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REPORTING AND REGISTRATION OF VITAL EVENTS OF FILIPINOS ABROAD

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Honorable Karl Kendrick Chua, Secretary for Socio-Economic Planning and Director General of the National Economic Development Authority; Doctor Claire Dennis Mapa, Undersecretary and National Statistician and Civil Registrar General; fellow public servants, colleagues in the PSA and the Department, distinguished guests, ladies and gentlemen.

It is an honor to be invited to the 1st National Convention on Civil Registration and Vital Statistics as Resource Person on the Reporting and Registration of Vital Events of Filipinos Abroad.

The Department of Foreign Affairs is the instrumentality of the Philippine government which is primarily responsible for protecting and promoting the interests of our country in the international community.

Part of the Department's mandate is to protect and assist Filipino nationals abroad and to carry out legal documentation functions, as provided for by law and regulations, through our various Philippine Embassies and Consulates all over the world.

The legal authority for Philippine Embassies and Consulates to perform consular functions abroad is based primarily on **Article 5, subparagraph (f) of the Vienna Convention on Consular Relations**, wherein consular officers of member-states who are parties to the Convention are allowed to act as "notary and civil registrar and in capacities of a similar kind..... provided that there is nothing contrary thereto in the laws and regulations of the receiving State."

On the other hand, **Rule 10 of Administrative Order No.1 Series of 1993** provides that “All vital events occurring to Filipinos residing abroad (permanently or temporarily) shall be reported to the Philippine Foreign Service Establishments of the country of residence or where the vital event took place or where none is located thereat, in the Philippine Foreign Service Establishments of the country nearest the place of residence of the party concerned or where the vital event occurred.” This Rule operationalizes pertinent provisions of the 1949 Civil Code of the Philippines and the 1987 Family Code of the Philippines.

Meanwhile, **Department Order No. 19A-95** aptly named “The Regulations of the Department of Foreign Affairs” codified the general rules governing the registration of births, marriages and deaths of overseas Filipinos at Philippine Foreign Service Establishments.

Recent global events highlighted the need to redouble our efforts in encouraging our *kababayans* abroad to report vital events, especially to facilitate in providing urgent assistance in times of regional and international crises, such as the global recession in 2008 and the resulting oil price shock, the Arab Spring, the nationalization of oil producing countries in the Middle East, and the current Covid-19 global pandemic. These major events precipitated mass repatriations of overseas Filipinos, incurring massive costs to the Philippine government as well as to the economy.

It must be noted that due to the unique environment and varying circumstances by which Philippine Embassies and Consulates operate, it is understandable that different forms, documentary requirements and process flows apply.

In the next 3 slides, I shall endeavor to show you the forms used in reporting vital events of Filipinos abroad.

As can be gleaned from a cursory look at the Civil Registry Forms, aside from the appearance, there are noticeable differences in the available fields and documentary requirements. For Report of Birth, there are entries for the Father, which are sometimes necessary to determine the citizenship of the child. For Report of Death, there are more supporting documents required, usually for repatriation purposes. Although the same Certificate of Marriage Form is used by Consuls General, Consuls and Vice Consuls when they solemnize marriages at Philippine Embassies and Consulates, the Report of Marriage Form is generally utilized for marriages solemnized in foreign countries.

A unique but complicated feature of reporting vital events of Filipinos abroad are the documentary requirements needed to process civil registration.

The requirements vary widely from country to country or region to region. Some Embassies or Consulates require documents to be apostilled or authenticated. This is necessary to guarantee the authenticity of a document, particularly foreign ones and prevent the proliferation and submission of spurious or fake documents. As a background, we have replaced authentication certificates, commonly referred to as “red-ribbon”, with the Apostille certificate, when the Philippines acceded to the Apostille Convention in 2019. But it must be noted that not all countries are signatories to the Convention and with respect to these countries, authentication of documents still applies.

Another feature mentioned earlier is the submission of more documentary requirements. And this is more apparent in Japan or when one of the parents of a child or partners to a marriage is a foreign national. In these cases, adherence to the host country’s laws or regulations is paramount to determine citizenship, eligibility or identity for registration.

The process flow is simple and straightforward. Overseas Filipinos proceed to the Philippine Embassy or Consulate to report vital events (Birth, Marriage, and Death) and submit all the requirements for registration.

Post will then evaluate and process the documents. And if everything is in order, Post will forward said civil registry documents to DFA-OCA via diplomatic pouch.

Once DFA-OCA receives the documents, the Consular Records Division will review said documents one last time before finally transmitting them to PSA Civil Registry Management Division, Document Processing Unit.

What happens when our kababayan finally returned to the Philippines and forgot to report a vital event that happened abroad?

Then these Filipinos would need to access the facility for delayed registration of birth, marriage or death at the nearest DFA Consular Office or at DFA OCA Aseana. After the applicant submits all the documentary requirements, they will be transmitted to the Philippine Embassy or Consulate which has jurisdiction over the territory where the vital event occurred. Once the documents are received by Post, it will process the registration of the vital event, which will again be forwarded to DFA-OCA for onward transmittal to PSA.

I would like to share with you that the DFA Office of Consular Affairs is developing an online application portal that would allow applicants for civil registry services to submit their applications online. This is consistent with our policy of leveraging information technology in order to digitize as much of our processes as possible. We hope this would benefit our applicants by allowing them to ensure that all documents have been checked for completeness even before they go to the embassy or consulate. And this would certainly benefit our personnel because most of the backroom tasks associated with our process flows would be automated.

An integral function and primary soft-power diplomacy of Philippine Foreign Service Posts is the promotion of cultural relations with other countries. In the performance of this task, the Filipino Community or Filcom plays a pivotal role in the cultural promotion activities of Posts. Philippine Embassies and Consulates actively participate in Filipino community events and through these events, overseas Filipinos are continuously encouraged to register vital events abroad. There are even Posts which use its attendance in Filcom activities as an opportunity to conduct consular functions, including passport application, document authentication and civil registration.

Moreover, in big countries with a huge number of overseas Filipinos, such as Saudi Arabia and the U.S., or in countries where there are no Philippine Embassies or Consulates but are under the jurisdiction of one of our Posts, Consular Missions are conducted to attend to the needs and welfare of our kababayans in far-flung and hard-to-reach areas.

In addition, in the last three overseas Voting registrations, Philippine Embassies and Consulates have linked voter registration to consular functions as an innovative way of promoting registration of vital events abroad while ensuring that overseas Filipinos are able to participate in the democratic process of electing its leaders through mandatory voter registration.

However, since 2020 to present, the Covid-19 pandemic has prevented Posts and the Filipino communities from holding cultural activities, consular missions and voter registrations, gravely affecting the ability of our kababayans to report vital events abroad.

If we look closely at the graph which presents data on annual civil registrations from 2016 to 2020, we can see a slightly declining trend on the total civil registrations abroad. This is possibly because of the uncertainties brought about by recent geopolitical events such as Trump's America First Policy, China's aggressive foreign policy stance, and numerous

Middle East conflicts. But what is interesting to note is that there were no dramatic fluctuations in the number of civil registrations from 2016 to 2019, with the exception of 2017 where there was a significant decline in the report of births. This seems to suggest that the deployment of Filipino workers abroad continued unabated.

However, the 39,065 civil registrations in 2020 reflected a 20 percent plunge from the 49,269 registered in 2019 as the Covid-19 pandemic wreaked havoc in everyone's regular lives. A key significant area is the almost 50 percent decline in the registration of marriages in 2020. This only goes to show that the effects of this pandemic have far-reaching implications not only for the global economy and the global order but for the individual lives of every citizen on the planet as health and safety protocols, social distancing, appointment systems, lockdowns and quarantines limited internal and external movements and public services.

But external conditions preventing or curtailing civil registrations are not the only concerns of Posts, there are outstanding legal issues that need to be addressed to enable the smooth flow of processing the reporting of vital events. Complex issues arise because of conflict of laws, primarily because Philippine laws are different from the laws of the country where the vital event occurred.

This is all the more true of parties to or children born of mixed marriages, when civil laws of the Philippines and those of the country of citizenship of the parties or parents, and those of the country where the vital event took place clash with one another. This clash creates issues such as to what naming convention to follow, whether same-sex marriages could be reported, what data to reflect in cases of surrogacy, and whether online marriages could be reported.

These cases elicit non-uniform responses even within an organization, and therefore we have to revisit the concept of "ministerial duty" when it comes to reporting vital events occurring abroad. The PSA had previously given guidance that Foreign Service Posts should strictly follow what is reflected in the foreign civil registry document, since their duty is merely ministerial in nature and it is up to the courts to decide if ever anyone raises a justiciable controversy. This is fine on paper, but on the ground it is much more complicated to resolve, and the "ministerial duty" rule may not be a one-size-fits-all solution. Let's look at some examples.

At the easy end of the spectrum, take for instance a Filipino child born in the United States and registered there with the name Mary Elizabeth Anderson. In the American certificate,

the child's first name is Mary, middle name is Elizabeth, and surname is Anderson. When her report of birth is filed, should the Philippine embassy retain that format or insist on adding the mother's surname, say Panganiban, as her middle name?

What about a child born in Australia to a single Filipino father and a married Filipino mother whose names appear on the child's Australian birth certificate? Should the consul follow the Australian certificate and just require an affidavit of admission of paternity, or should the consul apply the Philippine principle that the entry for the father on the Report of Birth should be the name of the mother's legal spouse, who now has the choice whether or not her should impugn paternity in a Philippine court?

What about a Filipino male who underwent a gender reassignment surgery, changed his name through a deed poll and then married his partner of several years legally in the United Kingdom. The marriage certificate would reflect her as female, under her new female name, and the marriage would have been validly celebrated and recognized under UK laws. Can we accept an application for a report of marriage and use the entries in the foreign marriage certificate because it is our ministerial duty?

A more complicated example would be a Filipino male marrying an Irish male using the facility for online marriages in Utah, U.S.A. The document for this vital event would be a marriage certificate issued in Utah. Can we use the "ministerial duty" principle here as well? If we say no because it violates Philippine laws, then are we not saying that the "ministerial duty" principle is actually a general guide only and that specific cases require specific resolutions?

And to complicate the example further, suppose this aforementioned couple decide to have a child through the help of a surrogate mother and using eggs donated by the Filipino's relative and sperm bought from a sperm bank. The foreign birth certificate of the child would contain the names of both male parents. What then do we reflect on the Report of Birth, the details of the surrogate mother and either of the male "parents", or do we follow the foreign birth certificate as is?

These cases may be mere examples in the context of this convention, very interesting topics to debate on and to consider in an academic and detached manner. But they do happen in real life, to real people who are knocking on the embassy's door for a solution. The decision of the consul on the ground may have serious and far-reaching implications on whether someone who has a claim of Philippine citizenship is able to do so, on inheritance, and even on a person's identity.

What is clear from these examples is that the “follow the foreign certificate” principle because we are merely performing a ministerial duty cannot be a rule that is etched in stone.

Meanwhile, while a legal resolution to these controversies is awaited, affected overseas Filipino nationals are in limbo. Some parties, especially those who have no legal status to remain in the foreign country, are not able to apply for or renew their passports and are thus prevented from regularizing their visa status. Others, especially those who have gender issues, feel that the system is being unfair. Still others, especially couples who are separated by travel restrictions, visa requirements and other COVID-19 protocols, view the situation as an attack against their family life. And our consuls and consular personnel abroad are the ones who have the unenviable duty to be face-to-face with them.

I would end therefore by saying that the Department of Foreign Affairs shall remain committed to working together with the Philippine Statistics Authority, particularly its Civil Registration Service in order to prudently resolve these complex issues through coordinated action with other relevant agencies. It is after all the least we can do for our kababayans abroad whose cases fall outside the realm of the ordinary, but who are Filipino citizens just the same

Again, thank you for this opportunity to be invited to this 1st National Convention. Thank you too for allowing representatives of Foreign Service Posts to participate, inasmuch as they perform the functions of a local civil registrar abroad. Congratulations to PSA on the successful hosting of this event, which is evidently the result of hard work and tight coordination among the members of the organizing committee. Thank you and enjoy the rest of the convention. END