

# Obstacles to Registration<sup>1</sup>

**T**he official procedures and requirements for registering and obtaining identity documents (including, identity documents recorded in the civil registry, i.e., birth, marriage, and death certificates) in Bangladesh, Cambodia, and Nepal are set out in Appendix 1. The appendix illustrates the relevant timelines, fees, and documentary requirements, as set out in the legislation or rules, for obtaining key identity documents in each of the three countries.

Identity documents are difficult to obtain in countries characterized by weak human resources and institutions. Due to a range of obstacles, the registration process often entails more time, money, and effort than it seems to be worth. Complicated and expensive procedures, coupled with unmotivated and under-resourced registration staff, tend to discourage registrations and obtaining identity documents, particularly among vulnerable groups. Applicants in Bangladesh, Cambodia, and Nepal face various obstacles, including financial barriers, burdensome procedures, discriminatory laws and practices, institutional deficiencies, and lack of knowledge and motivation.

## Financial barriers

The process of obtaining identity documents in Bangladesh, Cambodia, and Nepal entails a variety of financial expenses, including official fees, fines for late registration, opportunity costs, transportation expenses, and bribes. The extent to which these expenses deter registration varies from family to family, depending in large part on their available resources. This is confirmed by empirical research, which found that disparities in household wealth are highly correlated with disparities in registration rates.<sup>2</sup>

For the most disadvantaged groups, official registration fees alone may be prohibitively expensive. In Cambodia one-third of FGD participants reported that the main obstacle to acquiring a birth certificate was that “registration requires money,” while one quarter confirmed that the main obstacle to the acquisition of a family book was that it was “too expensive.” Whether or not these perceptions are correct, they impact individual decisions regarding obtaining identity docu-

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ments. Similarly, in Nepal, where 42% of the population lives below the poverty line and earns less than a dollar a day, FGD participants reported that they could not afford birth registration.<sup>3</sup> Some asked why they should pay the fees required to register their children's births when they did not even have the money to provide them with basic essentials, such as clothes and school books.<sup>4</sup>

Fines for late registration add to the financial burden. In Cambodia, applicants who live far from the commune office often cannot meet the 30-day limit for free registration and, consequently, may be subject to late fines, which officially amount to 1,000–4,000 riels (KR), depending on the applicant's province. Similarly, in Nepal, though birth registration is free if completed within 35 days, a late fee of NRs8 is charged for registration between 35 and 70 days.<sup>5</sup> Registration, however, often takes place after 70 days. Applicants who register after the 70-day grace period are subject to a fine of up to NRs50.<sup>6</sup> This is a significant expense for the rural poor, many of whom have a nominal income. Moreover, in practice, local registrars are inconsistent and arbitrary in levying late fines; some impose minimal fines, while others demand higher amounts.<sup>7</sup>

The statistics below demonstrate that many applicants in Nawalparasi, Nepal only seek birth registration after the 35-day time limit, and thus will be subject to paying a fine.

On top of direct out-of-pocket expenses, applicants often incur significant

opportunity costs in terms of forgone wages since registering takes time away from work. For those who live in remote areas, the journey to the nearest registration office could be difficult, time consuming, and expensive.

In Cambodia, FGD participants reported that trips to the commune center are often wasted, due to inconvenient and irregular office hours and shortages of basic forms and materials. This problem is exacerbated by the lack of affordable public transportation to the commune centers, where civil registration officials are posted. When traveling by foot or oxcart, distances beyond a few kilometers make for an onerous journey. Bicycles are expensive and of little help when road conditions are poor, and travel by motorcycle-taxi significantly adds to the overall cost of registration. FGD participants living in the mountain/plateau zone identified the cost of transportation to the commune office as one of the main



**Registration of Birth within and after 35 days in Ramgram Municipality, Nawalparasi, Nepal**

Fiscal Year	Within 35 days	After 35 days	Total
2000/01	62	396	458
2001/02	34	409	443
2002/03	37	370	407
2003/04	42	661	703
2004/05	48	575	623
2005/06	15	438	453

Source: Data collected during field visit.

deterrents to registration. Transportation is far less problematic for urban populations, as demonstrated by discrepancies between rural and urban registration rates.

Opportunity costs are particularly burdensome in Nepal. In certain areas of the country, where the conflict due to the insurgency resulted in the demolition of VDC buildings, local registrars are temporarily housed at the district headquarters. As a result, registering vital events may require a long and arduous trip, which from remote parts of the country can involve days of walking. This is a difficult prospect for people living on daily wages, as it not only entails time away from work, but also additional expenditures for travel, lodging, and food.<sup>8</sup> Moreover, inconsistent requirements for supporting documentation sometimes result in applicants taking multiple trips to the registration office.

In Bangladesh, Cambodia, and Nepal, low level bureaucratic processes reportedly involve paying bribes. Rent seeking, which FGD participants in all three countries identified as a major impediment to registration, further inflates the cost of identity documents. In Bangladesh, complicated and inconsistent registration procedures increase opportunities for corruption. As a result, FGD participants reported that they paid prices above and beyond the official fees for identity documents. Although Bangladesh's 2004 Registration Act provides for free registrations for all within two years of the law coming into force and thereafter for newborns and infants up to a certain age, many expect that speed money will continue to be a factor in the process. In fact, it may well substantially increase with the strict application of the 2004 Registration Act.

In Nepal, officials routinely require "monetary favors" in exchange for issuing identity documents. FGD participants from the *Madhesi* community<sup>9</sup> complained that local lords demand exorbitant

bribes to assist them in obtaining citizenship certificates.<sup>10</sup> Some local lords employ a flexible payment scheme, and are willing to accept goats in place of cash payments. However, applicants who could offer neither goats nor cash reported that they were denied citizenship.<sup>11</sup> Some FGD participants, who lacked citizenship certificates,<sup>12</sup> reported that they were able to obtain birth certificates for a bribe of NRs100 plus a gift of liquor to the local registrar.<sup>13</sup>

Unofficial payments also add to the cost of obtaining identity documents in Cambodia. FGD participants reported an average charge of KR5,000 for a birth certificate—12 times the official fee. Family and lodging books were reported to cost twice that or more, while marriage certificates might carry "surcharges" of KR15,000. Though NICs are officially free, almost all FGD participants reported paying for them. FGD participants reported that when issuing family books, police consistently record the information incorrectly. As a result, the applicant is compelled to return to have this "mistake" corrected, which, not surprisingly, entails a fee.

Interestingly, officials in Cambodia were reported to apply a sliding scale when imposing bribes, depending on the applicants' means. Consequently, average prices may well be significantly higher than those reported by FGD participants in this research, who primarily represented vulnerable groups. This is confirmed by

The following anecdote exemplifies how travel and opportunity costs increase applicants' vulnerability to exploitation. RB traveled from Nepalgunj to Kathmandu to obtain official translations of his marriage and citizenship certificates from the Law Book Management Board (LBMB).<sup>14</sup> When the office employee told him to come back after 5 days, RB asked if the task could be completed earlier. The LBMB employee responded that faster service would require paying an additional fee of NRs1,500. Despite RB's repeated requests, the official refused to provide expedited service free of charge, pointing out that it would be more costly for RB to stay for 5 days in a hotel in Kathmandu waiting for the translations. Given the economic reality of his situation, RB finally agreed to pay the speed money.<sup>15</sup>

interviews with key informants who reported that some commune officials demand as much as \$5 or \$10 for marriage and other registration services that are officially free. Corruption has been blamed in part for delaying the Government's birth registration project, which aimed to register all Cambodian citizens and issue birth certificates by August 2005. As a result, municipalities have installed complaint boxes in the Phnom Penh commune offices for citizens to report incidences of rent seeking during the registration process. The MOI has promised that the boxes will be checked daily and that corrupt officials will be punished. However, whether this initiative has had any impact in terms of decreasing corrupt behavior is unclear.<sup>16</sup>

### **Burdensome procedures**

The registration process often presents procedural obstacles, bureaucratic hurdles, and burdensome evidentiary requirements. Surmounting these barriers translates into additional time and money, deterring many from registering.

Burdensome procedures are problematic in all three countries. In Bangladesh, procedural impediments stem from the absence of standardized systems and processes. As a result of Bangladesh's highly decentralized approach, birth registration procedures and requirements vary widely throughout the country. Moreover, the lack of coordination among various local level government authorities hinders effective planning and consistent implementation of policies. In Cambodia, FGD participants expressed confusion on the documentary requirements for birth registration and noted that the "complicated procedures" function as obstacles to registration.

Among the three countries in this study, however, procedural obstacles are most acute in Nepal. This is especially so

when it comes to obtaining citizenship certificates, which require a recommendation from the local DDC, VDC, mayor, or high ranking government official. FGD participants consistently complained that their inability to obtain the required recommendation letter prevented them from acquiring citizenship. Nepal's new citizenship law will hopefully help ensure that all eligible individuals are able to acquire citizenship.

Nepal's documentary requirements for legal identity are particularly taxing on IDPs and migrants. A migration certificate is required to obtain any legal identity document, if the application is submitted in a place other than the district where the father's citizenship is registered. Among the supporting documents needed to obtain a migration certificate is a recommendation letter from a local government official in the applicant's original home district. For those who have fled their homes on short notice, because of the insurgency, this requirement presents an insurmountable hurdle. Even for those migrating in more peaceful circumstances, the required recommendation letter may be impossible to obtain, given that many local government offices are not functioning.

On top of Nepal's official evidentiary requirements, registration officials often impose unwarranted demands for extralegal supporting documentation. For example, for all practical purposes, birth registration requires the parents' citizenship certificates, though this is not legally mandated. Similarly, in violation of Nepal's citizenship law, registration officials regularly require that the applicant be identified by a family member. There is, however, a lack of consistency in applying this extralegal requirement in terms of who is eligible to serve as a qualifying family member. In some cases, an uncle's recommendation has been accepted,<sup>17</sup> while in others, it has been rejected, resulting in the denial of citizenship.<sup>18</sup>

Extralegal requirements are also imposed on applicants seeking migration, birth, and land registration certificates. Some FGD participants reported that they were denied migration certificates because they either still owned property in the place of their former residence or because they could not produce a land ownership certificate in the location of their new residence.<sup>19</sup> Authorities in Kathmandu have also reportedly demanded tax clearance for birth registration, even though this is not required by law or the city's citizen's charter.<sup>20</sup> Finally, FGD participants reported that some land registration officials required female applicants to take their husband's family name in order to obtain title to inherited property.<sup>21</sup>

### **Discriminatory laws, practices, and attitudes**

Discriminatory laws, practices, and attitudes present a barrier to registration, particularly for women and minority groups. These obstacles are especially pronounced in Nepal, where laws related to citizenship, birth registration, marriage, and inheritance all contain discriminatory provisions, which undermine the goal of universal registration.<sup>22</sup>

Until the Gender Equality Act of 2006 was passed, only male or paternal relatives could apply for the registration of a relative's birth. In the absence of male or paternal relatives, local officials, and not female or maternal relatives, were authorized to apply for registration. The 1977 Registration Act specifically provides that information on the birth of a child be furnished by either the "head of the family" or the "eldest male member of the family."<sup>23</sup> Although the term "head of the family" is technically gender neutral, in practice, women have been excluded. This gender-biased interpretation is further supported by a later provision in the law,

which stipulates that in the absence of a male relative, the following individuals are legally empowered to register the birth:<sup>24</sup> the chairperson of the concerned VDC, the secretary of the concerned VDC, the mayor/deputy mayor of the concerned municipality, the relevant secretary or the executive officer in his/her absence.<sup>25</sup> In a recent historic judgment, issued in September 2005, the Supreme Court declared this provision unconstitutional and struck it down. The practical impact of this decision remains unclear, however, given frequent breakdowns in implementation.

Nepal's birth registration procedures also discriminate against refugees. In violation of human rights guidelines, the Government issued an internal circular,



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instructing registrars that the births of refugee children should be documented for statistical/demographic purposes only. No birth registration certificates are to be provided.<sup>26</sup>

One of the most glaring and problematic defects in Nepal's legal framework is that citizenship can only be established based on the applicant's patriarchal lineage.<sup>27</sup> Under Nepal's Constitution and Citizenship Act, a mother does not have the right to transfer Nepali citizenship to her child.<sup>28</sup> The law provides that a child who is found within the Kingdom of Nepal and the whereabouts of whose

parents are not known shall be deemed a citizen of Nepal until the father of the child is traced.<sup>29</sup> In practice, however, Nepali children are often denied citizenship, if the father is unknown,

residing elsewhere, refuses to provide assistance, or denies the relationship.

Discriminatory citizenship and marriage registration laws have impacted thousands of Nepali women who are married to Indian nationals. A Nepali woman cannot convey citizenship to a foreign spouse by way of marriage, though this is not the case for marriages between Nepali men and foreign women.<sup>30</sup> Marriages between Nepali women and foreign men are denied registration, based on the cultural belief that a married woman should reside with her husband's family. The lack of official records of these marriages has serious implications for the exploitation of women, as phony marriages are a common guise to lure trafficking victims.

In addition to discriminatory laws, attitudes and beliefs that further deter registration exist in administrative institutions. Due to the rigid hierarchy of Nepal's caste system, registration officials reportedly respond to certain groups with

disdainful attitudes and condescending treatment. Reports indicate that local registrars tend to be arrogant and rude in their interactions, regardless of the applicant's personal circumstances.<sup>31</sup> However, those most likely to face outright harassment include single mothers, transsexuals, rural people, dalits, and ethnic minorities, among others.<sup>32</sup> Consequently, it is not surprising that women and members of disadvantaged communities, such as dalits and *janajatis* (indigenous groups), have the highest rates of nonregistration.<sup>33</sup>

Single mothers report that they are reluctant to register their children because of the stigma attached to having a child out of wedlock. The registration process requires the mother to publicly disclose the fact that the child's father is unidentified, which implies deviance on her part. Registration officials tend to lack empathy for single mothers and often add to their humiliation by tagging them as sex workers and treating them with derision and contempt. Some FGD participants spoke with great emotion, confessing that feelings of shame have compelled them to conceal the fact that they have had a child. For these women, birth registration is out of the question.<sup>34</sup> Single mothers in border areas report that officials are often reluctant to register their children, as there is an increased likelihood that the unidentified father could be Indian.<sup>35</sup>

## Institutional deficiencies

Limited state capacity to deliver civil registration services is a fundamental barrier to establishing legal identity. Establishing and maintaining a complete, effective, and accessible civil registration system requires sufficient resources, political priority, enforcement capacity, and administrative infrastructure. These essential inputs, however, can be hard to come by, particularly in countries charac-

terized by weak institutions, infrastructure, human resources, and governance. Competing demands over scarce resources often results in the civil registration system being given low priority, and this affects the system's capacity to handle registrants competently. Lack of political priority often results in poorly managed, underfunded civil registration systems, deficient in full-time professional staff, adequate infrastructure and supplies, and consistent standards. Given these conditions, citizens are less likely to register vital events. The research identified insufficient financial and human resources as a key constraint to effective registration in all three countries.

## BANGLADESH

Bangladesh's under-resourced civil registration system lacks well-trained professional staff and basic materials and supplies, and suffers from dilapidated facilities. Due to the lack of dedicated staff, the Dhaka City Corporation has accumulated a backlog of over 5 years' worth of unprocessed registration data. Additionally, registration personnel at all levels tend to have low competency and skill levels. The field research identified the need for greater computer proficiency among registration staff. Bangladesh's 2004 Registration Act provides that data may be processed and stored through the use of computers and information technology, but even when it is available, relevant personnel are incapable of using such technology. For example, in some locations, such as Sylhet City Corporation, data are still handwritten in ledgers, while donor-provided computers remain unused. An additional obstacle to building a stronger human resource base is the high frequency of rotations among government officials.<sup>36</sup> Time and money invested in specialized training programs are adversely affected when officials are transferred after a short period.



Observers caution that, if left unaddressed, current resource deficiencies will intensify when the 2004 Registration Act comes into full effect. The 2004 Registration Act is certain to generate a tremendous increase in demand for birth certificates. Yet, little has been done to ensure that registration offices will have the resources and capacity to deal with the expected proliferation in registration applications. While local government authorities in relatively more well-off urban areas are by no means immune from the anticipated financial strain, union parishads in the rural areas are likely to be hardest hit since they are heavily under-resourced and have limited authority to levy taxes.

The 2004 Registration Act specifies that no fees are to be charged for timely birth registrations. To address the expected financial shortfall, the Government has proposed allocating up to 5% of a small percentage of the Annual Development Fund, (a block grant of about Tk 4 lakhs, or Tk. 400,000 or about \$7,000) currently provided to each union council, to cover expenses related to registering births. This

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plan has met with disapproval and resistance from some observers including registrars. Critics advocate that separate resources should be allocated to the union councils, pointing out that increased birth registrations could potentially consume a significant portion of this already small fund, which is intended to cover a variety of development initiatives. Others generally agreed that birth registrations should be prioritized, but cautioned against underestimating the resources required by this large scale project.<sup>37</sup> At the union *parishad* level, lone secretaries will be unable to cope with the surge in registrations, especially from adult applicants. It is time-consuming to inquire and confirm the details provided by these applicants. Unless this situation is remedied, the increased demand for registration will likely result in increased rent seeking and corruption among registration personnel.

Registration offices, which are likely to face acute pressures in the foreseeable future, are completely unprepared to deal with the anticipated surge in demand for registration certificates. Unless substantial external assistance is procured, the 2004 Registration Act could decrease social inclusion. If vulnerable groups are unable to obtain identity documents, they may be deprived of benefits and opportunities to which they are otherwise entitled.

## CAMBODIA

The Cambodian administrative apparatus faces serious problems in its efforts to provide registrations due to inadequate financial allocations for office facilities, materials, and staff salaries. These obstacles were identified by key informants interviewed, who expressed concerns regarding the lack of financial resources dedicated to civil registrations.

Few full-time staff are solely dedicated to civil registrations.<sup>38</sup> The commune councils are responsible for civil registrations within their jurisdictions. Provincial/

municipal police commissioners have operational responsibility for providing family and lodging books, while station and commune police are charged with the issuance of NICs. In all cases, these underpaid local level officials have competing demands on their time. To help address this situation, the MOI has developed an instruction manual and trained one clerk for each commune to assist with registrations.

FGD participants consistently complained about overcrowded registration offices and delays in obtaining registration documents. The “inaccessibility” of registration officials and “overcrowded registration centers” were cited as two of the main obstacles to civil registrations. Key informants interviewed reported that problems also stem from the lack of a sufficient supply of birth registration forms at the commune level. Moreover, the subdecrees governing civil registration fail to specify a time frame for the delivery of identity documents. As a result, applicants sometimes face unreasonably long delays in obtaining registration certificates, though commune officials appear to provide more timely service than the police who are responsible for family books. Nearly half of all FGD participants reported that the commune office took over a week to deliver their identity certificates, while more than half claimed that it took over a month to obtain a family book, lodging book, or NIC.

Cambodia recently completed a mobile registration campaign, which brought fast and efficient birth registration to the doorsteps of the people. This

**The “inaccessibility” of registration officials and “overcrowded registration centers” were cited as two of the main obstacles to civil registrations.**

resource-intensive campaign, which received significant donor support, achieved impressive results. However, sustainability remains an issue. Unless institutional deficiencies are addressed, Cambodia may not be able to maintain its current registration rates.

## NEPAL

Despite ambitious statements on registration in Nepal's 10<sup>th</sup> Development Plan, registration has not yet been extended to the people's doorsteps. Field research revealed a mismatch between the importance of legal identity and the resources devoted to providing it; the budget commitment for civil registrations amounts only to some 0.10% of the national total. Perhaps more telling is the distortion of the vital registration program's own budget: 98% of its annual budget in 2004/05 went to staff salaries and allowances, with only 2% remaining for program expenses. This trend continued in 2006.

Weak human resources are particularly problematic in Nepal, where secretaries to the VDCs serve double duty as local registrars.<sup>39</sup> VDC secretaries have a range of other job responsibilities and tend to view processing registration applications as an additional burden, which provides nothing in the way of increased compensation. Additional challenges stem from an inefficient management structure for registration staff. Nepal's vital registration law centralizes authority at the national level and confers too much power, such as the ability to make corrections, solely on the central registrar. This structure has created a tremendous workload for the central registrar. As a result, applicants seeking to correct identity documents face acute delays. A related deficiency is that there is no district or regional level body with the authority to coordinate and provide necessary directions to the local registrars, who are of low rank in Nepal's

civil service organization. Since no intermediate level monitoring and oversight mechanism is in effect, registrars are expected to consult with and seek direction from the central registrar to deal with even minor issues and problems.<sup>40</sup> This structural problem may account for the prevalent lack of accountability, uniformity, and consistency in adopting procedures.

Compounding matters, local registrars risk incurring criminal liability for issuing citizenship or birth certificates, if the supporting documents or their contents were later found to be false.<sup>41</sup> Nepal's legal framework provides no protection for government officials, even if their work was performed in good faith. Consequently, registration staff are disinclined to issue registration certificates, if they have any doubts regarding the veracity of the supporting documentation. The combined effect of imposing "liability" on local registrars for improper registrations and the lack of professional training contribute to procedural inconsistencies. Untrained registrars often institute novel and ad hoc procedures reflecting their own sense of what is required.

The reluctance to issue birth certificates is further exacerbated by a common misperception, even among registration officials that citizenship can be acquired based on birth in Nepal alone. Donor-driven programs that promote birth registration as the "ticket to citizenship"



have furthered this misperception. Given this situation, it is unsurprising that registrars lack a customer-service orientation and expect applicants to offer additional remuneration.

In addition to weak human resources, Nepal's registration system suffers from a lack of basic facilities, supplies, and infrastructure. These problems have been exacerbated by the insurgency, which has devastated government outposts throughout much of the country. Local registration offices have been demolished and documents and records have been destroyed. For example, currently in Bhojpur, only 33 out of 63 VDC offices

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are operational. In response, the Government has relocated some registration offices to the district headquarters, which renders them inaccessible for people living in remote areas.

As a consequence of budgetary shortfalls, the civil registration process is often disrupted and delayed.<sup>42</sup> Even in places where VDC offices are open for business, they have little material and logistical support. Many VDCs do not even have enough forms required to register vital events. Registrations rely on manual, paper-based record keeping; and sufficient storage facilities are lacking. Lost records often remain that way, and there is no mechanism to cross-check or verify information within the system. In 2005, the Vital Registration System Strengthening Task Force and High Level Commission for Information Technology issued a report suggesting ways to computerize the registration system, yet progress on this front remains to be seen.

## **Lack of knowledge and motivation**

Obtaining identity documents requires a basic level of knowledge, capacity, and motivation on the part of the applicant. For some potential applicants, the fundamental steps of acquiring information on the registration process and filling out the application forms present a formidable challenge. International research found that the lack of knowledge regarding where to register was among the top reasons for nonregistrations.<sup>43</sup> While knowledge and information barriers can be addressed through awareness-raising interventions, such as outreach campaigns, many will remain unmotivated to register unless the concrete benefits of obtaining identity documents are apparent.

Awareness and knowledge barriers contribute to low registration rates among vulnerable groups in Bangladesh, Cambodia, and Nepal. Some vulnerable groups, particularly in remote areas, are completely unfamiliar with the concept of birth registrations.

Research in Cambodia by the Child Rights Foundation found that one of the main reasons underlying low registration rates is a complete lack of awareness of the very notion of birth registration. Interviews in two provinces revealed that in “the overwhelming majority, heads of households where children have not been registered are simply not familiar with the basic concept of birth registration and are unaware that official authorities can deliver a birth certificate.”<sup>44</sup> Similarly, a study sponsored by UNICEF in Bangladesh found that 74% of respondents were unaware of the existence of any laws relating to registration.<sup>45</sup>

Even among those who are familiar with the concept of birth registration, following basic registration procedures can be cumbersome for those with low

knowledge and capacity levels. Many Cambodians, especially in rural areas, are illiterate and so cannot read, fill in, or sign the necessary forms. Due to language barriers, communicating with registration staff presents an additional challenge for indigenous communities from Cambodia's highlands, whose members require step-by-step assistance to complete the tasks involved in registration. During the mobile registration campaign, the Government made a commendable effort to address this obstacle by providing clerks to assist in recording the relevant information for birth registrations. However, this assistance is not offered for other identity documents, which remain out of reach for many.

Language also impedes registrations in Nepal; application forms are only available in Nepali, which many ethnic minority communities do not understand.<sup>46</sup> Even Nepali speakers complain that the registration forms are too lengthy, technical, and complicated. Illiteracy is a contributing factor to low registration rates in Bangladesh, where outreach campaigns often fail to attract a significant portion of the population that cannot read or write.

The benefits and opportunities associated with legal identity can sometimes seem speculative and remote. As a result, many see little point in registering, unless a specific need arises.

Absent a specific need, such as international travel or national exams, registration is generally viewed by Bangladeshis as an unnecessary, burdensome, and expensive legal formality. Until the 2004 Registration Act, most

Bangladeshis could go through life without ever facing a concrete need for a birth certificate. In light of this reality, there seemed to be a little incentive to invest the time and money it takes to register.

If and when Bangladesh's 2004 Registration Act is implemented and birth certificates become compulsory for accessing a wide range of benefits and opportunities, incentive structures are certain to change. As a result, many citizens are expected to be more motivated to obtain birth certificates. However, it was apparent from FGDs that certain vulnerable groups are so excluded and marginalized that it is likely that they will remain unable to register and obtain birth certificates.

Cambodians generally have little incentive to register since the lack of any one particular form of identity is generally not a major problem. Moreover, there are few benefits available.

Nepalis seem to take an instrumental approach to legal identity: they get it when they need it. According to a registrar interviewed for this research, birth registration occurs usually around the age of 6, when a birth certificate may be necessary to enroll in school, or at 16, when in addition to higher education, one may also become eligible for Nepali citizenship. Nepalis in their early 20s seek identity certificates as well, reflecting a desire to obtain migration certificates and passports for foreign employment. If these applicants seek birth certificates through official channels, they will face late fines, which while nominally small, may represent an additional hurdle.

## ENDNOTES

- <sup>1</sup> In this section, empirical information on Cambodia does not include figures reflecting the outcome of recently completed mobile registration campaigns which aimed to overcome some of the obstacles described.
- <sup>2</sup> UNICEF. 2005. *The 'Rights' Start to Life: A Statistical Analysis of Birth Registration*. New York: UNICEF.
- <sup>3</sup> Focus group discussion (FGD) with migrant children and women (Dadeldhura, 5 September 2005).
- <sup>4</sup> Note 3.
- <sup>5</sup> Birth, Death and Other Personal Event (Registration) Act, sec. 5(3), (1977).
- <sup>6</sup> Birth, Death and Other Personal Event (Registration) Act, sec. 5(4), (1977).
- <sup>7</sup> FGD with widows or single women, (Dadeldhura, 23 September 2005).
- <sup>8</sup> Note 7.
- <sup>9</sup> The Madheshi community is a community residing in the *tarai* (plain) areas of Nepal, and whose members are of Indian origin.
- <sup>10</sup> FGD with stateless persons, (Nawalparasi district, 9 September 2005).
- <sup>11</sup> Note 10.
- <sup>12</sup> Although citizenship certificates are not legally required for birth registrations in Nepal, they are frequently required in practice.
- <sup>13</sup> Note 10.
- <sup>14</sup> For the official use of any translated document, the translator's signature must be authenticated from the Law Book Management Board (LBMB), HMG of Nepal. The applicant must be present himself at LBMB's office at Babar Mahal, Kathmandu to authenticate the signature imposed on the translated copy. The period to get the document back from the LBMB is 48 hours.
- <sup>15</sup> Interview with a key informant associated with the Ministry of Law, Justice and Parliamentary Affairs. (Kathmandu, October 2005).
- <sup>16</sup> 2005. *The Cambodia Daily*. 19 October, p. 13.
- <sup>17</sup> Note 7.
- <sup>18</sup> Note 7.
- <sup>19</sup> Report on the FDG held with Internally Displaced Persons, (Kathmandu, 20 November 2005).
- <sup>20</sup> Interview with Srijana Mali (Kathmandu, September 2005).
- <sup>21</sup> Note 7.
- <sup>22</sup> The research for this report was conducted prior to Nepal's recent adoption of a new Act to Eliminate Gender Discrimination in 2006. Despite this generally positive development, some discriminatory provisions still remain. For example, a Nepali woman cannot transfer citizenship to her non-Nepali spouse by virtue of the marriage and children born to such a couple are only entitled to Nepali citizenship if they reside in Nepal. Similarly, married daughters continue to face gender discrimination in inheriting parental property and discriminatory grounds for divorce that are detrimental to the wife have not been eliminated.
- <sup>23</sup> Birth, Death and Other Personal Event (Registration) Act, sec. 4(1), (1977).
- <sup>24</sup> Birth, Death and Other Personal Events (Registration) Act, sec. 4(4), (1977).
- <sup>25</sup> The Nepal Gazette, part III, at 4, (10 March 2003).
- <sup>26</sup> This circular was first made for Tibetan children on 10 January 1999. A similar circular has been made for the children of Bhutanese refugees on 1 January 2003.
- <sup>27</sup> Nepal's new Citizenship Law addresses many of the problems described.
- <sup>28</sup> Constitution of the Kingdom of Nepal, art. 9 (1), (1990) ; see also Nepal Citizenship Act sec. 3(1), (4) and (5), (1963).
- <sup>29</sup> Constitution of the Kingdom of Nepal, art. 9(2), (1990).
- <sup>30</sup> The new law has not changed this practice.
- <sup>31</sup> PLAN International/Unregistered Children Project. 2000. Nepal Report-Towards the Full Implementation of Article 7 of the United Nations Convention on the Rights of the Child. June, pp. 70-72.
- <sup>32</sup> FGD with identity challenged persons (Kathmandu, 19 September 2005).
- <sup>33</sup> Plan Nepal. 2004. Evaluation of Unregistered Children Project Phase II, July 2001-June 2004, p. 28.
- <sup>34</sup> Note 32.
- <sup>35</sup> Note 7.
- <sup>36</sup> UNICEF. 2002. *Birth registration A Vehicle for Child Rights Promotion-Experiences with Birth Registration Promotion in Bangladesh*, p. 34.

- <sup>37</sup> For example, several union parishad chairpersons in attendance stressed the serious potential for human resource constraints to undermine the successful implementation of the 2004 Registration Act. These concerns echoed views expressed by registration officials interviewed, who consistently complained that they are overworked, underpaid, and dissatisfied with their working conditions.
- <sup>38</sup> MOI Report and Guidelines on the Second Stage of Mobile Civil Registrations in the Kingdom of Cambodia, December 2005.
- <sup>39</sup> These individuals are not highly qualified; under Nepal's civil service system, VDC secretaries are classified as assistant level support staff.

- <sup>40</sup> Interview with the Local Registrars from Dang and Dadeldhura; Ministry of Local Development, HMG, *Personal Events Registration Program, Annual Report* pp. 30–31 (2003).
- <sup>41</sup> Birth, Death and Others Personal Events (Registration) Act, sec. 13, (1977).
- <sup>42</sup> Interview with the Registrar at the Ministry of Local Development, September 2005.
- <sup>43</sup> Note 2.
- <sup>44</sup> Child Rights Foundation (2003).
- <sup>45</sup> Rahman, Mizanur. 1997. *Evaluation of Birth, Death and Marriage Registration Practices in Bangladesh*. New York: UNICEF, p. 23.
- <sup>46</sup> Note 7.