

CODE OF CIVIL REGISTRATION OF THE STATE OF INDIA

(as approved by Decree dated 9th November, 1912)
Printed at Govt. Press, Nova-Goa, in 1913

By Nariana B. Sardessai - Advocate

INTRODUCTION

The code runs into 358 Sections covering 12 Chapters, titled serially as:

- I. Purpose of Civil Registration, its incumbence and fixation.
- II. Personnel and Offices of Civil Registration.
- III. Jurisdiction, Powers and Remuneration of the personnel of Civil Registration.
- IV. Books of Civil Registration and their reformation.
- V. Functioning of Civil Registration Offices in general.
- VI. Registration of Births.
- VII. Registration of Marriages.
- VIII. Registration of Deaths.
- IX. Registration of Recognitions, Legitimations and Adoptions.
- X. Certificates and extracts and statistical maps.
- XI. Inspection of Civil Registration services and appeals against registration refusals.
- XII. General, penal and transitory provisions.

This Code is not a new Code but only the adaptation of the Code of Civil Registration approved by Decree-Law dated 18th Feb. last, to suit the needs and peculiar circumstances of the State of India. Only few modifications and innovations have been introduced whereby the functions reserved by the original Code to the Ministry of Justice and its Secretary General have been transferred

to Governor General and Chief Conservator of Civil Registration of the State of India respectively.

This was done attending to the principle of decentralization and quickness in disposal of work. This Code created offices of Conservators at Nova-Goa (now Panjim), Margaum, Mapusa and Mormugaum for all the Talukas of Goa, and one such Office at Daman extending its jurisdiction to Diu and Nagar Haveli. Besides, it also created 7 Taluka Offices subordinated to Conservators in Goa District, under the control of Officers of Civil Registration. A village or a group of villages with lesser population have also civil registration out-posts headed by an assistant.

Normally, advocates holding licenses would be appointed for any of the above posts, whether Conservators or officers, but, as an incentive to physicians who would like to practice in villages where medical assistance is scarce, they would be preferred in recruitment.

The present Code respected the usages and customs of non-Christian population, which are codified and sanctioned by various special legal enactments, relating to adoption, polygamy, marriage of minors etc. notwithstanding the advancement of civilization, with high hopes that the concerned populations shall merge voluntarily in the advanced set up after careful education. And now that these usages have been conserved, it became necessary to mention in the registration the religion, race and caste of individuals to whom the respective civil act refers.

That is also the reason why, among the Hindus, the old practice of incineration of dead bodies by special methods has been sanctioned, taking however due care of its possible adverse effects on public hygiene.

Synopsis

The purpose of establishing the Civil Registration is to fix authentically the judicial personality of each citizen and to serve it as base to the enjoyment of his Civil rights, and for this purpose it is compulsory to record in civil registration the essential facts concerning an individual, his family and society, and more specially

the births, marriages and deaths. So also, there shall be recorded the acknowledgements, legitimations and adoptions of sons, divorces, declarations of nullity and annulment of marriages and other acts or facts concerning the civil status.

The compulsorily registerable facts shall not be proved by any evidence other than civil registration. The births, marriages and deaths occurred before the promulgation of this code shall be proved by the same documents as were until then, and for this purpose the records or books, parochial or of non-christians, wherefrom the evidence was obtained, shall be considered as state property and the respective holders state custodians.

This is the synopsis of Chapter I. Chapter II describes the hierarchy of the civil registration personnel whose supreme head is the Governor General, the method of their recruitment, their jurisdiction and powers and obligations, their educational and other qualifications, their legal substitutes, besides the special officers who, outside this state, are to exercise the functions of civil registration relating to the inhabitants of the state.

Chapter III defines in details the duties of the personnel engaged in civil registration, the "modus faciendi" of files processing, the issue of certificates, besides the formalities prescribed for recording the registerable acts or facts occurred to the inhabitants of the state in foreign countries. It also fixes the emoluments chargeable and the salary of the staff, besides the percentage of emoluments payable to the state exchequer and the respective municipalities.

Chapter IV makes it compulsory for every civil registration office to maintain in duplicate 4 types of books namely, of births, marriages, deaths and recognitions, legitimations of sons and adoptions. This Chapter deals also in some details with "how and why" to reform/reconstitute the lost or soiled books. It also devises ways and means of restoration of books when neither original nor duplicates are available/traceable.

The reformed books shall have the same validity as those lost or soiled. The officers responsible for the loss shall bear the expenditure incurred on the reformation. In case the loss is due to unforeseen circumstances the expenditure shall be met by the respective municipalities.

Chapter V deals with the services of Civil Registration in general. It prescribes that the offices of Civil Registration shall be kept open compulsorily during 6 hours every day, either continuously or in 2 periods separated by a small break, but never before 8 a.m. or after 5 p.m. On Sundays and Public Holidays they shall work at least 3 hours between the said period of 8.00 a.m. to 5.00 p.m.

Although the services as a rule should be available between the sunrise and sunset, they must be available at night in cases of duly justified urgent cases. The declarations of the parties are to be written fully without abbreviations and all numbers are to be written only in words.

Two different declarations written on the same page shall be separated only by one single dark line and all the blank spaces occurring in them shall be filled by dark-ink lines.

Any corrections, erasures or interlineations required to be made shall be written by the same hand and there shall be mention of the same at the end before the signatures, non-observance being subject to the interested parties arguing nullity or falsehood.

Once the registration is concluded there shall not be any further amendment save by a further declaration in writing for a rectification. This rectification shall be signed by all the parties who signed the original declaration and inserted by the same official in the same column. Thereafter no further changes shall be allowed save by order of a Court of law which shall be inserted in the marginal column with full details. The respective certificates of court orders shall be kept in the archives of the Registration Office.

The documents kept in the archives of Civil Registration Outposts shall be sent to the respective main offices at the end of every year.

When the documents filed by the parties are drafted in foreign languages, they shall be compulsorily translated into Portuguese, duly certified and legalised.

All the acts shall be signed by the parties present immediately after reading, the last to sign being the Officer who conducted the work. In case any of them is unable to sign immediately for whatever reasons, the act shall be considered null and a fresh act shall be repeated.

If any party does not know to write or can't write, the Officer shall mention the fact in the deed but in this case one more witness shall have to intervene. This Chapter prescribes all the steps to be taken when extraordinary circumstances occur.

All acts executed in foreign countries shall be transcribed, with proper care and precautions, in the Civil Registration when law permits and parties apply for it.

And finally the following occurrences shall be compulsorily recorded in Civil Registration, namely:

1. The Panchamas relating to abandoned children when produced by competent authorities.
2. The death certificates sent by officers of Civil Registration of the place of death or domicile, relating to persons who died in hospitals or other public houses, in jails or places of detentions, or as a consequence of violent death.
3. The acts of birth and death occurred on sea and sent by the Civil Registration Office of the last domicile of the parents or of the deceased.
4. The acts of births, recognitions, legitimation or adoption executed in camps before the duly authorised military officers when sent by the latter.
5. The acts of birth and death executed before the respective officers in lazarets and other incomunicable places declared as such by sanitary laws.
6. The judgements and orders directing the replacement or re-establishment of Civil Registration acts.

Chapter VI, regulates the registration of births when declared verbally or in writing to the competent Civil Registration Officer by the father, physician or nurse or other persons who assisted the mother or child at the time of delivery, by the owner of the house or by the head of the establishment where the child was born, by a near relative, by the mother of the child personally or through lawful attorney, by the owners of the property where the parents of the newly born are living as mundkars.

The declaration of births is to be made within 7 days thereof before the respective officer of the place of birth, irrespective of

the place of domicile of the mother. The Chapter prescribes how to meet the exceptional circumstances around the birth.

If the declarations are not made within 7 days of birth the officer shall refuse it but, in case the request for registration is addressed to Court within 3 months, the Judge may allow it with or without the application of fine.

After the lapse of 3 months the public prosecutor shall institute criminal proceedings against the person who is bound to declare the birth. But under any circumstances when the judge allows the registration, the officer shall comply with, after observing the required formalities. The registration of birth shall be signed by the witnesses besides the declarant. The registration of birth shall mention the time, day, month, year of birth and the place of registration. It shall also mention the name of the Officer, complete name, marital status, profession and domicile of the person who made the declaration, the time, day, year, place of birth and sex of the child, the name or names of the family, the name given to the child, and whether child is legitimate or illegitimate. It shall also contain the complete name, age, profession, country, domicile, residence, race or origin and religion of the father and mother, if they are known and are to be declared, with the indication of the place and probable date of marriage, if married. It will mention complete name, country and last domiciles of the grand-parents, if known and are to be declared, besides complete names, marital status, professions, domiciles of the witnesses, with the indication among them of the godfather and bestman, if asked for, and any other important data required to identify better the child.

This Chapter also prescribes the data required for the registration of abandoned child and formalities to be observed. If the new born child lives only an instant after birth, it will be registered in the book of births following all formalities prescribed in this Code, but if it is still born it will be registered in the book of deaths.

A child born on the seas in a portuguese ship will be registered before the competent officer of the ship and as soon as the ship enters a port or harbour the declaration will be made by the said officer before the respective consular officer.

The procedure prescribed for the declaration of births occurred in lazarets and other such places is slightly different in as much as the declaration of paternity, maternity or grand paternity of the illegitimate child shall not be admitted, save when the father or mother personally or through lawful attorney with special powers do it and sign. In the establishments where there is no registration book, the deed shall be made in two autographs.

Other cases foreseen in this Chapter are those of the children born before the dissolution of marriage, in which case no declaration adverse to its legitimacy shall be admitted, although the mother declares that the child is not born of her husband or the latter affirms that the child is not his, save when the child is born within 180 days of the solemnization of marriage or 300 days after the separation of the couple.

Chapter VII prescribes that the registration of marriages shall be made in accordance with the Decree-Law No. 1 dated 25th December, 1910, except in as much as in the cases of non-catholic individuals, their usages and customs are protected by law. It also prescribes in what way the consent of the groom or bride should be obtained when they are deaf and dumb.

The Civil Registration Officer shall refuse to celebrate the marriage of persons who are impeded from doing so by the referred Decree of 25th December, 1910.

He shall also refuse to celebrate the marriage of persons who do not give free consent for the purpose. The usages and customs of non-catholics sanctioned by law shall be protected.

The consent for marriage of minors or of interdicted shall be given in the following way:

During the act of marriage itself, verbally and directly, or through special attorney.

By authentic or authenticated document drafted by Notary Public or attested by him, or drafted by the Civil Registration Officer, or even by Consular Officers abroad.

It can also be obtained by judicial order.

The exemption referred to in Sec.8 of the said Decree shall be given by the Governor General in cases of marriage of uncle with niece or nephew with aunt.

Certain special circumstances like the hope that the proposed marriage shall be advantageous to the children of a previous marriage, the acquisition of means of subsistence, the probability of end of litigations or dissensions in families, the morality and domestic decorum, are to be considered as acceptable for the purpose of grant of exemption.

The proceedings of exemption are confidential.

Those who desire to marry shall have to declare it to the Officer of Civil Registration selected for the purpose, alongwith a certificate of domicile and residence, certificate of birth and also a pre-nuptial deed, if any.

The Officer shall affix the said declaration on the entrance door of the office and invite objections within 10 days.

When the Office selected for the purpose of marriage is not of the domicile of both, the Officer shall send copies thereof to each of the Offices or out-posts of Civil Registration of domicile and birth of the parties.

In case of widower or divorcee, the Officer shall refuse to celebrate the marriage before 6 months in the case of male, and 1 year in the case of female.

The presence of the following persons is indispensable for a marriage: the marrying parties or their special attorneys, the officer of Civil Registration, the persons whose consent is necessary, and four witnesses, among which is the godfather or bestman.

The marriage registration shall specify the time, day, month and year of marriage, place of marriage, name of the Officer who intervenes in registration and signs, the names, surnames, ages, professions, country, domicile and residence of marrying parties or their special attorneys, if any. It shall also be specified whether they are bachelors, widowers, divorcees or married whether they are legitimate, illegitimate or adoptive.

Chapter VIII deals with the registration of deaths:

No dead bodies shall be buried or incinerated unless and until the death is registered in registration book.

Soon after the death of a person and not later than 24 hours; a near relative of the deceased or his acquaintances or neighbours shall make the declaration of death before an officer of Civil

Registration of the area where the person died or where the dead body is kept.

The declaration of death may be verbal or written and accompanied by a medical certificate. In the registration of death, shall be declared the time, day, month, year and place of registration, the name of Officer before whom the declaration is made, complete names, marital status, profession and domicile of the declarants and two witnesses.

It shall also mention the cause of death, if known, the place, year, month, day and time of death, besides the complete name, marital status, age, profession, country, last domicile, whether the deceased was a legitimate, illegitimate or adopted son, identifications of parents and names of survived.

It shall also be mentioned whether he left any testament, and if so, in whose possession it is, and also the cemetery or place of incineration.

In this Chapter there are also provisions about how to act when the dead body cannot be identified.

Chapter IX speaks of recognitions, legitimations and adoptions:

The acts to be registered are recognitions or adoptions of children made directly in civil registrations by one or both parents, before or after the birth of the children, or even after their death if the latter have descendants who get the benefit of their adoption.

The legitimations of children born before marriage, made directly in civil registration by persons who effected them and did not do it in the respective act, are also to be registered.

Registrable are also the adoptions and legitimations made by public deed or in testaments, and also the adoptions made in terms of the Codes of Usages and Customs of Hindus of Goa, of the non-Christians of Diu and Daman, approved respectively by Decree dated 16th December, 1880, and provincial orders dated 10th and 30th January, 1884.

The requisites of identification of parties are the same as in the preceding Chapters.

Chapter X regulates the issue of certificates, forms and collection of data for statistics:

The registration of Civil status is not public but its contents can be known fully or partly through detailed or short certificates.

The Officers of Civil Registration shall forward in the month following a trimester, to the respective conservators, trimestral statistical maps prepared on the basis of registration books on special forms supplied to them in accordance with this Decree.

The Conservator or Officer shall pack separately the statistical forms of births, deaths, marriages, divorces, recognitions, legitimations and adoptions, rectifications registered in each month, and send those packs, with a numerical note of contents, to the respective Conservator in order to forward them to the Office of Governor General.

While Chapter XI regulates the inspections of the services of Civil registration and institution of appeals against the decisions of civil registration authorities, Chapter XII deals with general provisions, penal provisions and transitory provisions.

At the end, the Code gives the taluka-wise lists of Out-posts, lists of Offices of Civil Registration to which those Out-posts are attached, and the list of Offices of Conservator to which the Offices of Civil Registration are attached, besides the table of chargeable emoluments and various forms required in civil registration.