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Danish National ID Centre

Birkerød Kongevej 2-4
DK-3460 Birkerød
Denmark

Phone +45 61 98 39 00
Email nidc@nidc.dk
Website www.nidc.dk

Nepal: Registration of marriage and divorce and issuance of related certificates

Introduction

The following note describes the registration procedure regarding marriage and divorce and the issuance procedures for related certificates in Nepal. The note includes a brief description of the administrative structure and the legislative framework related to the issuance of civil status documents, as well as a description of archives and registration routines, related corruption and the trustworthiness of civil status documents.

Included in the note is also a brief description of the social marriage in Nepal.

The note is primarily based on interviews conducted in Nepal and India in October 2018.

The administrative structure in Nepal

Nepal is divided into three levels of governance with one federation, seven provinces and 77 districts.¹ Each district has a district administration office and a district court where all divorces and court marriages are administered.²

At the district-level, the administration is structured in metropolitan cities, sub metropolitan cities, municipalities or rural municipalities, each divided into a number of wards, totalling 6,743 wards.³ The ward is responsible for registration of birth, death, marriage, divorce, in-land migration and the issuance of related certificates. In relation to the issuance of civil status documents the ward is the most important administrative unit in Nepal.⁴

However, the Department of Civil Registration/National ID Management Centre has introduced a software-based online civil registration system, which is in the

¹ The Constitution of Nepal, 2015, 56:1; Kathmandu District Court, Kathmandu, October 2018; Department of Consular Services, Nepali Ministry of Foreign Affairs, Kathmandu, October 2018; FWLD, 2018, p. 29.

² Kathmandu District Court, Kathmandu, October 2018; National ID Management Centre, Kathmandu, October 2018.

³ Local lawyer, Kathmandu, October 2018.

⁴ FWLD, 2018, p. 29; Panauti Municipality, Panauti, October 2018.

implementation phase.⁵ The information about vital events is stored at the archives of the local ward offices.⁶

In September 2015, a new constitution of Nepal came into force replacing the interim constitution of 2007.⁷ However, it was clear from the delegation's visit to Nepal in October 2018 that the constitution is not fully implemented.⁸

Marriage registration and issuance of marriage registration certificate

The primary legal documents relevant to registration of marriage and the issuance of marriage registration certificates is the »Birth, Death and Other Personal Events (Registration) Act 2033, (1976)« and the »Marriage Registration Act, 2028 (1971)«.⁹

In Nepal, registration of marriage is mandatory.¹⁰ Registration of marriage between two Nepali citizens can take place at either the relevant ward or district court, while registration of marriage between a foreigner and a national or two foreigners only can take place at district court.¹¹

According to the new constitution, the minimum age for entering into a legally valid marriage, without the presence of a parent or a legal guardian, is 20 years for both parties, which according to the old constitution was 18 years.¹² With parental consent or presence of a legal guardian, both male and female can consummate marriage at 18 years of age according to the new constitution, which according to the old constitution was 16 years.¹³

During the visit to Nepal, the NIDC delegation met with representatives from three wards all of whom explained that they were aware of the new constitution regarding the legal age of marriage. However, the delegation was informed that the wards still marry couples without the presence of a parent or guardian at the age of 18 according to the old constitution, as they await the relevant governmental circular letter.¹⁴

Polygamy is illegal and uncommon in Nepal, but according to Kathmandu Metropolitan City Ward number 16, it is socially acceptable and administratively easy to arrange.¹⁵

⁵ National ID Management Centre, Kathmandu, October 2018.

⁶ Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

⁷ Constitution Bill of Nepal, 2015, p. 13.

⁸ Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018; Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

⁹ Marriage Registration Act 2028, 1971.

¹⁰ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

¹¹ Birth, Death and Other Personal Events (Registration) Act, 2033 (1976), p. 1; District Court, Kathmandu, October 2018.

¹² Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

¹³ Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

¹⁴ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

¹⁵ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

As mentioned, Nepal does not have a centralised or digitalised archive for vital events and information about these events is only kept in the manual archives in the ward. In case of in-country migration, it is required that the person migrating submits a migration certificate to the new ward.¹⁶ The migration certificate does not contain information about civil status, and the person migrating is responsible for informing the new residence ward of his/her civil status.¹⁷

Social marriage

Prior to the registration of a marriage, a celebration is often held which is referred to as a social marriage.¹⁸

The social marriage in itself makes the marriage socially acceptable, but the marriage is legally valid only when it is registered either by court or at the ward.¹⁹ Registration has to be done within 35 days after the social marriage. If registered within this time span there is no fee, but late registration of marriage will be fined.²⁰

The social marriage is not mandatory and during the celebration, no written contract is drafted.²¹

Marriage registration at ward-level

The majority of marriage registration in Nepal take place at ward-level.²² When a marriage is registered at a ward, it is legally required that it is at the ward of the husband, and it is mandatory that both husband and wife are present.²³

The persons entering marriage complete a marriage registration form, where after the marriage is manually registered in a marriage registration book by the ward secretary. A single marriage registration certificate is issued to the couple by the ward secretary, who also stamps and signs the certificate.²⁴ The stamps can be in both Nepali and English. A copy of the marriage registration certificate is kept in the wards archive together with the original registration form.²⁵

When registering a marriage the citizenship certificates, together with two pictures of both husband and wife, are required as documentation. A copy of both husband and wife's citizenship certificates are kept in the ward archive together with the

¹⁶ Department of Consular Services, Nepali Ministry of Foreign Affairs, Kathmandu, October 2018.

¹⁷ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

¹⁸ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

¹⁹ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

²⁰ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Birth, Death and Other Personal Events (Registration) Act 2033, 1976, Section 5, Subsection 4.

²¹ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

²² Kathmandu District Court, Kathmandu, October 2018.

²³ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu District Court, Kathmandu, October 2018.

²⁴ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

²⁵ Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

marriage registration form and a copy of the marriage registration certificate.²⁶ The person's age is verified according to the citizenship card.²⁷

Marriage registration certificates

The marriage registration certificate is the legally valid document, why the couple do not receive a copy of the registration form. The marriage registration certificate contains, among other; a marriage registration number, registration date and marriage date, national identity numbers, names and pictures of both husband and wife.²⁸

The marriage registration number is an auto-generated number. The number has no specific meaning and is only related to the document. The marriage registration number is generated when the document is issued.²⁹

The two dates on the marriage registration certificate refers to registration date and marriage date. The registration date is the date the marriage was registered at the ward, which is also always the date the marriage registration certificate was issued. The marriage date refers to the date for the social marriage if such was celebrated.³⁰ No witnesses or written proof of the social marriage is required as documentation.³¹

The marriage registration certificate and the ward registration book contains picture of both husband and wife. In the registration book, the pictures are kept together with fingerprints of both husband and wife.³²

²⁶ Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

²⁷ Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

²⁸ Panauti Municipality Ward No 3, Panauti, October 2018.

²⁹ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

³⁰ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

³¹ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

³² Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

अनुसूची १२
(विधम ६ अर्थ प्रशासन)
नेपाल सरकार (Government of Nepal)
स्थानीय पञ्जीकारिकाको कार्यालय (Office of Local Registrar)
वडा नं. १६, काठमाडौं महानगरपालिका
(Ward No.16, Kathmandu Metropolitan City)
३ प्रदेश (Province)

विवाह दर्ता प्रमाणपत्र
(Marriage Registration Certificate)

Registration date → दर्ता मिति (Registration Date): २२ से २०७९-१०-१९ (22-10-2018 A.D.)

Registration No. → दर्ता नं. (Registration No.):

Marriage date → विवाह मिति (Marriage Date): २२ से २०७९-१०-२९ (15-10-2018 A.D.)

विवाह प्रकार (Marriage Type): सामाजिक परम्परा अनुसार (social customs)

विवरण (Details)	दुसाहा (Bridegroom)	दुसरी (Bride)
पूरा नाम :		
Full Name :		
जन्म मिति :		
Date of Birth:	A.D. -1987	A.D. -1987
नागरिकता/राष्ट्रपती नं.:		
Citizenship/Passport No.:		
स्थायी ठेगाना :		
Permanent Address:		
बाबुको पूरा नाम :		
Full Name of Father :		
आमाको पूरा नाम :		
Full Name of Mother :		
बाजेको पूरा नाम :		
Full Name of Grandfather :		

हो (Signature): *[Signature]*
स्थानीय पञ्जीकारिकाको दफ्तरीपाल पदाधिकारी
नाम: Chandra Gopal Pradhan
Name of Local Registrar:

कार्यालयको छाप: Official Stamp

Image 1: Example of a marriage registration certificate (NIDC reference material).

Examples of the marriage registration form and marriage registration certificate presented to the delegation during the visit to Nepal in October 2018 showed that the type of paper the certificates are issued on can have various formats.

In Kathmandu Metropolitan City Ward number 16, the certificates are printed on regular white printing paper without any pre-printed text, and in Panauti Municipality Ward number 3, the type of paper on which the certificates are printed can vary.³³

³³ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.



Image 2: Example of a marriage register book (NIDC reference material).

All three consulted wards agreed that it is possible to have a marriage registration certificate reissued if the original is lost. It can also be issued by proxy based on a recommendation letter from either the husband or the wife. The new certificate will contain the new issuing date, the first date of registration, and state that it is a reissued certificate.³⁴

According to Kathmandu Metropolitan City Ward number 16 and Panauti Municipality Ward number 3, copies of the marriage registration form and register book can be issued on request. The marriage registration form can also be issued by proxy based on a recommendation letter from the husband or the wife. However, a reason letter or a request from relevant authorities e.g. the Danish Immigration Service must be submitted.³⁵

Marriage registration at district court

In Nepal, there are 77 district courts, where it is possible to enter into a marriage, for both Nepali citizens and foreigners.

It is required that the persons getting married have stayed in the relevant district for a minimum of 15 days. According to Kathmandu District Court it is, however, not necessary for the couple to have lived together in that period.³⁶

³⁴ Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018.

³⁵ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

³⁶ Kathmandu District Court, Kathmandu, October 2018.

The required documentation for entering into a court marriage is citizenship certificates for Nepali citizens and passport and valid visa for foreigners. A proof of staying in the district must also be submitted.³⁷

A marriage registration form is completed by the couple and the marriage is registered in the district court's register. A marriage registration certificate is then issued by the court. The registration form and a copy of the marriage registration certificate are kept in the court archive. The district court keeps a hard copy archive of marriage registration certificates, and do not register digitally.³⁸ The marriage registration certificate issued from Kathmandu District Court has pre-printed text.

Two witnesses are required to attest that the couple are unmarried. This precaution is put in place due to the lack of a central and digital archive of marriage certificates.³⁹

काठमाडौं जिल्ला अदालत
बबरमहल, काठमाडौं
विवाह दर्ताको प्रमाणपत्र

श्री (बाजे बाजेको नाम)
को नाती श्री (आमा बुबाको नाम) को छोरा (ठेगाना) बस्ने बर्ष को श्री
(विवाह गर्ने पुरुषको नाम) र श्री (बाजे बाजेको नाम) को नातिनी
श्री (आमा बुबाको नाम) को छोरी
(ठेगाना) बस्ने बर्ष को श्री (विवाह गर्ने महिलाको नाम) ले मिलि मा यस अदालतमा उपस्थित भई मुलुकी देवानी (सहिता) ऐन, २०७४ को दफा ७७ बमोजिम दर्ताद्वारा विवाह गर्न निवेदन दिएको र एक अर्कासाथ पति पत्नीको रूपमा स्वीकार गर्न मन्जुर गरेकाले निजहरूबीच दर्ताद्वारा विवाह हुने मिलि मा निर्णय भएकोले श्री र श्रीमति लाई सोही एनेको दफा ८० को उपदफा (२) बमोजिम यो विवाह दर्ताको प्रमाणपत्र प्रदान गरिएको छ ।

(विवाह गर्ने पुरुषको फोटो) (विवाह गर्ने महिलाको फोटो)

पति पत्नी

प्रमाणपत्र प्रदान गर्ने अधिकृतको:-
दस्तखत:
नाम, बर:
पद:

अदालतको छाप
मिति:

Image 3: Example of a marriage registration certificate from Kathmandu District Court (NIDC reference material).

If a marriage registration certificate issued by the court is lost, a new copy can be reissued. The new certificate will contain the entry date and the reissuance date of the certificate. It is possible for close relatives, based on a relationship certificate, to have a marriage registration certificate reissued by proxy.

³⁷ Kathmandu District Court, Kathmandu, October 2018.

³⁸ Kathmandu District Court, Kathmandu, October 2018.

³⁹ Kathmandu District Court, Kathmandu, October 2018.

According to the Kathmandu District Court, it is not compulsory but recommended that the marriage is registered afterwards at ward-level. The registration at ward-level is necessary if the couple later needs to register the birth of a child.⁴⁰

Registration of divorce

The primary legal document relevant to registration of divorce and the issuance of divorce certificates is the »Birth, Death and Other Personal Events (Registration) Act 2033, (1976) «. As for marriage, registration of divorce is mandatory.⁴¹

All divorces are required to be filed at district court prior to the registration of the divorce at the ward as a divorce is given legal effect based on a court decision. Nonetheless, it is the ward secretary who registers the divorce and issues the divorce certificate.⁴²

Based on a form completed by the person filing for divorce, the relevant district court issues a court decision.⁴³ Prior to the issuance of a court decision, the district court is obligated to mediate for reconciliation between the couple to try to get them to withdraw the divorce petition.⁴⁴

A copy of the court decision is submitted at the person's ward, and the ward secretary registers the divorce in the relevant register book and issues the divorce certificate. A copy of the court decision and a copy of the divorce certificate are kept in the ward archive.⁴⁵

There is no legal requirement for a waiting period before the divorcees can remarriage, but in case of remarriage the person has to present a divorce certificate. According to the new constitution there is a year separation period before the divorce is final.⁴⁶

Registration and control routines at ward-level

According to the Office of the District Coordination Committee in Kavrepalanchok, there is a general lack of capacity and knowledge at the ward administrations related to registration. The ward secretaries are not sufficiently educated in how to register data. Furthermore, some wards do not even have a secretary.⁴⁷

During the visit to Nepal, it was the experience of the NIDC delegation that the main control mechanism at ward-level is that the secretary is part of the local community and knows most people within his constituency.

⁴⁰ Kathmandu District Court, Kathmandu, October 2018.

⁴¹ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

⁴² FWLD, 2018, p. 2; Panauti Municipality, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018; Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Kathmandu District Court, Kathmandu, October 2018.

⁴³ Kathmandu District Court, Kathmandu, October 2018.

⁴⁴ Kathmandu District Court, Kathmandu, October 2018.

⁴⁵ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018.

⁴⁶ Kathmandu District Court, Kathmandu, October 2018.

⁴⁷ Office of District Coordination Committee in Kavrepalanchok, Kavrepalanchok, October 2018.

There is an expectation that people respect the national laws. As an example, when asked about how the wards verify that a person who has migrated to the ward and is now registering a recently contracted marriage is not already married (registered in his previous ward), the wards answered that they do not verify this information. It is, according to the wards, the responsibility of the person applying for marriage registration to inform the new ward about his/her civil status. The wards added that it is against the law and the social norm to have more than one wife.⁴⁸

Corruption and trustworthiness of civil status documents

This assessment of the level of corruption is concordant with Landinfo's description in a report from 2016 where Landinfo stated that there is corruption on all levels in the Nepali administration, including the local level.⁴⁹

Trustworthiness of Nepali ID- and civil status documents

In 2019, Transparency International scored Nepal with 34 points out of a possible 100 points on the Corruption Perceptions Index, in which 100 points means that the country is very clean, whereas 0 points means highly corrupt.⁵⁰

The information received by the NIDC delegation is in line with the findings presented in two reports from Landinfo from recent years. According here to, the general trustworthiness of Nepali documents is low which is due to a high level of corruption in the forms of nepotism, bribery and intimidation as well as the lack of central and digital registers over personal data. The latter enables the acquisition of genuine documents with false information and fraudulently obtained genuine documents.⁵¹

⁴⁸ Kathmandu Metropolitan City Ward No 16, Kathmandu, October 2018; Panauti Municipality Ward No 3, Panauti, October 2018; Kathmandu Metropolitan City Ward No 2, Kathmandu, October 2018.

⁴⁹ Landinfo, 2016, p. 7.

⁵⁰ Transparency International, 2020.

⁵¹ Landinfo, 2016, p. 7; Landinfo, 2015, p. 14.

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