

FREE SOFTWARE MOVEMENT OF INDIA

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To,
Deputy Registrar General (CRS),
Office of the Registrar General, India
Ministry of Home Affairs
drq-crs.rgi@nic.in

2-12-21,
Hyderabad

Sub: Consultation on Amendments to Birth and Death Registration Act 1969

Respected Official,

It is highly appreciated your office is hosting a pre-legislative consultation for the Amendments to Birth and Death Registration Act 1969. I am writing this letter representing the Free Software Movement of India, a national coalition of free software and digital rights movements across India. I am writing this letter to express some of our concerns related to the proposed amendments by your office.

Your office has already digitized birth and death registration since 2014 with instructions being issued to several states through Circular No.1/12/2014-VS(CRS) dated 07-11-2014. It has been made clear in the circular, your office intends to link the birth and death databases with UID/Aadhaar to build the National Population Register. It is also clear from the current exercise, your office is bringing in the legislation to allow this linking process for creation and updation of a real-time population database.

This would require the current amendments to be considered with existing and upcoming laws including the Census Act. While a real-time population database shall help the ministry to keep track of the population, it can have serious consequences to the people who are not part of this database. The idea of tracking the population from birth to death and allowing these databases to be shared with other ministries to build real-time governance would be great, but this would need further amendments in various laws related to other ministries.

While the current amendments do disclose some intent behind the amendments, the end goal of this process has not been made clear, we would like to express a desire for a wider consultation process ensuring protections for citizens while these laws are amended. Our submissions have been limited to the current amendments that you have proposed to the Registration of Birth and Death Registration Act 1969. We hope you take them into consideration and also publish all the comments received publicly.

With Regards,

Kiran Chandra
General Secretary
Free Software Movement of India.

Proposed Amendments to Sections of the Act	Comments	Justification
Section 3, Clause 3A	The new insertion being proposed intends to process birth and death registration data without any individual permission of the citizen/data principal. A basic authorization/consent provision needs to be allowed for people to decide to which department their birth and death data needs to be shared.	The fundamental right to privacy of citizens needs to be respected and due authorization of the citizen needs to be sought before his/her data is shared with any other department for any particular purpose other than in case of national security requirements. As the legislative clarity of data process of citizens is still pending with the data protection bill, this process needs to be looked into with careful consideration as per the Puttaswamy Vs Union of India (2017) judgement
Section 4, Clause 4A	The word "unified database" maybe replaced with "state database".	It is unclear what a unified database and thus a state database of birth and death registrations can be maintained at the state level
Section 8, Clause 1	The word Aadhaar maybe replace with "Identity Document "	As per the Supreme Court judgement in the Aadhaar case Puttaswamy Vs Union of India (2018). Aadhaar usage is voluntary and thus the amendment cannot restrict identity documents to Aadhaar.
Section 33	Remove restriction of 30 days for the appeal	The provision of 30 days is short and may not be feasible in rural India when the individuals are unable to gather any required legal help for the appeal process. A individual should be allowed to appeal at any stage.