information about the cause of death in the death notice is recorded according to the diagnosis of the cause of death form prepared by a qualified medical staff. Notably, Clause 2, Article 4 of Decree 123/2015/ND-CP stipulates that the death declaration *must* contain information on the cause of death, but it does not require clear information on the cause of death to be medically confirmed.

Among the papers replacing the death notification, the examination result of the forensic examination agency can be considered as almost similar to a medical certification of causes of death. According to Circular 47/2013 / TT-BYT on the forensic examination process, information on the causes of death in the cadaver's forensic examination conclusion is prepared by examiners who are trained with in-depth expertise on the job, following the standard protocol for determining the causes of death. Even in this case, it is still necessary to attach a medical diagnosis of the cause of death to be completed and signed by trained medical staff.

Other papers replacing the death notification, as well as the death notification issued by the commune-level People's Committee, are not medical certifications

⁷⁷ World Health Organization, *International Classification of Diseases, 2016, Volume 2*; see more at *Health issues section, WHO website*, https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

of the causes of death according to WHO standards. Such documents are valid only to certify a *death event*, but not to certify medical causes of death. Furthermore, the papers have a line of information on the causes of death that is filled out by someone without medical expertise trained in determining the cause of death. This can lead to false statistical information about the cause of death.

1.2. The person certifying causes of death

According to international practice, the person confirming the cause of death must be a trained medical doctor, empowered by law to *medically certify* the primary and secondary causes of death as well as other events regarding the death, to notify the local civil status registration agencies. The person certifying the causes of death performs this task for death occurring in a medical facility or under the supervision of a health worker; deaths of natural causes occur in the community without the supervision of health workers; death of an unusual or questionable cause.

Compared with this practice, in Vietnam, for cases of death at a medical facility, the head of the medical facility is the person to confirm the cause of death, because according to Article 3, Circular 24/2020 /TT-BYT, that is the person who signs and is responsible for the death notice issued by the medical facility containing information about the cause of death; at the same time, they sign the form of diagnosis of the cause of death. In addition, the person in charge of technical expertise also has the authority to issue a death report, sign the the diagnosis form on the causes of death. The aforementioned subjects are authorized in writing to other persons to issue death notices and sign the diagnosis form on the causes of death. The aforementioned persons are all trained in medical expertise. As such, those who are entitled to issue a death notification and sign the diagnosis form on the causes of death by a medical facility are considered to be medical certifiers of the causes of death.

The head of the forensic examination organization and the assessors named in the "Forensic examination conclusion on the cadaver" according to Circular 47/2013/TT-BYT are also not considered to be the people confirming the cause of death. Because, forensic examination conclusion is not a type of medical certification document of causes of death.

For other death cases, agencies and organizations such as the police, investigation agency, death penalty execution council, commune-level People's Committee only issue a death notification or a replacement document, and are not considered is the subject confirming the causes of death. Because in those

papers the causes of death are not determined according to medical procedures and standards.

In addition, there is some inconsistency between Decree 123/2015 / ND-CP and Circular 24/2020-BYT. The decree stipulates that the head of a medical facility shall issue a death notice; But the Circular delegates this power to the relevant professional people, and even authorized persons have the right to issue a death notice.

1.3. MCCD form and international classification of causes of death codes

The WHO International Standard Form of Medical certification of causes of death (MCCD) is for recording causes of death information for confirmation with the civil status registration agencies.⁷⁸ The form contains data fields for the immediate, antecedent and underlying causes of death, and well as fields for the time between onset or condition of the disease and death.

Comparing with this sample, the diagnosis form on causes of death occurring at medical facilities under Circular 24/2020 / TT-BYT meets the standards of MCCD. However, as mentioned above, the form still lacks some fields for information over foetal death. Moreover, this form can only be used for those deaths in health facilities. In other cases no form can be considered an MCCD, even a forensic examination conclusion of a cadaver still requires a MCCD.

Thus, there exist legal gaps on medical certification of causes of death occurring outside of medical facilities, including deaths under the supervision of medical staff. Meanwhile, Decision No. 101 / QD-TTg on the CRVS Program, as well as Decision No. 6387 / QD-BYT promulgating the Action Plan of the Ministry of Health to implement the CRVS program both mention these types of death when setting a target that by 2024, at least 80% of all deaths occurring in a health facility or **under the supervision of health-care workers** to have a death certificate and a primary cause of death assigned consistent with ICD 10.

To compensate for this gap, similar to good practice in the world, Article 34, Circular 04/2020 / TT-BTP stipulates that, in cases where the causes of death cannot be determined, the information field on the causes of death is left blank in civil status books, and the death event is still registered and recorded in civil status books to ensure the right to death registration. As for natural deaths due to old age in the locality, the place of residence is also the place of death registration, the commune-level People's Committee does not have to issue a death notice but immediately carries out the death registration on the declaration

⁷⁸ WHO has updated the causes of death related to the covid19 pandemic here:

<https://www.who.int/standards/classifications/classification-of-diseases/list-of-official-icd-10-updates>

of relatives. However, such cases should be exceptions only. Ideally, the law still needs regulations to be able to obtain medical certification of causes of death in all circumstances.

1.4. Verbal Autopsy

At the beginning of 2021, there was no legal normative document in Vietnam directly regulating verbal autopsy (VA), which involves determining a probable cause of death through interviews with family members and caretakers. Only Decision 101 / QD-TTg, as well as Decision No. 6387 / QD-BYT set a target by 2024 that at least 50% of all deaths occurring outside of health facilities without the supervision of health workers will have the main causes of death identified through VA consistent with international standards. Despite its weaknesses, VA can be useful in deaths without the supervision of health workers, providing public health information for statistical (but not individual or legal) purposes.

1.5. Transfer of information on causes of death to civil and statistics agencies

The law of some countries considers information on the cause of death to be sensitive and cannot be provided to other parties, including the civil status registration agencies and even family members. Meanwhile, in many other countries, cause of death certificates from different organizations and individuals need to be transferred to the civil status registration agency, which is an objective party to keep and provide to the family members of the deceased to be used for legal purposes when necessary.⁷⁹ For example, family members need to know the cause of death to sue related parties such as hospitals, accident owners, food manufacturers, etc., or to gain access to insurance claims, pensions or other benefits. At that time, family members will send a written request to the civil status registration agencies to provide information on the cause of death.

In Vietnam, Circular No. 24/2020 / TT-BYT clearly states that the diagnosis form of the cause of death should be kept at a medical facility, only for use in the health sector for the purpose of health statistics (not statistic on civil status), planning, policy development, research, population structure analysis, health service evaluation. Medical establishments shall report the number of forms and information in the forms to state management agencies in the health sector for the purpose of health statistics.

According to Circular No. 24/2020/TT-BYT, the main cause of death determined according to the above-mentioned diagnosis form is recorded in the death notice issued to family members; the family members submit the death

⁷⁹ The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019.

notice to the civil status registration agencies to register the death. Meanwhile, according to good practice around the world, death notices should not contain information about the cause of death. This is sensitive information, such as causes of death by suicide, related to HIV-AID, infectious diseases, which can affect the privacy of the deceased and family members, so it should not be displayed on the death certificate. Information on the cause of death should only be transferred to the civil status registration agency through the death cause determination form for archiving and legal purposes when necessary as analyzed above. Notably, Circular 04/2020/TT-BTP has been consistent with this practice when stipulating that the death registration form no longer has an information field about the cause of death.

1.6. Assess to information on causes of death

Information about the cause of death is highly sensitive and private, so access to this information is one of the issues that need to be taken care of.

According to Circular No. 24/2020 / TT-BYT, authorized individuals of the medical facility where the diagnosis form on the causes of death is kept can access the information on the causes of death in this form. In addition, family members can access information on the main causes of death identified according to the above-said diagnostic form and record in the death notification issued to the family member to submit to the civil registration office for death declaration.

According to the provisions of the 2009 Law on Disease Examination and Treatment, the diagnosis form on the causes of death is considered as one of the documents in the medical record, kept under confidentiality standards. The head of a competent medical facility has the power to allow some agencies, organizations and individuals to use medical records in some specific cases. A family member is given a summary of the medical record.

With regard to the forensic examination conclusion, the head of the examination organization, the participating examiners, the investigation and procuracy, the court, the family of the deceased, the lawyer, the defendant could have access to information on the causes of death in this document.

1.7. Training and retraining human resources on certifying the causes of death

According to Decision No. 6378/QD-BYT, in the coming years, medical certification of cause of death will be included in the compulsory training program for medical students. Along with that, the textbooks on death certification and determining the causes of death according to the ICD 10 will be

compiled⁸⁰; online training in certifying of causes of death will be designed for medical training institutions.

At the same time, the Ministry of Health will lead the development and dissemination of guidance documents on determining causes of death for health facilities; short training courses on issuing birth certificates and death notifications for health workers, collecting and analyzing information on birth and death, determining causes of death, coding causes of death according to ICD 10; developing and disseminating toolset on determining causes of death through verbal autopsy; testing a model to identify causes of death through verbal autopsy in the community, evaluating and expanding the model.

According to Decision No. 4496 / QD-BYT, health facilities will have staff in charge of disease coding under ICD 10 to be trained and re-trained regularly. In addition, all health-care workers are trained in disease coding according to the ICD. Departments of Health are responsible for training on disease coding according to ICD for key staff of local health facilities. The Medical Service Administration is responsible for guiding and training health facilities across the country to implement coding according to the ICD.

The measures in the MOH Action Plan are consistent with WHO recommendations on training, fostering medical validation of causes of death, ICD coding, and determining causes of death through verbal autopsy. Actual results depend on the implementation of the aforementioned provisions.

2. Recommendations to improve legal regulations

2.1. Mandatory Medical Certification on Causes of Death

The National Assembly/Government should have regulations assigning tasks and powers to the health sector in confirming the medical causes of death for cases of death outside medical facilities such as normal deaths at home, in the community with and without medical supervision; death in unusual circumstances such as accidents, violence, natural disasters, etc. The form of diagnosis of the causes of death according to Circular No. 24/2020/TT-BYT can be used for the following cases:

- Death occurs in a medical facility, death outside a medical facility but is monitored by medical staff before death or during treatment.
- Death with the results verified by medicolegal authorities.

⁸⁰ WHO has updated the causes of death related to the covid19 pandemic here:<https://www.who.int/standards/classifications/classification-of-diseases/list-of-official-icd-10-updates>

Simultaneously with this regulation, in order to ensure the right to declare an individual's death, to ensure its feasibility, the law needs to provide for cases where the medical causes of death cannot be determined, the civil status registration agency still conducts the death registration based on the confirmation of the competent person about the death event (refer to Part IV on birth and death registration). For example, in medical facilities where there is no qualified person to medically confirm the cause of death, such as a commune health station worker, who is not a trained medical doctor, is not qualified to medically confirm the cause of death, then only a death certificate proving the fact of death should be required. Or if the death occurred at home without the supervision of a health worker, a family member's confirmation may be required; or someone who knows the fact of death. This is the best practice recommended by the UN, which is regulated in many countries such as in the UK, Philippines, Ecuador, Peru, English-speaking African countries, West Asian countries, Australian states, New Zealand, and pacific island countries.

2.2. The person certifying causes of death

The law needs to supplement regulations on who has the authority to confirm the medical causes of death in different cases of death occurring outside the medical facility such as: natural death at home, in the community with and without medical supervision; unnatural deaths due to, for example, accidents, violence, natural disasters, etc. A Decree assigns the Minister of Health to amend, supplement or issue a new circular on this issue.

In most cases, the person who medically confirms the cause of death should be a physician with specialized medical training and training in medically confirming causes of death. For deaths with medicolegal examination, there are two options: either invite trained medical personnel to prepare a medical confirmation of the cause of death according to good practice recommended by the UN; or the coroner who signs the autopsy report can be considered the medical certifier of the cause of death as in the Philippines.

In particular, it is necessary to overcome the inconsistency between Decree 123/2015 / ND-CP and Circular No. 24/2020 / TT-BYT on the persons competent to issue and re-issue death notices of medical establishments (containing information about the cause of death). The provisions of the Circular are consistent with the reality of medical facilities and they comply with the provisions of the Law on Medical Examination and Treatment. In this respect, it may be practically appropriate to amend the Decree's regulations so that the head of a medical facility can authorize other entities to issue medical certifications of cause of death.

2.3. Verbal Autopsy

As the UN documents indicate, the adoption of VA in other countries is also at a very early stage of development. In some countries, VA is used for legal purposes, particularly to certify with a civil status agency like an MCCD. But this is typically done only when a doctor closely reviews the results of the verbal autopsy. When VA is done using a computer algorithm, as is common, the results should not be used for legal purposes, only statistics purposes. In some other countries, VA is only used for census purposes.⁸¹ Through the legal documents as presented, determining the cause of death through verbal autopsy will be applied in the coming years for statistical purposes with appropriate roadmaps and measures according to Decision No. 6378/QD-BYT.

Besides, for a more solid legal basis, the VA needs to be regulated in a LND, at least the relevant Circular or Decree. In which, medical confirmation of causes of death is still preferred, but in the absence of MCCD, VA should be used to determine causes of death for statistical purposes.

2.4. The transfer of information on causes of death

Research is needed to adopt good practices, stipulating that the medical facility is responsible for transferring the medical certification of causes of death form together with the death notice to the civil status registry; The civil status registry maintains and permits the exploitation and use of personal data and privacy principles. As described in Part IV on birth and death registration, the health sector has the conditions and capacity to do this. At the same time, it is necessary to amend the provisions of The 2009 Law on Medical Examination and Treatment to be able to transfer this Form to the civil status registration agencies, because under this Law, only a few agencies, organizations and individuals have the right to have access to medical records as decided by the head of the medical facility.

The death notice issued by a medical facility may contain a line of information on the cause of death, as it is medically confirmed. However, in the current paper forms replacing the death notification issued by the medical facility, except for the conclusion of the forensic examination on cadaver, it is necessary to remove the information field "cause of death", as that is not appropriate to include on a death notification form. According to other countries' experience, it is better to have no information on the cause of death contained on death notification forms, since they are typically not medically validated, and instead are intended to prove the mere fact of death (not the cause of death). Including a

⁸¹The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 349-351.

“cause of death” field on a death notification form can encourage non-medical personnel, such as family members or civil registrars to attempt to fill out the cause on their own. This should be avoided.

2.5. Assess to information on causes of death

Regarding access to information in the the diagnosis form on the causes of death, the provisions of Circular 24/2020 / TT-BYT are inconsistent with the 2009 Law on Medical Examination and Treatment. As mentioned, according to the Law, this form is part of the medical record of the deceased, and many different subjects are entitled to access the medical record at the discretion of the head of the health facility. Meanwhile, according to the Circular, the forms are kept at medical facilities and only used internally in medical facilities. Thus, the provisions of the Circular need to be amended to be consistent with the Law, allowing some subjects to access to the form according as to the decision of the head of the medical facility. At the same time, if there is a provision on sending the diagnosis form of the cause of death to the statistics agency, information on the name and address of the dead person should be hidden to protect privacy.

VI. VITAL STATISTICS

Statistics on civil status provide information to the government and the public about patterns and trends in a country's population movement. The generation and dissemination of vital statistics are essential for informed public policy and decision-making to improve health and socioeconomic outcomes. Therefore, this section presents and evaluates the Vietnamese law on vital statistics compared with good practices in the world, thereby giving some recommendations to improve legal provisions on this issue.

1. Existing legislation in Vietnam against international best practices

1.1. Definitions, scope of vital statistics

As defined in a UN document, vital statistics is the collection of statistics on vital events that take place in a person's life, as well as the relevant characteristics of the events themselves, of the person and the people involved.⁸² Moreover, civil status statistics collect, synthesize and analyze specific and detailed information according to the demographic, socio-economic characteristics of civil status events, and establish statistical tables (tabulations) based on detailed data (microdata) obtained from the civil registration system (and other data sources, if necessary); quality verification; report, publish statistical results.

As mentioned in the overview, civil status statistics include statistical data on the following civil status events: (1) live birth and death events, including fetal death; (2) concurrent conjugal events for two individuals that would not have occurred again in either person's lifetime without a change in their civil status; These are: marriage, registered cohabitation, separation, divorce, annulment of registered cohabitation, dissolution of marriage (in countries that have recognized same-sex marriage, civil status statistics include same-sex marriage or divorce); (3) the events of family expansion due to: adoption, legalization of the status and rights of children born out of wedlock, recognition of parents.⁸³ In which, vital events prioritized for statistics in the following order: birth, death, fetal death; then marriage, divorce; other events.

For comparison, Vietnamese law does not have a direct and clear definition of civil status statistics, but there are provisions on aggregated statistical indicators of civil status. Specifically, according to Decree No. 97/2016 / ND-CP there are a number of indicators related to civil status events of individuals. These are:

⁸² The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para. 1.

⁸³ The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para. 2.

population by marital status; crude birth rate (CBR); total fertility rate (TFR); crude death rate (CDR); marriage rate (MR); the rate of children under 5 years old having birth registration; the number of deaths registered for death.

Circular No. 10/2017 / TT-BTP regulates vital statistics of the judiciary, including: the number of birth registrations for Vietnamese citizens; the number of birth registrations with foreign elements; death registrations of Vietnamese citizens; death registrations number for cases involving foreign elements; registration number of Vietnamese citizens; registration number of marriage with foreign elements; registration for other vital events (guardianship, parent recognition, etc.). The number of cases of Vietnamese citizens' adoption registration; the number of cases of adoption registration with foreign elements.

Synthesizing the provisions of these legal documents, civil status statistics in Vietnam can be considered as the collection and synthesis of information on civil status events of individuals such as birth, death, marriage, divorce, adopted children, guardianship, parent recognition. Thus, the content and scope of vital statistics in Viet Nam have aspects similar to best practices recommended by the UN; Statistics of civil status in Vietnam are mainly birth and death statistics.

On the other hand, compared to the usual practice, civil status statistics in Vietnam lack some contents because the law does not provide for some civil status events such as legalizing the status and rights of children born out of wedlock. In particular, fetal mortality - a captivating vital event in the world is not recorded and statistically recorded in Vietnam. One important difference is that vital statistics in Vietnam aggregate the number of registrations of vital events with several subgroups, without further subdividing information to more detailed categories as good practices in the world do. (*See for a more detailed introduction to a detailed list of statistics on civil status as recommended by the United Nations in section 1.7. below*).

1.2. Agencies responsible for vital statistics

In many countries, there are different agencies that produce statistics of life events such as birth, death, marriage, and divorce. This allows for a diverse, mutually verifiable data source, for example collating health sector data can help determine whether all in-facility births or those under supervision by medical staff have been registered as vital events or not. However, in most countries, the law stipulates that there is a separate agency in charge of civil status statistics, with the task of collecting, synthesizing, analyzing and publishing vital statistics; and it's usually the national statistics office.⁸⁴ The agency responsible

⁸⁴ United Nations Guidelines on the Legal Framework for Civil Status Registration Systems, Civil Status Statistics and Identity Management (New York, 2019), paras. 26, 173.

for producing vital statistics does not register vital events.⁸⁵ It should also be noted here that each industry still maintains the reporting system, aggregating general data to serve the management of its industry.

It is important to have the linkage of the systems together, especially the civil status data system with the vital statistics system; and data collected from the civil registration system should be the primary source of data for national vital statistics (see for more details the role of civil registration in vital statistics in section 1.3. below). Conversely, statistical information compiled by the civil status statistics agency should also be promptly shared with the civil status agency for use in the management of its sector.

Meanwhile, vital statistics in Vietnam operate on three parallel systems. The Law on Civil Status specifies in Articles 65 and 66 that the Ministry of Justice assists the Government in performing the state management of civil status (including vital statistics); annually synthesizes the situation, analyzes, evaluates, and reports vital statistics to the Government. As such, the Ministry of Justice is mainly responsible for vital statistics. Information and data on civil status are collected from civil status management, registration agencies at all levels and overseas Vietnamese representative missions. The Ministry of Justice promulgates regulations on uniform application nationwide on the statistical reporting system in the judicial branch (including civil status statistics); judicial statistics, including civil status statistics.

Besides, some national statistical indicators related to civil status are developed by the General Statistics Office. According to the provisions of the under-law LNDs related to the health sector, information on births and deaths is conducted by the Ministry of Health for the purpose of health statistics. However, the responsibilities and powers of the statistics industry and the health sector related to vital statistics are only specified in the LNDs on these two sectors. The Law on Civil Status has no regulations on the responsibilities of the Ministry of Planning and Investment (General Statistics Office) and the Ministry of Health in vital statistics; particularly, the responsibility for coordinating among the three sectors in vital statistics.

This leads to the fact that, the collection, synthesis and statistics of these three agencies are separate in nature. These three systems have almost no connection and coordination in the synthesis and analysis of civil status statistics; each industry only receives and produces statistics on its own data from their own locality. Agencies of the three branches have different regulatory needs on

⁸⁵The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para. 43.

statistics; and rely on different data sources. At the same time, there is an inadequacy in management in terms of reporting and data aggregation, leading to a reality different from what is recorded on paper. There exists an inconsistency among these agencies in the collection and use of civil status data.⁸⁶ For example, while the General Statistics Office focuses on actual birth and death events such as the actual place of birth, the Ministry of Justice pays attention to legal aspects such as the place of residence when registering births, not where the birth event took place. As such, data on the number of births differ between the three sectors.

1.3. Links between civil registration and statistics

As a rule, it is important that civil status data be the first source of data that is fundamental to vital statistics. Other sources can be supplemented, diversified, or used to verify the completeness and accuracy of civil status data⁸⁷. Because the data source from civil registration is the only source with regular nature, universal, mandatory, continuous; while other sources are partial, incomplete, only provide information at a particular point in time. However, in Vietnam, except for vital statistics in the judiciary sector, the statistics of vital events conducted by the statistics sector are almost not based on data from civil registration, including in the law and implementation in practice.

Specifically, according to Appendix II, Decree No. 97/2016/ND-CP, data sources of national statistical indicators related to civil status events include: population and housing census; mid-term census and housing; annual population and family planning sample census; administrative data. Administrative data (but it is not clear whether to include the civil status database) is only one source of data behind the above sources for the development of a number of national statistical indicators. There are also some indicators established from other data sources, which is not administrative data, that are: Population by marital status; the number of deaths registered - The Ministry of Justice presides over data collection and synthesis, but the source of data is the national statistics reporting

⁸⁶ Presentations by representatives of the General Statistics Office, Department of Justice Tuyen Quang, Hai Phong at the consultation workshop for the Report on the assessment of the legal framework on registration, household statistics and identity management in Vietnam, Hanoi, August 2021. See more: Nguyen Quoc Cuong, Tran Thi Hong Lien, Report on assessing the implementation of Vietnam's National Action Program on civil status registration and statistics, Hanoi, 2021.

⁸⁷The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para.

system, not the civil status database.⁸⁸ It should be noted that some indicators are difficult to calculate based on the current civil status database such as: "crude birth rate" calculated on the number of live births in the year; the indicator of fertility rate calculated on the average number of live births per woman (or group of women) during the entire reproductive period; crude death rate calculated on the number of people who died in the period.⁸⁹ Anyway, the calculation and synthesis of civil status statistics indicators based on data sources from statistical surveys and reporting systems leads to the quality of collected data not being as good as background data that is recorded and monitored regularly.

According to Circular No. 03/2019 / TT-BTP, statistics of the judicial sector, including vital statistics, are collected and synthesized from the following data sources: reporting system in the sector, sociological surveys, and administrative data. As for Circular No. 10/2017 / TT-BTP specified in Appendix II, data sources of civil status statistical indicators include reporting system in the sector from the communal People's Committee to the Ministry of Justice; and the civil status database. These regulations show that vital statistics are made by the Ministry of Justice from data sources generated from civil registration. However, as analyzed, the statistics information received by the Ministry of Justice is only aggregated information from the bottom up, not complete and detailed data. On the other hand, it is only the Ministry of Justice that manages the civil status database and the electronic civil status database with full data from civil registration.

According to the representative of the General Statistics Office, at the time of issuing the above legal documents, Vietnam did not have a good enough source of civil status registration data to be able to rely on to replace other data sources. Therefore, in order to have information to calculate the indicators related to civil status statistics, the General Statistics Office must conduct surveys. This leads to the regulation on data sources in Decree 97/2016/ND-CP, Circular No.

⁸⁸ In fact, according to representatives of the General Statistics Office, this agency has never used civil status data to serve statistics because there is still inconsistency between data sources. Specifically, in 2019, according to civil status data, the total number of live births was 1.7 million, but the GSO calculated 1.5 million.

⁸⁹ The presentation by the representative of the Department of Planning and Finance, Ministry of Justice at the consultation workshop for the Report on the assessment of the legal framework on registration, household statistics, identity management in Vietnam, Hanoi, August 2021.

03/2019/TT-BTP.⁹⁰ Thus, whatever the cause, Vietnam's legal framework on civil status statistics still lacks clear and complete regulations on data sources from civil status registration; on the requirement to summarize civil status statistics information according to the detailed table.

1.4. Vital statistics information sharing

As is customary in the world, in centralized countries, the national civil status authority sends detailed information and data on each individual vital event to the national statistics agency to synthesize detailed statistical tables and analyze statistical data. Sharing of data should be done on a regular basis.

Similarly, in Vietnam, Article 38 of The 2016 Statistics Law stipulates that the administrative data management agency (which would include the national civil status database) must provide data and information (details) from that database to the central statistics agency, which is the General Statistics Office (GSO), to be used for statistical activities.⁹¹ In the framework of this report, it is the Ministry of Justice that manages the national civil status database, the electronic civil status database, while The Ministry of Health manages data that they collect on births and deaths.

At the same time, according to Clause 4, Article 11, Decree No. 94/2016 / ND-CP, the administrative database management agency (in this case, the Ministry of Justice) and the central statistics agency are required to promulgate a regulation on the coordination mechanism specifying the use of data from the Ministry of Justice's administrative database for state statistical activities. However, as of 9/2021, such a regulation, to date, has not been issued.

It is suggested that the GSO calculates the national statistical indicators, while the judicial sector statistics are collected by the Ministry of Justice, the Ministry of Justice still has to report according to the provisions of law. Specifically, according to Point dd, Clause 1, Article 10 of Circular No. 03/2019/TT - BTP, the Department of Planning and Finance organizes to develop statistics reports of the Ministry of Justice and send it to the GSO. Therefore, in the immediate

⁹⁰ Presentation by the representative of the General Statistics Office: Comments on the Report on the assessment of the legal framework on civil status statistics in Vietnam, the consultation workshop on the Report on the assessment of the legal framework on registration, household statistics and identity management in Vietnam , Hanoi, August 2021.

⁹¹ Circular 03/2019 / TT-BTP in Article 10 assigns to the Department of Planning and Finance of the Ministry of Justice the task of preparing annual statistical reports of the Ministry and sending to The GSO, which includes civil status statistical information. However, the report only contains information on civil status that has been synthesized nationwide, not specific types of information, details of the civil status database.

future, if it is only to calculate the civil status statistics indicators under the reporting responsibility of the Ministry of Justice, it is not necessary to develop a Regulation on coordination.⁹² Meanwhile, others stated that because there is yet no regulation on information sharing, civil status statistical data is being used inconsistently. Moreover, no industry has enough data to share, further complicating the ability to share data.⁹³

As is customary in the world, in the process of sharing information with the agency responsible for vital statistics (the national statistical office or the Ministry of Justice, or other agencies depending on each country), the agency in charge of civil registration must remove all personal information (eg, name, specific address) from records in order to protect the privacy of the individuals involved. Meanwhile, Article 38 of the 2016 Law on Statistics does not require such a request. According to Article 39 of this Law, The GSO is not allowed to provide data and information received from administrative data to third parties to exploit and use, unless it is agreed by the administrative data management agency. Article 57 of the Law stipulates that all types of State statistical information must be kept confidential with information associated with the specific name and address of each organization or individual, unless such organization or individual provides their consent, or the law requires otherwise. This provision of Vietnamese law is aimed at protecting privacy, somewhat similar to best practice. However, the phrase "must be kept secret" is not clear, specific, easy to implement by regulations on anonymity of personal names and addresses when sharing civil status information.

1.5. Synthesize information on vital statistics

According to Decree No. 97/2016/ND-CP, the national statistical indicators related to civil status are compiled by the General Statistics Office. Under the provisions of the Law on Civil Status and circulars related to statistics in the judiciary sector, civil status statistical information is collected and aggregated nationwide from the commune, district and provincial levels up to the Ministry of Justice. Circular 10/2017 / TT-BTP in Appendix II regulates the definition,

⁹² Presentation by the representative of the Department of Planning and Finance, Ministry of Justice: Comments on the Report on the assessment of the legal framework on civil status statistics in Vietnam, the consultation workshop on the Report on the assessment of the legal framework on registration, household statistics, and identity management in Vietnam Nam, Hanoi, August 2021.

⁹³ Presentation by the representative of the General Statistics Office: Comments on the Report on the assessment of the legal framework on civil status statistics in Vietnam, the consultation workshop on the Report on the assessment of the legal framework on registration, household statistics, and identity management in Vietnam Nam, Hanoi, August 2021.

classification, codes and data sources of civil status statistical indicators. Circular No. 03/2019 / TT-BTP provides forms for the People's Committees at all levels to record, synthesize and submit civil status statistics information to direct superiors and up to the Ministry of Justice. This is consistent with international practices whereby the central authority ensures the application of common, uniform standards for producing vital statistics across the country.

However, the statistical information provided to the Ministry of Justice from the People's Committees of all levels is only a summary of local general figures on vital events, with a few subdivisions. Besides, the statistical reporting system is not followed well; Vietnam does not have a good database system to store the reporting system to the commune level, let alone individual citizens. According to "this channel", the Ministry of Justice does not receive detailed data of each level on specific vital events of individuals. Based on these general numbers alone, it is difficult for the Ministry of Justice to develop detailed and specific vital statistics using the tabulation tables recommended by the UN (see list of tables in Annex IV). In return, the Ministry of Justice is competent to manage electronic civil status databases nationwide with full detailed data. Thus, the Ministry of Justice can use that data to directly aggregate and compile detailed statistical tables on vital events of individuals across the country.

One point to be noted in the synthesis of statistical information on civil status is the need to disaggregate data by urban / rural residence. According to Decree No. 97/2016 / ND-CP, most of the national statistical indicators related to civil status assigned to the GSO are aggregated by urban / rural areas. However, according to Appendix II, Circular No. 10/2017 / TT-BTP, the civil status statistical indicators compiled by the Ministry of Justice are not aggregated by urban / rural residence. This is explained that in the civil status form there is no line of this classification information, but only the line for residence address, so it cannot be aggregated by urban/rural area. However, knowing one's address is enough to know whether to classify their place of residence as urban or rural.

1.6. Synthesize information on vital statistics

As recommended by the United Nations, vital statistics in the form of complete and detailed tables of each type of vital event should be disclosed ***at least*** once a year within 6 months after the end of the year. Summarized statistical information on vital events should also be reported monthly or quarterly for timely provision to policy-making bodies.

For comparison, according to the provisions of the law on statistics in general and civil status statistics in particular in Vietnam, relevant agencies must periodically publish and report statistics information. Specifically, every year,

GSO must publish national statistical indicators related to civil status and the Ministry of Justice publishes judiciary sector's vital statistics. Vietnamese law also stipulates that statistical information in the judiciary sector needs to be reported every six months and annually to higher agencies up to the Ministry of Justice. In the case of vital statistics, the People's Committee of the commune reports to the People's Committee of the district; District People's Committee synthesizes and reports to the Provincial People's Committee; Provincial People's Committee synthesizes and reports to the Ministry of Justice. These regulations on publication timeline are similar to world practice, and do not further burden to the statistical and judicial branches.

1.7. List of minimum tables of vital statistics

The UN recommends a list of minimum civil status tables that aggregate civil status data on the following within a country or geographical area: live birth; death; causes of death; infant mortality; and fetal death (see also UN forms in Annex IV attached to the report).⁹⁴ Information about each of the above-mentioned events is broken down into many specific criteria, for example, information about live births has 20 types of information; and there are 13 categories of information for death.

Meanwhile, as mentioned, the relevant legal normative documents of Vietnam⁹⁵ only require aggregate or summary statistics pertaining to each vital event, with only a few types of information expressed through disaggregation. The comparison shows that the types of statistical information produced on civil status as required by Vietnamese law are much less than what the UN recommends as contained in the minimum list of tables of vital statistics. For example, the statistical indicator of the number of birth registration cases in the country only requires the following types of information: gender, ethnicity, the number of registration (new registration, re-registration), time of registration for new registration (on time, delayed), age for new registrations (under 5 years old for delayed registrations), province / city under central authority. Other statistical indicators have similar requirements, only about 4-5 types of information.

2. Recommendations on how to improve the law on vital statistics

⁹⁴The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. para. 157-159.

⁹⁵ Relevant legal normative documents include: Decree 97/2016 / ND-CP on the system of national statistical indicators, Circular 10/2017 / TT-BTP on the judiciary sector statistical indicators, Circular 20/2019 / TT-BYT health sector statistical indicators system.

On the basis of collation and comparison with good practice in the world, based on the context of Vietnam, the report makes some of the recommendations to improve the law on vital statistics as follows.

2.1. Definitions, scope of vital statistics

In fact, the current regulations on civil status statistics in Vietnam have some content and scope similar to the recommendations of the United Nations, but there is no separate regulation to define and designate the scope of civil status statistics clearly. On the basis of current scattered regulations, it is necessary to add to the Civil Status Law or the Decree guiding the Civil Status Law the definition of civil status statistics; clearly state civil status events within the scope of civil status statistics. This is to create the basis for other regulations on vital statistics in the LNDs to be agreed.

On the other hand, the legal framework needs to supplement provisions on important activities of civil status statistics such as transferring detailed civil status data to the civil status statistics agency; making and publishing detailed civil status statistics tables.

2.2. Delegate the responsibilities of agencies

Relevant LNDs need to clearly define the responsibilities of agencies related to vital statistics, namely the Ministry of Justice, the General Statistics Office, and the Ministry of Health; especially the responsibility for connecting, sharing information and data.

According to the first option, as is done in many countries, it is possible to designate the General Statistics Office, as the central statistics agency, with the main responsibility for synthesizing and producing civil status statistics. Relevant agencies such as the Ministry of Justice (and People's Committees at all levels), the Ministry of Foreign Affairs and the Ministry of Health do not normally carry out vital statistics, or they don't do this as their primary job. Instead, they transfer information and data to the central statistics agency, which has the staff and expertise to produce high level statistics, for the purpose of creating vital statistics.

The second option is that within the current legal framework, the Ministry of Justice remain the main responsible agency for civil status statistics and use the available data in the civil status database to summarize and make detailed statistics on civil status events. At the same time, according to the best practices in the world, as well as the provisions of the Law on Statistics, The Ministry still needs to transfer that data to the GSO for use and analysis to serve the development of national statistical indicators.

Each option has advantages and disadvantages. Under the first option, the national statistics office has more human resources, has the expertise, and is able to use other data sources to verify the quality of data from civil status registration when needed. Moreover, statistics is the main function and task of this agency, while the Ministry of Justice has many other core functions and tasks. However, some expressed the opinion that the GSO would be overburdened if it had the task of formulating all statistical indicators for all sectors, including the judicial sector; and therefore, data gathered by the judicial sector should be converted into statistics by the judicial sector.⁹⁶ Moreover, this option requires synchronous amendments of many different legal normative documents such as the Law on Statistics, Decrees, and Circulars related to industry statistics, civil status statistics. Therefore, this option requires more time and additional resources.

Option two has the advantage of not disturbing the functions and tasks in civil status statistics of the two sectors; it's not necessary to amend or supplement, at least not to a significant degree, the current legal framework; each sector is in charge of the targets of its assigned sector, reducing the workload for the GSO. However, this option faces many difficulties. For example, civil servants assigned tasks in the field of civil status at local levels, especially at district and commune levels, do not have expertise in statistics, while civil status registration is already burdensome. As analyzed in the current situation, this is an important reason why the current statistical reporting system does not work well. Moreover, if according to the recommendations of the United Nations, it is necessary to prepare detailed statistical tables, then the option of assigning the judicial sector at all levels to carry out civil status statistics is even more difficult. In addition, even at the central level, the assignment of the Ministry of Justice to perform the civil status statistics task is in many respects inconsistent with the human resources, nature and functions of this agency.

On the basis of considering two options, it is possible to choose a compromise with an appropriate roadmap. Specifically, in the next few years, it will not be possible to implement option one because it requires a lot of time and resources. Therefore, the Ministry of Justice should still take the main responsibility for civil status statistics; at the same time, it is necessary to amend and supplement a

⁹⁶ Presentation by the representative of the Department of Planning and Finance, Ministry of Justice: Comments on the Report on the assessment of the legal framework on civil status statistics in Vietnam, the consultation workshop on the Report on the assessment of the legal framework on registration, household statistics, and identity management in Vietnam Nam, Hanoi, August 2021.

number of regulations to enhance coordination and sharing of information and data among ministries and sectors; guidelines for local government levels in this area. Then, in the long run, it is necessary to amend and supplement the legal framework in order to assign the GSO to take the main responsibility for civil status statistics; The Ministry of Justice as well as other relevant ministries and sectors shall transfer civil status statistics to the GSO in accordance with the statistical function of the central statistical office.

For both options, it should be emphasized once again that detailed statistical data that have been anonymized should be transferred from the civil status registration agencies to the civil status statistics agencies for the production of detailed statistics. The body mainly responsible for vital statistics is tasked with advising the Government on the promulgation of regulations on vital statistics standards and guidelines applicable across the country for all agencies, sectors, localities (judiciary, statistics, health, courts, diplomacy, etc.).

2.3. Coordinate and share civil status information

Regardless of the option of the main agency responsible for civil status statistics, according to the experience of other countries, the process of transferring and sharing civil status information is as follows: Once a month, the civil status registry transmits to the immediate superior authority up to the Ministry of Justice all detailed civil status data received from the civil status registration process. Each level needs to conduct data quality checks. At the central level, the civil status management agency is responsible for hiding the identity of the civil status data (deleting the full name, address and any other information about the individual identity) and transferring such data to the agency in charge of civil status statistics at least quarterly, preferably monthly. If the systems have been digitized and fully connected electronically, the transfer of statistical data takes place continuously and instantaneously.

In addition, within the current legal framework, in addition to sending annual statistical reports to the GSO, the Ministry of Justice and the GSO need to develop a regulation on coordination, detailing how data will be transferred and on what time schedule, etc., as prescribed in Clause 4, Article 11, Decree No. 94/2016/ND-CP. This will establish a clear legal basis for the two agencies to cooperate in sharing detailed civil status statistical information from the civil status database. Especially when the civil status database is stable and complete, ensuring the extraction of national statistical data, there is an even more justified basis for developing a Regulation for the GSO to receive data from the Ministry of Justice to serve the development of civil status indicators related to civil status implemented by the GSO.

In addition, it is necessary to develop a mechanism from central to local levels in the coordination, sharing and use of civil status statistics and related information among sectors, especially birth and death registration data among the three sectors of Justice, Health, and Statistics. This mechanism needs to unify the concept and calculation of related statistical indicators; clearly identify the focal point providing data, mechanism for providing and sharing information; monthly and quarterly exchanges between judicial authorities and health and statistical agencies at the grassroots level to ensure the accuracy of data, to help detect the number of unregistered cases; assign responsibilities to People's Committees at all levels to ensure that police, health, population and statistics agencies connect and coordinate more often with judicial authorities in statistics activities.

2.4. Types of statistical information to synthesize and publish

Based on the analysis in Section 1 of this Section, the ideal option is to amend the legislation so that civil status statistics are aggregated according to the list of minimum statistical tables recommended by the UN.⁹⁷ In which, priority should be given to collecting and synthesizing detailed information on births, deaths and fetal deaths; then marriage/divorce, adoption; information about other civil status events. It is necessary to supplement regulations on specific types of information about individuals, not just general information according to some civil status statistics from management levels.

The main agency responsible for vital statistics (the Ministry of Justice or GSO, depending on the option selected) is responsible for developing detailed statistical tables as recommended by the UN at least annually. Also, every quarter or once a month, this agency should publish summary counts of vital events (how many deaths occurred, how many births occurred, etc.. If the statistical data has not been fully collected at the time of publication, the agency may still publish a summary report, but it should be clearly stated that the data is incomplete.

However, it is difficult to implement this option in the near future, because the capacity, reporting system, and data sources have not met the requirements. Furthermore, this option requires revising the legal provisions on the types of information to be collected during civil registration as analyzed in Part III of this report.

⁹⁷ See more details on the detailed list of vital statistics in the document: The United Nations, Principles and Recommendations for a Vital Statistics Systems, Revision 3, New York, 2014. page 157-200.

Therefore, a more feasible option is that the Ministry of Justice, The GSO and the Ministry of Health coordinate to develop regulations on the application of these tables according to a step-by-step roadmap. In the short term, it is necessary to add other subdivisions to the current vital statistics. It is necessary to disaggregate or tabulate nationwide data by urban / rural areas for all statistical indicators of civil status; both at the commune and district levels, not just by province / city directly under the central government, as is currently done. If there is a good database system to store the reporting system down to the commune level, it is possible to synthesize by urban/rural division.⁹⁸ At the same time, it is necessary to amend the civil status registration forms and add an urban/rural information field to facilitate the aggregation of data according to this sub-category. In particular, it is necessary to have a separate regulation on recording and statistics of fetal mortality as one of the most important information for public policy making.

⁹⁸ Presentation by the representative of the General Statistics Office: Comments on the Report on the assessment of the legal framework on civil status statistics in Vietnam, the consultation workshop on the Report on the assessment of the legal framework on registration, household statistics, and identity management in Vietnam Nam, Hanoi, August 2021.

PART VII: IDENTITY MANAGEMENT

The identity of an individual in a broad sense includes legal evidence of that individual's identity. In this sense, one of the 2030 Sustainable Development Goals emphasizes the importance of universal birth registration. In addition, there is the concept of identity in the narrower sense, presented in Part VII, which implies the management of national identity through the issuance and management of personal identification cards and personal identification numbers.

1. Reviewing legislation in Vietnam against international best practices

1.1. Universality

In recognition of the importance of having a legal identity, the UN 2030 Agenda for Sustainable Development recognizes the need to establish “legal identity for all, including birth registration, by 2030.” This is a core target in this universally agreed upon agenda (Target 16.9). Everyone should have access to proof of identity, irrespective of citizenship, residency status, statelessness, refugee status, or any other distinction.

In comparison to this standard, a citizen's identity card is issued to all Vietnamese citizens. The law also stipulates the specific process and procedures for granting permanent or temporary residence cards to foreign citizens or stateless persons. However, although Vietnam currently has no refugees, there are no provisions in the law dictating how refugees would obtain an identification card.

1.2 Information collected into the national identification system

As is customary around the world, the registration of personal identity collects and records key identifiable attributes, often including biographical information (such as: name, date of birth, gender, etc.); as well as biometric information, such as fingerprints, iris scans, or facial recognition. The law should clearly state how biometric information will be collected; alternative ways to collect biometric information in cases where a person's fingerprints (or other biometric) have been worn or can't be captured, when to collect biometric information, and what biometrics are prohibited (such as DNA), if any. ⁹⁹The information gathered should adhere to the principle of proportionality and necessity, meaning it should be relevant to the specified purpose, limited (no more

⁹⁹ UN, Guidelines for Developing a Legal Framework for Civil Status Registration, Statistics and Identity Management Systems, New York, 2019; Gelb A. & Metz A., The Identity Revolution: Can digital identification serve development? Center for Global Development, Washington DC, 2018.

information than is necessary should be requested), and adequate to identify a person.

In Vietnam, the 2014 Law on Citizenship Identification and decrees and circulars related to citizen identification have provisions on this issue. Accordingly, the information collected during the citizen identification card issuance process is updated into the citizen identification database, including biographical information and biometric information. The aforementioned regulations have the following points worth noting:

First, in general, a significantly amount of personally identifiable information is collected and some types of information exceed what is necessary for the purpose of establishing or confirming someone's identity. For example, information about parents, spouses, legal representatives, and time and place of death are not necessary for personal identification purposes. Also, information about religion and blood type are sensitive and private information, and also not necessary to confirm one's identity. The scope of information collected and updated into the citizen identification database is much wider than that of the national population database; it should be the reverse.

Second, the law has not yet provided for alternative biometrics in the event that fingerprints cannot be captured. For example, the fingerprints of the extremely elderly and manual workers are oftentimes blurred; also individuals with amputated arms or lost fingers might not be able to provide their fingerprints. The new law only stipulates that officials are responsible for recording information about fingerprints on the ballot. Moreover, as recommended by the UN, there is no need to regulate the types of biometric information in the Law promulgated by the National Assembly, but only in the sub-law for flexibility, in accordance with biometric technology's rapid development.¹⁰⁰ However, it is good practice for the Law to include an authorization clause to empower either the Government or the Ministry to regulate and choose the types of biometric information to be collected.

Countries vary as to when a National ID is issued, but it's often between the ages of 15 and 18, since obtaining biometrics on those younger than 15 can be difficult. The validity period of personal identification cards is usually 10-15 years; then they must be renewed. Comparing with this practice, Vietnam has a similar regulation, under which Vietnamese citizens aged 14 years and over are all granted citizen identification cards. The card is reissued when the citizen turns 25, 40 and 60 years old. However, with the rapid development of biometric

¹⁰⁰ UN, Guidelines for the Development of a Legal Framework for Registration, Civil Status Statistics and Identity Management, New York, 2019, para. 446.

technology, there are now countries that issue personal identification cards at a much earlier age, such as India, which issues its national identity card at the age of 5. This is a factor for Vietnam to consider and apply.

1.3. The link between birth and citizen identification card registration

Similar to many countries, there is a link between birth registration and citizenship identification card issuance in Vietnam. Similarly, there is a connection between the civil status database and the citizen identification database. The birth registration certificate is one of the citizenship papers necessary to receive a citizen identification card. Many information fields in the citizen identification card application form are required to be filled out with the information on the birth registration form. The age information in the birth registration certificate is the basis for determining the valid age to be issued with a citizen identification card.

However, the law does not yet provide a path for delayed birth registration when someone goes to apply for an identification card and cannot produce a birth certificate. According to Article 5, Circular No. 60/2021/TT-BCA, in order to be issued a citizen identification card, if there is no information about that individual applicant in the National Population Database, they can produce a variety of documents to prove their identity. This means that the presentation of the birth certificate should not be considered a priority in this case. Besides, in case the officer in charge of issuing citizen identification card discovers that a citizen has not registered one's birth, there is no process or procedure to support that person in completing the birth registration as there is in many countries.

1.4. Grant of universal identity code (citizen identification number)

A Universal Identity Code (UIC) is a code consisting of a sequence of random numbers, or random letters and numbers assigned and attached to an individual for one's lifetime. The UIC should be unique and randomly generated. It should not contain identifying information, such as one's birthdate. In countries with the UIC system, the UIC is issued and attached to each individual as soon as they are born, normally by the civil status registration agencies at birth registration; in some other countries it is issued by identity management agencies.

Similar to UIC, in Vietnam each citizen is given a personal identification number for life. A citizen who have registered their birth and have permanent residency but has not been issued a personal identification number is issued during the citizen identification card issuance process. In Vietnam, the civil status registrar transfers information to the agency managing the national population database so that this agency can issue an individual identification

number, then return it to the civil status registration agencies to record the personal identification number on the birth registration certificate.

In addition, Vietnam's personal identification number has 12 digits, but instead of being completely randomly selected, the citizen identification number has 6 numbers randomly selected, while the other 6 digits are the codes of the century and the year of birth, sex, province / city or country where the birth was registered. For reference, Norway, with a population of only 4 million, had to change to a UIC with all random numbers because of concerns about running out of numbers.¹⁰¹ Moreover, as experience in Korea shows, if an individual's unique identity code is not selected completely randomly, there is a risk of information theft, or the code itself is exposed to risk of theft.¹⁰²

Under good practices in the world, UICs should not be refused for reasons of citizenship, nationality or residency; they should be granted to everyone without discrimination. Because a UIC does not confer citizenship or any specific legal rights, it is for identity and administrative purposes only, tracking the changes of the nation's population, or used to connect to specialized database. Meanwhile, in Vietnam, stemming from the purpose of managing Vietnamese citizens, personal identification numbers are only granted to Vietnamese citizens when registering for birth, but other groups of people such as foreigners, stateless people are not assigned a personal identification number.

1.5. Information contained in personal identification documents

As recommended by the UN, identification documents (e.g. personal identification card) is not supposed to contain personally confidential information on the surface, nor should they create the possibility of unauthorized access to personal confidential information contained in the card, such as in the chip attached to the card. For example, a person's country or ethnic name should not be on identification document. Just displaying a limited amount of information on an identification paper is enough to confirm an individual's status (full name, date of birth, gender), especially if the identification has biometrics, a PIN or other authentication method is included.

For comparison, The 2014 Law on Citizen Identification and Circular No. 06/2021 / TT-BCA regulate the types of personal information of citizens on citizen identification cards as follows: card number; photo of the card holder; full name; date of birth; sex; nationality; home town; permanent residence;

¹⁰¹ United Nations, Guidelines for the Development of Legal Frameworks for Registration, Civil Status Statistics and Identity Management, New York, 2019, Box 32, pages. 134-135.

¹⁰² United Nations, Guidelines for the Development of Legal Frameworks for Registration, Civil Status Statistics and Identity Management, New York, 2019, Box 32, pages. 134-135.

identity characteristics; right index finger and left index finger prints; information is encoded in the chip.

However, none of the under-law LNDs explicitly regulates the specific types of information contained in the chip associated with the new citizen identification card. According to the response of the representatives of the Ministry of Public Security to the press, the chip mounted on the citizen identification card encrypts basic personal data (biometrics) of citizens (full name, hometown...) and fingerprints, images, identifying characteristics. In addition, later on, the chip can be updated with personal information such as insurance, banking, driver's license. The update will be done through the initiative of the people (notify the authorities) or through the national database on the population; in order to create favorable conditions for citizens to carry out administrative procedures¹⁰³. If the chip contains only the identity data of citizens as above, it is almost consistent with the recommendation of the UN. However, if the chip later integrates all kinds of information in other fields, it will be inconsistent with Clause 1, Article 3 of the 2014 Law on Citizen Identification, according to which, “citizen identification is **basic** information about a citizen’s **background, identity** according to the provisions of this Law”. Thus, according to this provision of the Law, the function of the citizen identification card is only used to verify the identity of an individual, not a document containing information for the right to provide public services. Besides, specialized databases will be synchronized and connected to the the National Population Database through personal identification numbers, identity authentication is done through the the National Population Database and personal identification numbers so that individuals can receive public service. As such, there is no need to put personal information in other areas such as insurance, banking, driver's license into the chip of the citizen identification card.

1.6. Identity authentication

Authentication is the comparison, confirmation of the identity of the person declaring information against the identity of that person registered at the competent authority;¹⁰⁴ or in other words, proving that the person is who he claims he is. Authentication is performed when the individual uses different services or transactions.

Compared to the above definition, according to the law, Vietnamese citizens use citizen identification cards to prove their identity when using public

¹⁰³ Check here: <https://vnexpress.net/tinh-nang-ma-qr-chip-dien-tu-tren-can-cuoc-moi-4247942.html>

¹⁰⁴ *Technological overview of digitized identity*, World Bank, 2018, page 6.

administrative services or making various transactions. When citizens have presented CCCD cards, agencies, organizations and individuals are not allowed to request other documents proving the identity of the citizens.

However, the methods of identifying individuals in Vietnam are not as diverse as in other countries. Citizens almost only directly present their citizen identification card to authenticate their identity, thereby accessing services, enjoying benefits, or performing transactions. According to a representative of the Ministry of Public Security, with a citizen identification card with a chip, the authentication process can be done directly via the chip.¹⁰⁵ In addition, according to Clause 6, Article 1 of Decree 37/2021/ND-CP, organizations providing digital signature authentication services have the right to exploit information in the National Population Register to provide their services. Or according to Clause 2, Article 4, Decree No. 30/2021/ND-CP,¹⁰⁶ in case Vietnamese citizens have been granted personal identification numbers, and at the same time, the national "database" on population and the database on investment registration and business registration are linked together, citizens can use their personal identification numbers instead of papers related to their identity when carrying out procedures related to housing and real estate business. Vietnam Social Security is also synchronizing the database of its sector with the the National Population Database for the purpose of providing insurance services more conveniently. As such, the law has specified a number of additional ways to authenticate identity.

1.7. Terminating a legal identity

Vietnamese law does not directly regulate the deactivation of personal identification numbers and citizen identification cards, and the deactivating procedure. However, according to The 2014 Law on Citizen Identification, each Vietnamese citizen is granted a unique identity code that does not repeat with others'. The personal identification number is also the CCCD card number. At the same time, according to the law, information on the death at death registration is transferred to the CCCD management agency. As such, these provisions imply that when a person dies, that person's identity will cease.

In addition, citizen identification card is revoked or canceled in cases of renunciation of Vietnamese citizenship; or when there is a mistake in the CCCD card issuance process. These are also cases that are considered legal identity

¹⁰⁵ Check here: <https://thuvienphapluat.vn/tintuc/vn/thoi-su-phap-luat/thoi-su/30593/dung-the-can-cuoc-cong-dan-gan-chip-nguoi-dan-duoc-loi-gi>

¹⁰⁶ Decree amending and supplementing Decree No. 99/2015/ND-CP guiding Housing Law.

terminations. However, the law does not yet have a provision to terminate identity in case unique identity codes are stolen.

Vietnamese law has followed the best practices in the world when it ensures that the civil registration system and the national identity system are linked, so that when the death is registered in the civil registration system, that information is then sent to the national identity system.

2. Recommendation to amend and supplement the law

2.1. Ensure universality

The law should provide for different cases so as not to omit groups of people in the identification system, in particular it should stipulate the issuance of personal identification documents for refugees and immigrants.

Besides, according to good practice in the world, from the concept to serve the purpose of monitoring population changes in general in a country, not just managing citizens, personal identification numbers should be issued to everyone born and residing in the national territory, without regard to nationality, immigration status, or any other basis. For those who come to Vietnam with the intention to permanently reside, it is advisable to give them personal identification numbers when they complete the process of issuing personal identification documents (permanent residence card). Personal identification numbers help to better manage the identity of individuals present in the national territory, without having to grant citizenship, without affecting citizenship status or any other legal status of an individual.

2.2. Information collected into the citizen identification system

According to the principle of reasonable ratio and necessity, in accordance with the provisions of Clause 1, Article 3 of the 2014 Law on Citizen Identification, information collected during the issuance of citizen identification cards and information displayed and contained in citizen identification cards only should be sufficiently suitable for the purpose of the card which is to confirm the identity of the individual without having to have personal information in other areas. The law should clearly state that the identity system contains only minimum biographical information (full name, date of birth, gender) and biometric information (photo, fingerprints, other alternative information if needed). For reference, we can consider the case of Estonia with a very modern chip-based personal identification card used in many public and private services, but the chip contains only a small amount of information about the cardholder: full name, gender, personal identification number, encryption key, public key

certificate.¹⁰⁷ In addition, the World Bank's recommendation that personal identity number should not be displayed on the surface of citizen identification cards should be considered.

The law should include a provision authorizing the Government or the Ministry of Public Security to regulate the types of biometric information collected; ways to replace fingerprints during citizen identification card issuance and in cases where identity verification is required but fingerprints cannot be taken.

2.3. The link between birth and citizen identification card registration

In order to encourage birth registration, if there is no citizen information in the the National Population Database, it is necessary to stipulate that the birth registration certificate is the first type of document presented when carrying out the procedures for issuing a citizen identification card. This is a good practice used in many countries to target birth registration and encourage birth registration. The birth certificate is the first identity confirming document in a person's life, so it always takes priority when registering identity in other countries. At the same time, in the process of issuing citizen identification cards, if it is discovered that citizens have never registered for birth, there should be procedures to assist them in registering their birth.

2.4. Unique identity code

To avoid different risks, as the Norwegian or Korean experience shows, it is necessary to consider using 12 random numbers instead of 6 as currently, and should not display personal information in personal identifiers.

According to a United Nations document that summarizes world practices, the issuance of personal identification numbers can be done by the civil status registration agency, or by the identification management agency, or by the agency in charge of the national population database, all are suitable¹⁰⁸. Currently, in Vietnam, the management agency of the National Population Database issues an individual identification number and returns it to the civil status registration agency for recording in the birth registration certificate; The citizen identification management agency also receives this number to write to the citizen identification card when issuing the card. This is considered consistent with decades of experience of the police industry.

¹⁰⁷ The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Para. 92.

¹⁰⁸ UN, Guidelines for the Development of a Legal Framework for Registration, Civil Status Statistics and Identity Management, New York, 2019, para. 276.

On the other hand, it is possible to apply the reverse process, giving the civil status registration agency the authority to directly issue this number together with the issuance of the birth registration certificate, and then transfer information about the personal identification number to the management agency of the National Population Database to enter the information into the database; and at the same time transfer it to the citizen identification management agency to write to the citizen identification card when issuing the card.

Either way, the law should ensure that a personal identification number is issued and recorded in civil status records for every child born on the national territory. If following this recommendation, it is necessary to amend the law of Vietnam, so that not only Vietnamese citizens can be granted personal identification numbers.

2.5. Identity authentication

In the coming time, many areas of the law need to be revised to diversify the ways in which citizens can use their personal identification papers to authenticate their identities. For example, similar to the case of carrying out real estate business procedures, individuals can use their personal identification numbers to carry out social insurance procedures, authenticate when paying taxes online, or continue to access to health services, or many other areas.

At the same time, as the UN document recommends, the law should envisage backup authentication options if the initial one fails, such as a one-time mobile phone number (OTP), alternative geometrics. Or authentication can take place in other ways such as using a PIN number that is only issued to that individual, or checking the person's fingerprint against the fingerprint stored in the chip on the card, or an electronic signature.¹⁰⁹ As mentioned, with identity authentication via personal identifiers as now being implemented, there will be no need to integrate information of other areas in the chip of citizen identification card.

As of September 2021, the Ministry of Information and Communications is being assigned by the Government to develop a Decree on electronic identification and authentication, on the model of an electronic identification and authentication system which is a union model when allowing multiple providers of electronic identification and authentication services with varying degrees of digital identity assurance. The draft Decree also stipulates the national electronic identification and authentication exchange platform.¹¹⁰ Thus,

¹⁰⁹The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 461 - 463.

¹¹⁰ Pham Quoc Hoan, Secure electronic identification and authentication platform: Which model for Vietnam? TT&TT Magazine June 6, 2021. Check here:

along with the promulgation of this Decree, relevant regulations in legal normative documents on identity management also need to be reviewed, amended and supplemented for synchronization.

2.6. Terminating a legal identity

Termination of a legal identifier (including identity card and personal identification number) is important to prevent the use of the identity of the deceased or in the event of identity theft. Although the current regulations in Vietnam already imply that an individual's legal identity will end when the individual dies, there is a need for clear, direct regulation on cessation of existence of citizen identification cards and a person's unique identity code when he or she dies. In addition, the law should add provisions on the dissolution of a citizen identification card or a personal identification number of a person when the card or number is stolen.

The law should specify whether personal identity numbers of the dead can be reused to grant to other individuals or not. Countries have different regulations on this issue. There are countries that never do it; others allow the reuse of a deceased person's unique identity code after a certain period of time, usually 50 or 100 years later. According to best practices in the world, the unique identity code of a deceased person will never be reissued. According to the current Vietnamese law, each citizen is granted a unique identity code, not repeated. It seems that this rule implies that the unique identity code will not be reissued to another person upon death. However, there is still a need for clearer rules, such as when a person dies, his or her unique identity code will be permanently terminated.

PART VIII. THE NATIONAL POPULATION REGISTER

1. Reviewing legislation in Vietnam

1.1. The function of the national population register

According to the UN definition, the national population register managed by the Government is a data system that continuously records and stores information selectively that are related to each member of the population residing in a country, with a guarantee to update the country's population size and characteristics at any given time.¹¹¹ The population register contains information about all persons who reside within the territory of the country, regardless of citizenship status.¹¹² The information from other government databases are shared with the population register and used for a specific administrative purpose.

Against this concept, the National Population Register of Vietnam is also a database uniformly managed by the Government (through the Ministry of Public Security), serving state management functions and transactions of agencies, organizations and individuals. Information from other specialized databases of government agencies is also linked to the National Population Register. However, unlike other countries, according to Article 9 of The 2014 Law on Citizen Identification, the National Population Register of Vietnam only stores basic information of all Vietnamese citizens (understood both at home and abroad), without information of other groups of people residing in the territory of Vietnam.

1.2. How to share information with the National Population Register

In Vietnam, like some countries, as required by law,¹¹³ citizens' information is shared from various government databases and stored in the national population register of citizens under merged information model. This model is different from the linked information model used by many countries. Accordingly, information is stored in different data systems, linked and shared as needed, usually through the use of a universal identity code (UIC), so that the competent authority can access the required information at the time needed for specific administrative purposes.

¹¹¹ UN Principles and Recommendations for a Vital Statistics System, Revision 3, 2014 para 454.

¹¹²The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Para. 470.

¹¹³ According to Clause 2, Article 9, Article 11, Clause 1, Article 12, The 2014 Law on Citizen Identification; Point 3, Clause 1, Article 4, Decree No. 137/2015 / ND-CP detailing a number of articles and measures to implement The 2014 Law on Citizen Identification .

In terms of sharing information with the national population register, there is no best practice model in the world. However, the merged information model has a higher risk for personal data and privacy, because information is concentrated in one place, leading to the possibility that an organization or individual may access to have all information about the citizen, in addition to information that the organization or individual has authority to access.¹¹⁴ According to the experience of many countries, the use of UIC numbers to connect and share information between databases can lead to high risks for personal data.¹¹⁵ Therefore, it is necessary to pay attention to ensuring information security when using UIC; such as adopting a model of linking government agencies' databases instead of integration; linking through a third-party platform (e.g. X – Road in Estonia) matching the UIC number to the sector-specific individual's number so that the individual does not have to provide the UIC number to the service provider; not writing the UIC number on the birth certificate, because the birth certificate does not contain biometric information to be able to verify that the UIC number is real.

1.3. Sharing information with the National Population Database

a) Sharing information from the electronic civil status database

As a rule, the civil status registration agencies need to update civil status information to The National Population Register. The law specifies the types of information that need to be updated, including: information when making birth registration; marital status; change, correct, supplement civil status, redefine ethnicity; information recorded in civil status books, civil status change under a decision of a court or competent authority; information recorded in civil status books about civil status affairs of Vietnamese citizens handled by foreign agencies; guardianship, termination of guardianship; information about declaring a person missing, canceling claims of a missing person; declaring a dead person, canceling a dead person's declaration; information obtained upon death registration.

The law does not specify a specific deadline, but requires that immediately after birth registration, death registration, or other vital events that change citizens' information, that information should be updated into the national population register.

¹¹⁴ Gelb A.& Metz A., *The Personal Identity Revolution: Can digital identification serve development?* Center for Global Development, Washington DC, 2018, page 29.

¹¹⁵The United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 105.

In contrast, information shared from The National Population Register with the electronic civil status database contains: Unique identity code when registering birth; information already in the national population register to check and compare with the electronic civil status database.

In this respect, the law of Vietnam is in line with international best practices, as the information shared abides by the principle of proportionality. Indeed, some aspects are even more specific than other countries; information from birth and death registration is the input to the National Population Database, thereby confirming an individual's identity in many different fields.

b) Sharing information from citizen identification database

The Law on Citizens Identity and related decrees and circulars only stipulate that the citizen identification database is a part of the national population database, which is connected to the national database on population. However, the Law and legal documents under the law do not provide for the types of information that need to be updated from the citizen identification database with the national population register; procedure; deadline for information update. Furthermore, the scope of information in the National Population Database should have been specified to include the types of information contained in the citizen identification database, and not vice versa as is currently the case under Article 15 of The Law on Citizen Identification, the citizen identification database includes all kinds of information from the national population database.

c) Sharing and updating information from other data sources

According to the law, the National Population Database is a shared database, used for the purposes of population management, administration, and public service provision in many different fields. Recently, specialized databases have been synchronized with the the National Population Database for this purpose. This is the same way as in many countries such as Estonia, the Netherlands, Korea, Peru, Uruguay, where the national population database is connected to many other specialized databases, and public services (even private services in some countries) is provided by identity verification through the national population database.

Decree 137/2015 / ND-CP and Decree 37/2021 / ND-CP regulating quite in detail the process, deadline for collecting and updating information from records, residence databases, and archives of household dossiers to the national population register. It is noteworthy that Decree 37/2021 / ND-CP stipulates the responsibility of the police of communes, wards and towns in updating citizens' information to the national population register.

In addition, in the absence of information on citizens in the aforementioned

databases, such information must be fully and promptly updated from other specialized databases.

On the contrary, state agencies can send a written request to the national population register management agency to exploit and use information in the the national population register to perform their tasks and authority. The national population register management agency must respond within 3 working days.

1.4. Personal data and privacy protection

The 2014 Law on Citizen Identification and Decree 137/2015 / ND-CP already have a number of regulations aimed at protecting personal data and the privacy of information in the National Population Register and other databases that are connected.¹¹⁶ Besides, in the laws and decrees related to data, there are many regulations on this issue. At the same time, The Law on Citizen's Identity in Article 9 limits what types of information can be collected and updated to the National Population Register.

However, the aforementioned regulations are only at the general level, are not specific, have not set out detailed processes and procedures, clear limits in information storage, exploitation and use in the aforementioned databases to protect personal data and the privacy of information. For example, the law stipulates that agencies and organizations can only use information in the National Population Register within the scope of their functions, duties, or just to deal with administrative procedures. This regulation is more specific than the regulations on the same issue, but it can still provide more clarity, requiring the above entities to **only** access legal information that they request, no more.

2. Recommendations to complete legal regulations

2.1. Expand the scope of information collection

A national population database is established for the purpose of ensuring up-to-date information on the size, characteristics, and fluctuations of the entire population of the country at any given time, regardless of from what country that population comes, with a nationality or not. This database does not create a legal position or rights and obligations for an individual, but only contains information for the purpose of formulating policies, plans, and administration. Thus, for this purpose, research on expanding the scope of information collection of the National Population Register of Vietnam is probably needed.

¹¹⁶ Clause 4, Article 6, Clause 5, Article 7, Point b, Clause 2, Article 13, Article 33, The Law on Citizen's Identity 2014; Article 11, Decree No. 137/2015 / ND-CP detailing a number of articles and measures to implement the Law on Citizen's Identity 2014.

Specifically, not only information about Vietnamese citizens, but also information of any person present in the territory of Vietnam such as foreign citizens, stateless persons, is collected

2.2. Information Sharing mechanisms

There is a need for clearer legislation on the type of information that needs to be updated from the citizen identification database into the national population register. At the same time, it is necessary to add regulations on the process and deadline for updating information between these two databases and from other databases to the the national population register. That time limit can be daily, or weekly, monthly, etc., depending on the way information is transferred and the level of connectivity between data systems. If the systems are digitized and fully electronically connected, information sharing needs to take place quickly and continuously.

2.3. Personal Data and Privacy Protection

Since the information integration model that Vietnam is applying has a higher risk of personal data and privacy, the law needs more detailed regulations to give more details on the general principles of personal data protection that is available under the Law on Citizen Identity.

Specific regulations should cover both processes and procedures, as well as technical issues. For example, it is necessary to require agencies, organizations and individuals to clearly state the type of information to be exploited and used in the National Population Database, for specific purposes of use, in order to ensure that, only the type of information that is legally necessary will be provided from this database.

Attention should be paid to ensuring information security when using personal identification numbers; such as adopting a model of linking government agencies' databases instead of integration; linking through a third-party platform that matches the personal identification number with the number of the individual in the specific sector so that the individual does not have to provide the personal identification number to the service provider; not writing personal identification numbers on the birth certificates, because the birth certificate does not contain biometric information to be able to verify that the number is real or not.

As of September 2021, the Government is finalizing the draft Decree on personal data protection and privacy after a period of posting on the website for public comment. This decree should clearly, specifically and feasibly define the responsibilities of the agencies managing databases containing information of

citizens such as the national population register, citizen identification database, residence databases, civil status database, health database etc.

CONCLUSION

Through a review and comparison with good practices in the world, many relevant points can be found in the legal framework on registration, vital statistics and identity management in Vietnam (referred to as civil status and identification). These contents create a convenient foundation for registration, civil status statistics and identity management. On the other hand, the review process also shows legal gaps, points that can be amended and supplemented in the above legal framework to be more in line with international best practices, and at the same time to meet the context of the law, domestic demand. Below is an overview of the main findings and recommendations to improve the legal framework on civil status and identity in Vietnam.

1. On the basis of current regulations, key concepts on civil status and civil status statistics can be amended and supplemented as recommended by the UN. In particular, pay attention to having separate records and statistics on fetal deaths from 22 weeks of age and older. This system of concepts will serve as a basis for designing other regulations consistently.
2. Based on the current coordination mechanism to improve and upgrade it to a regular inter-agency coordination mechanism, which is institutionalized in the Law, to have a better position and resources. At the same time, in other regulations, it is necessary to define more clearly the coordination responsibilities of agencies from central to local levels, especially in sharing information and data with each other.
3. Pilot research in suitable localities with high demand for civil status registration, proceeding to expand the model of civil status registration offices according to regions, with professional manpower and better resources.

While piloting and summing up the model of civil status registration offices by region, it is necessary to study and amend the law to give commune-level People's Committees the authority to register all civil status affairs, including current civil status affairs assigned to district-level People's Committees.

Pilot and expand the placement of civil servants in charge of birth and death registration or secondary civil status registration offices in locations with high demand for registration such as major hospitals.

At the same time, it is necessary to amend and supplement current legal regulations on judicial - civil status civil servants, towards having a professional civil status personnel in charge of civil status affairs.

4. The study appropriately applies the recommendations of the United Nations to supplement the types of information about individuals that need to be collected when registering births and deaths (including fetal deaths from 22 weeks of age and older). This information will help the vital statistics to be more complete and detailed.

Research to amend the law in a synchronous manner to fully or partially apply the one-step death registration process. Accordingly, the head of the medical facility or related subjects is responsible for transferring the death notice to the civil status registration agency for registration. Since family members do not have to go through the procedure, this process can contribute to increasing death registration rates, which are currently low.

At the same time, in order to increase the rate of death registration, especially in rural and mountainous areas, it is possible to add a requirement to submit a death notice to obtain the permission of the commune-level and district-level People's Committees before carrying out the burial procedure; regulations on incentives such as in kind "rewards" or a certain amount of money; expand the scope of subjects responsible for notifying civil status registration agencies of deaths.

5. Focus on registering death or separately reporting fetal deaths from 22 weeks of age and older, keeping separate data and statistics for this type of death.
6. Supplementing a regulation on the health sector to issue death notices for all naturally consensual deaths occurring in the community. The current capacity, conditions and tasks of the network of health facilities at the commune level show that these facilities can issue death notifications for those cases. Preferably, this death certificate is accompanied by a medical confirmation of the cause of death that is used for all deaths. In case the cause of death cannot be determined at the time of death registration, to ensure that the registration is still carried out, requiring the person with the information of the event to confirm the death event is enough.

At the same time, there should be official regulations in relevant legal documents on determining the cause of death through verbal autopsy for deaths outside of medical facilities without medical staff monitoring.

7. Amending and supplementing the law to better define the roles and responsibilities of the Ministry of Justice, the Ministry of Planning and Investment (GSO), the Ministry of Health and the vertical system from central to local levels in field of civil status statistics. In particular, it is

necessary to specify clearer responsibilities in sharing circulars, birth, death and fetal death data among the three sectors.

Regarding the use of civil status data for statistical work, the best option in the long term for the Ministry of Justice is to collect anonymized detailed microdata about individuals' civil status events, transfer them to The General Statistics Office to summarize and prepare detailed statistical tables according to the recommendations of the United Nations.

However, because this option requires many revisions to the statistical legal documents related to many sectors, in the next few years, the Ministry of Justice will collect and aggregate detailed data, anonymize the data, and transmit it to The General Statistics Office to make detailed tabular statistics, analyze and develop national statistical indicators related to civil status events. At the same time, the Ministry of Justice coordinated with the General Statistics Office to make detailed statistical tables, analyze and develop civil status statistics indicators of the judicial sector.

Regardless of the plan, the Ministry of Justice and the Information Center need to develop a regulation on the coordination between the two agencies in accordance with the Law on Statistics, including the content of coordination in the field of civil status statistics.

In addition, there should be regulations by law to have a legal basis for ministries, sectors to develop appropriate detailed civil status statistics as recommended by the United Nations.

8. For the identity management system, it is necessary to give authority to the commune-level police to participate in the citizen identification card issuance procedure to decentralize authority one step further, creating more convenience for citizens, making the card issuance process easier and more efficient.

According to the principle of reasonable proportion and necessity, in accordance with the provisions of the Citizen Identification Law, the information collected during the issuance of citizen identification cards and the information displayed and contained in citizen identification cards only needs to be sufficient to confirm personal identity. The law should clearly state that the identification system contains only some biographical information (full name, date of birth, gender) and biometric information (photo, fingerprint, other alternative information if necessary.) The scope of information in the citizen identification database

should not include the types of information of the national population database.

9. Research on expanding the scope of information collection of the National Population Register of Vietnam is probably needed. Specifically, it's necessary to collect not only information about Vietnamese citizens, but also information of anyone who is present in the territory of Vietnam such as foreign citizens, stateless persons. This regulation aims to ensure updating information on the size, characteristics and changes of the entire population of the country at a given time.
10. There is a need for more detailed legislation to specify existing general principles on the protection of personal data collected, stored, and connected between national databases. Specific regulations should cover processes, procedures, as well as technical issues.