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Marriage and divorce registration in Africa – a neglected yet important component of a fully functional civil registration and vital statistics system

Conference theme

***Innovative Civil Registration and Vital Statistics systems:
Foundation for Legal Identity Management***



APAI-CRVS
Everyone visible in Africa



**Decade for Repositioning
of Civil Registration and
Vital Statistics in Africa
2017-2026**

I. Background

1. With the period 2017-2026 having been declared by African Heads of State as the “decade for repositioning civil registration and vital statistics (CRVS) in Africa”, it is an opportune moment to critically examine the status of CRVS in the continent. In doing so, a complete assessment of the functioning of the main components of CRVS systems in the continent is crucial. Alongside this assessment, an examination of the performance of CRVS systems in covering all the events that they ought to capture is equally important.¹

2. A recent report by the Economic Commission for Africa (ECA),² based on responses obtained from 39 (or 72 per cent of the 54 ECA member States, presents a baseline assessment of the status of national CRVS systems in Africa, using data on indicators of a healthy CRVS system: (a) Existence of legal frameworks to govern CRVS; (b) Administrative and statistical use of CRVS data; (c) Civil registration processes; (d) Infrastructure and resources; (e) Institutions and coordination; (f) Compilation of cause of death information; (g) Digitization of the CRVS system; and (h) Compilation and dissemination of vital statistics. Country performance in each of these area is aggregated to derive the overall score for the entire CRVS system.

3. The report also provides continental estimates of average completeness rates for birth and death registrations in 2015, namely 56 per cent and 35 per cent, respectively. Evidence elsewhere suggests a generally low and wide variability in the levels of marriage registration in Africa. A study conducted by the West and Central Africa Regional Office of the United Nations Population Fund (UNFPA), for example, shows that out of five countries that published information about marriage registration in the region in 2015, three – the Gambia (1.9 per cent), the Niger (4 per cent) and Sao Tome and Principe (6 per cent) – had coverage rates below 10 per cent.³

4. The results of the ECA study point to a general need for improvement in five areas of CRVS systems where most African countries are performing poorly. These are: (a) Infrastructure and resources; (b) Coordination and monitoring; (c) Use of information and communications technology and digitization; (d) Recording cause of death; and (e) Producing vital statistics from civil registration.

5. The results of the other specific issues highlighted are provided below.

- With the exception of South Sudan, all African countries have laws and legal provisions for civil registration in place. However, in many of them, the existing laws are neither up-to-date nor aligned with the recommended international standards. For instance, in nearly half (46 per cent) of the 39 countries for which data are available, there is no legal provision for transferring data from civil registration offices to a government agency in charge of compiling national vital

¹ In *Principles and Recommendations for a Vital Statistics System* (United Nations publication, revision 3) the registration of the following 10 vital events is recommended: live birth; death; foetal death; marriage; divorce; annulment (of a marriage); separation (of married people); adoption (of a child); legitimation (of a person with the status and rights of a person born in wedlock); and recognition (of the paternity of a child).

² *Report on the status of civil registration and vital statistics in Africa: Outcome of the Africa Programme on Accelerated Improvement of Civil Registration and Vital Statistics Monitoring Framework*, Economic Commission for Africa, 2017.

³ *Rapport préliminaire de l'évaluation du système d'état civil dans les pays de l'Afrique de l'Ouest*, West and Central Africa Regional Office, UNFPA, 2016.

statistics and producing an annual report. Also, unlike birth and death registrations, marriage and divorce registrations are not compulsory in many countries.

- The impact of existing legal frameworks in dealing with marriage and divorce registration or certification in the continent was assessed by Data2X.⁴ The conclusion is that legal systems generally fail to adequately recognize various marriages embraced by the population and, in doing so, they deny the women in these marriages important rights. This is especially the case because customary marriages, polygamous marriages and cohabiting unions are generally not legally recognized by existing marriage laws, most of which were inherited from the colonial era.
- In many African countries, civil registration processes are fraught with structural barriers that make it difficult for individuals to register events. These include the lack of registration offices within a reasonable distance, particularly in rural areas, a low level of awareness about the benefits of civil registration for individuals and the public at large, and financial costs of registration. Marriages and divorces are highlighted as events for which fees are charged for registration (in 21 and 14 countries, respectively). The aforementioned UNFPA study shows that in 16 of 22 countries in the West and Central Africa region, a fee ranging from CFA 200 (\$0.34) to CFA 255,000 (\$436) was levied for marriage registration in 2015.
- Despite the low level of registration in most countries, vital event records and certificates are used as legal documents to protect individuals' human and civil rights, and to enable them to access basic social services. Marriage and divorce certificates, for example, are used by courts in 95 per cent of the countries covered in the study as the primary legal documents for the formation and dissolution of a marriage between couples, while birth certificates are used as a legal requirement for school enrolment.

6. The ECA report of the status of CRVS in Africa raises an important point about the situation with regard to the registration or certification of marriages and divorces in the continent. It shows that marriage and divorce registration is not accorded the same priority as birth and death registration. This is unfortunate because, as highlighted above, marriage and divorce certificates are also critical enablers of access to rights and social services, in the same way that birth and death certificates are. Thus, as the decade for repositioning CRVS in Africa gains momentum and efforts to strengthen CRVS systems in the continent are rolled out, it will be crucial to increase system capacities so that all vital events recommended in the *Principles and Recommendations* (revision 3) are registered. This means improvement efforts across the board, including improvements in marriage and divorce registration as an integral part of the Africa Programme on Accelerated Improvement of Civil Registration and Vital Statistics.

⁴ Gendered dimensions of marriage and divorce registration laws in Africa, Data2X, 2016.

II. Why marriage and divorce registration matter

7. At the country level, marriage and divorce statistics are important for a better understanding of family formation and dissolution patterns and for developing programmes on family welfare and the protection of rights of women and children. Marriage and divorce certificates are therefore important facilitators of gender equality and the Sustainable Development Goals.

8. A marriage certificate provides legal proof of marriage. It can be used by women to secure property and inheritance rights and social protection upon the death of their spouse or in the event of dissolution of the marriage through divorce. The protective attribute of marriage registration is particularly important in societies where traditions and customs promote patriarchal practices that impose male control over all aspects of women's lives. It also facilitates the protection of the rights of children. Coupled with proper birth registration, marriage registration can provide legal backing against child marriage. Even if it fails to prevent child marriage, owing to a legal technicality in many countries that allows children below the minimum age to get married provided there is consent from parents, marriage registration can at least facilitate the compilation of statistics on the prevalence of child marriage. A divorce certificate or decree, on the other hand, is legal proof of the dissolution of a marriage and it confers on the individuals involved the right to remarry under civil, religious or other provisions, according to the laws of each country. It also provides a legal basis for the distribution of parental responsibilities at the end of a marriage and ensures a fair division of the assets acquired in the marriage or union.

III. Objectives

9. The objectives of the session are:

(a) To impress upon relevant stakeholders in the CRVS space in Africa the importance of prioritizing the registration of marriage and divorce;

(b) To underscore the social value of continuous assessment of the quality and coverage of registration data, and the routine generation of vital statistics from marriage and divorce registration records, even in countries that continue to have low registration coverage;

(c) To recognize and discuss the challenges to marriage registration in Africa in the light of the varied types of marriage practised, and showcase ways that Governments are contending with this challenge (for example, by promoting the registration of all marriages, and collecting new data on marriage type and registration within population censuses).

IV. Format of the session

10. The session will be organized in a panel format. Speakers will be invited from 4 to 5 countries where there are data on marriage and divorce registration, or countries that stand out on these issues.

V. Issues for discussion

11. The session will address the following key issues:

(a) What do we know today about marriage registration completeness and quality in Africa?

(b) Can methods used to assess birth and death registration completeness be adapted to inform marriage registration completeness?

(c) How can awareness about the benefits of registering marriages and divorces be increased to create demand for registration services among population groups and areas where the registration levels are low?

(d) What are the socioeconomic determinants and consequences of non/under-registration of marriages (by sex, wealth, type of marriage, place of residence, etc)?

(e) What needs to be done to assure that the improvement of CRVS systems in Africa strengthens the registration of marriages and divorces?

(f) What needs to be done to encourage countries to publish vital statistics from the marriage and divorce registration records, even if incomplete.

(g) What policy and legal reforms are required to ensure the registration in Africa of all marriages, regardless of type, and all divorces?

(h) How can incentive systems be designed to avoid punitive consequences for the most vulnerable, such as women married before the legal age of marriage and their children?
