

Conclusions

This research project critically assessed whether improved access to some form of legal identity improves the lives of vulnerable communities in the three countries that were studied. The research explored legal identity as an instrument for obtaining services, benefits, protections and rights, rather than as the self-evident right to be recognized to exist. Its main conclusion is that legal identity issues are country- and benefit-specific, and need to be addressed as an integrated part of a larger reform agenda.

Legal identity is a multifaceted issue with potentially far-reaching implications, ranging from accessing benefits and opportunities, to human rights protection, to the distribution of public resources. Due to the realities in developing countries, however, fundamental obstacles—such as weak institutions, widespread poverty, and corruption—limit the concrete value of legal identity. In the context of competing demands for limited resources, the impact of improved access to legal identity, at least for the most vulnerable communities, often remains speculative and remote. In fact, promoting legal identity by creating a demand—whereby a birth record is a prerequisite for accessing services and opportunities—without complementary reforms, seriously

risks further exclusion of the very people intended to benefit.

Focusing on these challenges provides a realistic baseline for those development partners seeking to address the obstacles and design programs targeted at improving the lives of vulnerable groups. Decisions about where to invest limited government and donor resources should be grounded in an evidence-based understanding of the problems so that program interventions can be finely tuned to achieve meaningful and cost-effective results.

Key Insights

BIRTH CERTIFICATES ARE AN INTERMEDIATE, NOT AN ULTIMATE, GOAL.

Too often programs aimed at increasing civil registrations are based on an inadequate problem analysis that fails to differentiate between intermediate and ultimate outcomes. While recognizing the right to be registered at birth as a human right, the ultimate goal is not simply to increase registration rates but to improve access to services, benefits, protections, and opportunities. Program interventions often seem based on the assumption that the distribution of birth certificates will



lead to human rights protections and better distribution of resources and opportunities. The research shows that in the three countries studied, this assumption is misplaced. The goods associated with legal identity do not automatically flow from the possession of a birth certificate.

With donor assistance, the GOB has undertaken a number of projects to encourage birth and death registrations. While these projects have been touted as successful, it is not clear whether any success has been achieved beyond the number of people registered in the districts targeted by the registration campaigns. In fact, there have reportedly been large discrepancies between the number of people registered and the number who have actually collected their registration certificates. This divergence suggests that many people think that birth certificates have little practical value. Initiatives to increase birth registrations should be pursued, but these efforts should be coordinated with complementary reforms that aim to improve the delivery of essential services and make birth certificates more relevant to people's lives.

DEVELOPMENT PARTNERS SHOULD BE AWARE OF REGISTRATION REQUIREMENTS WHEN DESIGNING DEVELOPMENT INTERVENTIONS BUT AT THE SAME TIME ENSURE THAT SUCH REQUIREMENTS DO NOT LEAD TO UNINTENDED CONSEQUENCES.

When designing mainstream development projects in areas such as education, health, land rights, small and medium enterprise development services, and delivery of utility services, development partners need to critically analyze the potentially negative impact of the existing identity regime. Key questions to ask in the project design phase are: Could the domestic legal identity regime limit the range of project beneficiaries? If so, what can be done to mitigate this undesirable result?

For example, donors funding education sector projects in Nepal (or in Bangladesh after the 2004 Registration Act is fully implemented) should be aware that legal identity requirements may exclude those beneficiaries most in need of assistance, such as women and minorities. In fact, in Nepal, a review of the

multidonor Education for All Program in the primary education sector highlighted this very issue—that scholarships did not get to dalits because they lack birth certificates.¹ Dalits face barriers to obtaining birth certificates, which are required to apply for scholarships. In such cases where legal identity requirements have an exclusionary impact on unregistered individuals, mitigation measures should be incorporated into the project design. For example, donors providing funding for scholarships in Nepal should ensure that alternative documents are accepted for dalits and other excluded groups, or ensure that the delivery of birth certificates is linked with service delivery such as enrolment in primary schools.

Well-intentioned interventions in the domestic legal identity regime, such as Bangladesh's 2004 Registration Act, can also result in negative, unintended consequences. Registration laws that aim to create demand for registrations by making benefits and opportunities contingent on birth certificates could lead to increased social and economic exclusion among vulnerable groups that face obstacles to registering. Similarly, corruption is likely to increase significantly if the supply of registration services cannot keep pace with increased demand.

UNDERSTANDING THE COUNTRY CONTEXT, INCLUDING THE INCENTIVE STRUCTURE OF INSTITUTIONAL ACTORS, IS ESSENTIAL.

A thorough understanding of the programming environment is essential when designing programs to promote legal identity in developing countries. Establishing and maintaining a complete, effective, up-to-date, and accessible civil registration system requires sufficient funding, human resources, political priority, enforcement capacity, and administrative infrastructure. These essential inputs, however, can be hard to come by, particularly in develop-

ing countries, which are generally characterized by weak institutions and scarce resources, and where corruption is rampant. Given this reality, technical approaches that work in developed countries cannot necessarily be transferred, unless adjustments are made to address critical issues and impediments. This challenge should not be underestimated. For example, if responsibility for registrations falls on overworked, underpaid, low-level officials, without any thought to developing performance-based incentive structures, it is unrealistic to expect high-quality, customer-oriented work standards.

COMPLEMENTARY REFORMS ARE NEEDED TO MAKE LEGAL IDENTITY MEANINGFUL.

The value of a civil registration document is only as far reaching as the state's capacity to provide services and enforce laws intended to protect citizens' rights. In countries characterized by poor governance, weak institutions, and resource constraints, legal identity may make little practical difference without complementary reforms. For example, if the education and health departments are operating on meager budgets with poor internal incentives and monitoring, the services they can provide will remain limited, regardless of the number of people with birth certificates. In the best case, governments will respond to increased demand by reallocating resources to meet citizens' needs. But experience demonstrates that increased demand can also lead to the creation of new barriers intended to limit access. Similarly, links between legal identity and human rights protections are based on the assumption that courts have sufficient capacity and

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resources, and that they vigilantly and consistently decide cases fairly and enforce their decisions. If laws are regularly violated with impunity, the ability to establish one's legal identity will do little to help those whose rights have been violated.

This is not to say that an effective civil registration system is not worth pursuing; however, it is necessary to be realistic about what it can and cannot accomplish. Legal identity documents alone can accomplish little, but they ought to be an important component of a larger reform agenda for promoting inclusive development. In other words, law is a tool of and supplements development policy. It does not substitute for such policy.

GAUGING POLITICAL PRIORITY FOR REGISTRATION IS ESSENTIAL.

In an environment of competing demands for limited resources, civil registration may be a low priority item, particularly compared to other more urgent and concrete needs. Reforming and improving institutions is expensive. Government officials may not view the transaction costs involved in establishing a universal civil registration system as worthwhile.

Often the lack of political priority for civil registration is not premeditated, but results from insufficient funding for measures to address the host of problems requiring significant state resources and attention. In some cases, however, government officials may have personal interests in maintaining a dysfunctional system that can easily be manipulated by insiders. This issue was raised a number of times in all three countries in relation to incentives to work beyond mandatory retirement ages.

Clearly, governments may be able to overcome tremendous institutional weaknesses when they are genuinely interested in doing so. The widespread distribution of family and lodging books

in Cambodia is illustrative in this regard. According to the MOI's 2005 statistics, 91% of Cambodia's population is accounted for in lodging books and 88% in family books.² These impressive statistics were accomplished without donor assistance. While donors may not support the original purpose of family and lodging books, which seem to have historical ties to government control over the population, it is still worth asking how the Government achieved these results. The answer could provide important insights and guidance for those seeking to promote birth registration. Investigating this question would require further research, but the Government's success in distributing family and lodging books was probably achieved because such registration had practical value and enjoyed political priority.

DONOR-DRIVEN PROGRAMS MAY NOT BE SUSTAINABLE.

International pressure and donor support have engendered an increased level of political priority, domestic attention, and government engagement on the issue of legal identity in the three countries studied. All three countries have received donor support for a range of registration-related projects, from a nationwide mobile registration campaign in Cambodia to human resource development in Nepal. Donor-supported initiatives in Bangladesh have utilized innovative approaches to increase the efficiency of the registration process in pilot project locations. These projects have benefited from the involvement and dedication of proactive government officials, who have demonstrated a genuine interest in improving registration rates. For example, in Rajshahi City Corporation, the commitment and dedication of local officials—from the mayor down to the local level health workers—has resulted in the registration of every birth within the city limits.

While these projects represent positive steps, the issue of sustainability cannot be ignored. In the case of Bangladesh, concerns have been expressed that health workers responsible for collecting and reporting information, who are paid with project resources, may not be as motivated or efficient once project funding comes to an end. Similarly, it remains to be seen if Cambodians will continue to register new births once mobile registrations are no longer provided and the process requires a trip to the commune/*sangkat* office within 30 days of the birth to avoid late fees. When asked about the issue of sustainability, officials at the MOI expressed concern, but claimed that a culture of registering has been generated through the mobile campaign and that training programs have built solid capacity among those responsible for registrations at the local level. Moreover, they are counting on fines for failing to register within the prescribed time to motivate people to continue registering. To supplement these measures and help ensure sustainability in the wake of the mobile

registration campaign, ADB supported a pilot project that engages traditional birth attendants (TBAs) and midwives to provide new and expectant mothers with information on the birth registration process. This is further described in the part on promising approaches.

In some cases, projects undertaken due to external pressure are implemented without sufficient planning or coordination of efforts. In Bangladesh, for example, it has been reported that projects have been initiated without adequate attention to developing an empirical baseline and sequencing of interventions. In some areas donor-provided computers sit idle because systems for organizing data and trained human resources are lacking. Unfortunately, proper attention to baseline research and planning may also be lacking in the case of programs aimed at implementing the 2004 Registration Act. For example, the budget allocations and civil registration personnel may be insufficient to meet the increased demand for registrations that the 2004 Registration Act will generate.



A Central Challenge: Which comes first, supply or demand?

A functioning civil registration system relies on both supply and demand factors. On the supply side, an efficient civil registration system needs sufficient material and human resources as well as effective management structures, institutions, and processes. On the demand side, the timely registration of vital events requires citizen participation. However, unless the registration document provides access to definite, substantial advantages, it

The tension between supply and demand factors creates a sequencing dilemma for those seeking to build a universal civil registration system.

is unrealistic to expect that citizens will register, particularly given the costs and hassles involved. For remote and vulnerable populations, the majority of whom may be

unlikely to see any direct benefits of obtaining registration certificates, they have little incentive to invest the time and expense required to collect the necessary supporting documents, take time off from work, and travel to the registration office.

The tension between supply and demand factors creates a sequencing dilemma for those seeking to build a universal civil registration system. Both supply and demand must be generated, but which comes first is not an easy question to answer. For example, demand can be built by imposing strict identity requirements to access important benefits and opportunities, which will give citizens an incentive to register. However, at least in the short term, this strategy risks exacerbating the exclusion of unregistered individuals from taking advantage of those benefits, protections, and opportunities for which legal identity is mandated. Moreover, if local registration offices are unprepared to meet the increased public

demand, rent seeking will likely increase. This may have a disproportionate exclusionary effect on poor and vulnerable groups. Another strategy that could have an exclusionary effect is to penalize citizens for failing to register on time by charging additional fees. This tactic is unlikely to result in timely registrations and again may serve to further marginalize vulnerable populations. For example, some mothers in Nepal reported that they were reluctant to register their newborn babies, given the costs incurred and the reality of high infant mortality rates. For these mothers, the cost of registration does not make economic sense until they are confident that the child will live long enough to need a birth certificate. Similarly, FGD participants in Cambodia reported that the timeframe for free registrations is too short, given the challenges involved in getting to the registration offices.

An alternative approach is to focus on supply by building the necessary infrastructure to accomplish universal registrations. However, this is a resource-intensive undertaking, which makes little sense unless registration documents have a concrete instrumental value. Even if the registration process is affordable, straightforward and user-friendly, citizens will lack the motivation to register if the practical value of doing so is not apparent. In this case, the high investment required to develop and maintain a civil registration system will not yield sufficient returns. For example, the system will fail to generate complete demographic statistics, which is a major benefit from the government's perspective.

Recent efforts to promote civil registrations in Cambodia and Bangladesh exemplify the shortcomings of the two approaches described above. The Cambodian government has focused primarily on supply, while Bangladesh on demand. Over the past 3 years, the Cambodian government with international donor assistance has made great strides in raising

the country's birth registration rate, largely due to an intensive, nationwide mobile registration campaign. Through this campaign, mobile registration teams have traveled throughout the country to bring free birth registration to people's doorsteps. The Cambodian government has also invested significant resources to build the capacity of local registration offices. These efforts have resulted in a dramatic increase in the birth registration rate, which is currently estimated to be over 90%, from less than 5% when the program began in 2003.³

Despite these impressive results, the Cambodian government has refrained from mandating birth certificates to access benefits and opportunities. This policy decision is based on the Government's recognition of the potential negative effects of linking birth registrations and access. MOI officials reported that they would not consider requiring birth certificates for school enrollment unless and until they were confident that at least 95% of the population had registered. While this policy is commendable for prioritizing inclusiveness, there are serious concerns about sustaining the recent advances in registration rates, particularly once the mobile registration campaign comes to an end and registering entails a trip to the commune office. If citizens find that the certificates they received through the mobile registration campaign are of little use, it is difficult to imagine what would inspire them to register children born subsequent to the campaign.

The GOB, also with international donor assistance, had passed the 2004 Registration Act. This law, which is currently awaiting full implementation, makes birth certificates mandatory to access a wide range of benefits and opportunities, from education to installing a utility connection to inclusion in the voters' list. This law provides very clear incentives for citizens to register. However, efforts to build the capacity of

Bangladesh's registration system have been inadequate, in light of the increased demand this law is expected to generate. Although some pilot efforts, such as the project in Rajshahi City Corporation, have been very successful, a nationwide replication has not been initiated and would be prohibitively expensive. Local officials have expressed serious concerns that registration offices are unprepared to deal with the expected surge in registration applications and that the proposed funding arrangements are inadequate. Observers have warned that this new policy could have the unintended negative effect of fueling both corruption and exclusion.

The 2004 Registration Act does anticipate this eventuality and includes some provisions aimed at ensuring that children without birth certificates are not deprived of essential benefits. Educational institutions, for example, may admit students without birth certificates, but should require students to submit and deposit such birth certificate within 45 days of admission.

Promising Approaches

Standard programmatic approaches for encouraging registrations tend to correspond to supply and demand challenges, focusing on building capacity and raising awareness. These familiar approaches include a range of activities, from training relevant personnel to street theater productions. While these types of programs can be useful, unfortunately, in some cases they are divorced from the reality of citizens' true experiences. For example, the story line for one street theater production in Cambodia involved a woman who refused a marriage proposal because the man could not prove his age. While audiences most likely found this story entertaining, it is difficult to imagine that it would motivate parents to register their newborns.

Two innovative approaches that hold some promise for addressing the central sequencing dilemma are highlighted below. These approaches are recommended because they use existing resources, and demonstrate an appreciation for citizens' priorities and needs.

LINKING REGISTRATIONS TO SERVICE DELIVERY

One of the most promising strategies, particularly for addressing the sequencing challenges, involves piggybacking registrations onto other service delivery programs. Rather than making benefits contingent on proof of identity, this reverse approach provides birth registrations through avenues where other benefits and services are already offered. When citizens come to avail themselves of public benefits, such as health or education, they also receive birth certificates. This strategy is skillful in that it simultaneously addresses problems related to both incentives and obstacles. Citizens are naturally motivated to come forward when advantageous and tangible services and benefits are available. At the same time, applicants save the time and expense required to make a special trip for the sole purpose of registering, which experience demonstrates they are likely to put off.

This approach has been adopted in certain areas of Bangladesh, where registrations have been linked to immunization programs, free primary education, and vitamin A campaigns. A government official at the national workshop for this research proclaimed that universal birth registrations will be successful only if these two platforms, education and health, are effectively employed. It is estimated that these two platforms could reach 23% and 2% of the population respectively, leaving an adult backlog of 65%.⁴

Bangladesh's 2004 Registration Act appears to contemplate linking registrations to other service delivery programs.

The rules state that registrations can be completed through the assistance of health and family planning workers or an educational institution. In addition, the 2004 Registration Act authorizes a broad range of actors to supply details of a birth to the Registrar, including local officials and health and family planning workers. However, how proactive or motivated these individuals will be to provide assistance is not yet clear.

BRINGING REGISTRATION TO PEOPLE'S DOORSTEPS

Another strategy that has proven effective involves bringing registration to the people's doorsteps. As mentioned previously, the Government of Cambodia adopted this approach in implementing a massive, nationwide mobile registration campaign. A less costly, more sustainable option uses local level health workers to collect registration information. This practice has been pilot-tested in Bangladesh. For example, in Rajshahi City Corporation, health workers who are paid an incentive of Tk2 for each birth registered visit clinics and hospitals to collect information on pregnant women and new births within their areas. Similarly, the Khulna City Corporation has distributed registration forms to health workers and NGOs, which collect information through house-to-house visits, vaccination sessions, and from clinic/hospitals and medical centers.⁵

ADB, in partnership with the Asia Foundation, adopted a similar model in a pilot project in Cambodia as part of this research. Under this project, midwives and TBAs were trained to provide targeted outreach to raise awareness on birth registrations among new and expectant mothers. This project was implemented in three provinces: Kampong Speu, Svay Rieng, and Seam Reap. The health workers disseminate information on registration requirements and procedures through one-on-

one interactions shortly before or after the birth, the time when this information is most relevant. Engaging midwives and TBAs in an awareness campaign on birth registration is a particularly strategic approach in the context of Cambodia, where 69% of births are assisted by TBAs and 89% take place at home.

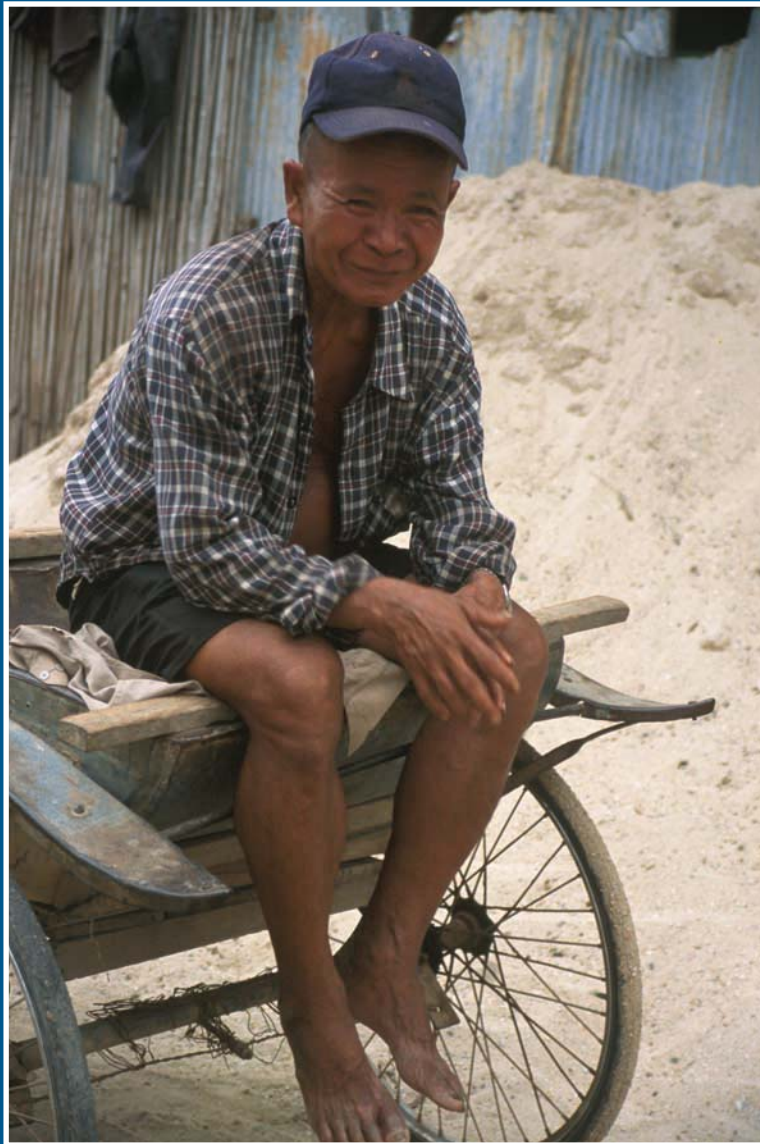
The rationale for this pilot was to test whether targeted outreach to new mothers would be an effective strategy for encouraging continued registrations in the wake of the mobile registration campaign. The project was based on the hypothesis that direct, one-on-one

outreach aimed at new and expectant mothers would be more effective than general outreach, such as billboards and radio spots, in actually increasing registration rates. The project aimed to measure the effectiveness of this approach by comparing the percentages of newborns registered in project and control areas. While the scale of the project is too small to draw definitive conclusions, results demonstrate that a higher percentage of newborns have been registered in project areas. This suggests that this may be a strategic and effective approach, worth replicating in other areas.

ENDNOTES

- ¹ ADB. *Report and Recommendation to the President for the Proposed Program Cluster of Loans and Asian Development Fund Grants, Nepal Education Sector Program I*. Appendix, Table A 4.
- ² These are the most up-to-date statistics available as of January 2007.
- ³ MOI Report on Cambodian citizens registered as of 30 November 2006.

- ⁴ Ministry of Local Government, Rural Development and Cooperatives (Local Government Division). 2007. Technical Assistance Project Proposal on Birth and Death Registration Project (2nd Phase).
- ⁵ Interview with Sheikh Tayebur Rahman, Mayor, Khulna City Corporation, 13 November 2005.



APPENDIX 1

Bangladesh: Registration Procedures for Key Legal Identity Documents

Document	Agency	Informant	Time frame	Fees	Required Documents/Information
Birth Certificate	Local registrar*	Child's father, mother or guardian, members of the union <i>parishad</i> , the village police, the city corporation commissioner, health and family planning workers employed by the city, or NGO field workers	45 days	No fees up to 2 years after birth; Tk 5 or 10 thereafter to register and Tk 20 or 40 for a Bangla copy of the certificate and Tk 50 or 100 for an English copy	-Name -Gender -Father's address -Evidentiary information if child is registered 90 days after birth: -Name -Date of birth -Place of birth -Gender -Name of father or mother -Nationality
Marriage Certificate	Local registrar,* Muslim marriage registrar	Concerned persons		Fees depend on the religion of the couple (e.g. Christian marriage certificates are Tk 500)	-Ages of spouses (age of consent is 21 for a man, and 18 for a woman) -Must show a birth certificate under the 2004 Registration Act
Death Certificate	Local registrar*	Family members		Free registration up to 2 years after the death, Tk. 5.00 or 10.00 thereafter, Tk 20.00 or 40.00 for a Bangla copy of the certificate and Tk. 50.00 or 100.00 for an English copy	-Name -Date of death -Place of death -Gender -Name of father or mother or husband/wife
Citizenship Certificate	Chairman of the union parishads, the district commissioners, and mayors	Concerned person		No fees	-Name -Father's/husband's name -Mother's name -Name of the village of residence -Post office
Passport	Regional passport office	Concerned person		Tk 2,000	-Must show a birth certificate -Application form requires: father's/husband's and mother's name; physical characteristics; marital status; means of establishing Bangladeshi nationality; and address

*The local registrar's authority will be delegated by: the mayor in the case of a city corporation, the chairman in the case of a *paurashava*/municipality, the chairman in the case of a union parishad, the president in the case of a cantonment board, and the high commissioner/ambassador in the case of Bangladeshi born abroad

Cambodia: Registration Procedures for Key Legal Identity Documents

Document	Agency	Informant	Time frame	Fees	Required Documents/Information
Birth Certificate	Local commune/ sangkat civil registration official	Parents of the child; or if unavailable then a relative or neighbor who witnessed the birth	30 days	No fee up to 30 days from birth; KR1,000-4,000 (depending on province) thereafter -KR300 for a copy of the birth certificate -KR400 for stamping the certificate	<ul style="list-style-type: none"> - Marriage certificate if parents are married - Medical practitioner's certification or two witnesses - Statement from the hospital or from the chief of the village; the family book of the child's family; the family book of the reporter, if he or she is not a member of the family.
Marriage Certificate	Local commune/ sangkat civil registration official	Husband and wife		KR1500	<ul style="list-style-type: none"> - Names of spouses - Ages of spouses (age of consent is 20 for a man, and 18 for a woman) - Occupations - Place of residence - Date of marriage - Same information from the parents
Passport	Ministry of Interior (for regular passports)*	Concerned person		USD 100	<ul style="list-style-type: none"> - Must be 18 years or older to apply - If under 18, must submit a family identification card, a birth certificate and written authorization from their parents/guardians - Family book
Death Certificate	Local commune/ sangkat civil registration official	Family member or relative, or neighbors, or ministry official	15 days	KR400	<ul style="list-style-type: none"> - Authorization for the cremation or burial issued by a civil registration official upon investigation of the cause of death
Cambodian National Identity Card	National Police General Commissariat, Ministry of the Interior	Concerned person		No fee	<ul style="list-style-type: none"> - Must be at least 18 years old - Photo and fingerprint - Family and/or lodging book or birth certificate or court decree declaring the concerned person's nationality
Family Books and Lodging Books	Police, Ministry of the Interior	Person responsible for a house, either as an owner, landlord or tenant		No fee	<ul style="list-style-type: none"> - Application form - Head of family must enter their member's names in the family book at the residence of the head of the family

* Diplomatic and service passports are issued by the Ministry of Foreign Affairs and International Cooperation.

Nepal: Registration Procedures for Key Legal Identity Documents

Document	Agency	Informant	Time frame	Fees	Required Documents/Information
Birth Certificate	Local registrar	Head of the family/ senior male member	35 days	No fee up to 35 days; NRs 8 up to another 35 days; NRs 50 thereafter	-Citizenship of father -Hospital certificate (if born in a hospital) -Letter of the Government office in case of employees
Marriage Certificate	Local registrar	Husband and wife	35 days	Same as above	-Citizenship of both husband and wife -Ward recommendation
Migration Certificate	Local registrar	Head of the family/ person migrating	35 days	Same as above	-Original migration certificate -Land ownership certificate as may be necessary -Family details -Ward recommendation -Citizenship certificate
Death Certificate	Local registrar	Head of the family/ senior male member	35 days	Same as above	-Citizenship certificate of the deceased
Citizenship Certificate	District administrative officer	Concerned person	May be obtained after completing 16 years of age	No official fee but in practice fees are levied for the application form	-Citizenship certificate of father or husband -Recommendation letter from gazetted officer of His Majesty's Government, Kingdom of Nepal or representative of local government -Birth certificate or school certificate

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