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

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A. Background

1. With the period 2017-2026 having been declared by the 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 state 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 the CRVS systems in covering all the events they ought to capture is equally important¹.
2. A recent report by the United Nations Economic Commission for Africa (UNECA)², based on 39 (or 72%) of the 54 member states, presents a baseline assessment of the status of national CRVS systems in Africa, based on indicators on eight components of a healthy CRVS system. The components that are assessed include: (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 areas are aggregated to derive the overall score for the entire CRVS system.
3. The report also provides continental estimates of the completeness of [only] birth and death registrations in 2015, i.e. 56% and 35% respectively. This situation persists as shown in a 2020 survey among 18 out of 23 countries covered by UNFPA’s East and Southern Africa Regional Office, which found registration completeness for both births and deaths to be very low, with about 50 percent of the expected births and only 32 percent of the expected deaths being captured by the civil registration systems. Evidence elsewhere

¹ The United Nations Principles and Recommendations for a Civil Registration and Vital Statistics system (revision 3) recommends the registration of 10 vital events: 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 ECA (2017). Report on the status of civil registration and vital statistics in Africa

suggests generally low and wide variability in the levels of marriage registration in Africa. A study conducted by UNFPA's West and Central Africa Regional Office (WCARO) for example shows that out of five countries that published information about marriage registration in the region in 2015, three – The Gambia (1.9%), Niger (4%) and Sao Tome (6%) – had coverage rates below 10%³. Regarding vital statistics production, another study conducted in 2021 by UNFPA WCARO shows low coverage of vital events registration, particularly concerning marriage and death, for which there are practically no completeness estimations available. This study indicates estimates of marriage registration ranking from 4% and 32% in Benin and Burkina Faso respectively to 34.8% in Senegal

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 of cause-of- death; and (e) producing vital statistics from civil registration.

Results of the other specific issues highlighted by the assessment are as follows:

- (a) 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 not up-to-date nor are they aligned with the recommended international standards. For instance, in nearly half (46%) of the 39 countries for which data are available, there is no legal provision for transferring of data from civil registration offices to a government agency in charge of compiling national vital statistics and producing an annual report. Also, unlike birth and death registrations, marriage and divorce registrations are not compulsory in many countries.

In the East and Southern Africa Region, a study conducted by UNFPA in 2021 in 18 of the 23 countries indicated that two thirds of the countries had civil registration law that specifically stated the requirement for collection, compilation and dissemination of vital statistics from their civil registration systems. However, only four (22%) and five (28%) of the countries followed a standard tabulation plan for vital statistics on marriage and divorce, respectively. This observation corresponds to the findings of the 2017 UNECA assessment which indicated that out of 39 countries that responded, only 10 (25.6%) compiled vital statistics on both marriage and divorce, while 8 (20.5%) compiled vital statistics on marriage only from the civil registration system. The remaining half of the countries compiled neither divorce nor marriage vital statistics from the civil registration system.

Another assessment of the impact of existing legal frameworks in dealing with marriage and divorce registration or certification in the continent has been conducted by Data2X⁴. The conclusion is that the legal systems generally fail to adequately recognize various marriages embraced by the population and in doing so, they deny women in these marriages important rights. This is moreso because customary marriages, polygamous

³ WCARO (2016). Rapport préliminaire de l'évaluation du système d'état civil dans les pays de l'Afrique de l'Ouest et du Centre

⁴ Data2X (2016). Gendered Dimensions of Marriage and Divorce Registration Laws in Africa

marriages and cohabiting unions are generally not legally recognized by existing marriage laws, most of which were inherited from the colonial era.

In West and Central Africa, for example, many efforts have been put in place to address the issue of outdated laws and registration procedures, and current legal revisions are taking into account the need to incorporate ICT in the CRVS system and to adapt registration procedures both to new technologies and to social norms and realities. However, civil registration laws do not always include precise definitions of vital events and exclude customary and religious marriages. Clear definitions lend clarity to the law and ensure that users of CRVS systems - government officials and residents of the country alike - have a common understanding of the law's requirements. The UN defines marriage as "the act, ceremony or process by which the legal relationship of spouses is constituted." The legality of the union may be established by civil, religious or other means as recognized by the laws of each country.

- (b) National CRVS policies, including efforts related to the modernization of CRVS systems, and national statistics strategies are usually underfunded and heavily dependent on international support. Modernization processes are ambitious and seek to digitize processes and services but many CR offices still lack the necessary equipment and technology required. Even when civil registration services are decentralized, there are insufficient secondary offices, which creates difficulties in access for rural populations. Marriages and divorces are highlighted as events for which fees are charged for registration in many countries (21 and 14 countries, respectively). The UNFPA study cited above shows that in 16 of 22 countries in the West and Central Africa region, a fee ranging from 200 CFA (\$0.34) to CFA 255 000 (\$436) was levied for marriage registration in 2015. Similarly, the 2020 UNFPA assessment in East and Southern Africa found that nine (50%) and 6 (33%) of the 18 countries that responded charged fees for marriage and divorce registration, respectively.
- (c) At an operational level, the study by UNFPA in East and Southern Africa reported limited resources for the production of vital statistics. Only one third of the countries had adequate personnel assigned to the vital statistics component, compromising both the quality and timeliness of vital statistics on marriage and divorce.

In another in-depth situation analysis of CRVS production, dissemination and usage for women empowerment conducted by UNFPA in 2022 in six countries in East and Southern Africa (Democratic Republic of Congo, Kenya, Malawi, Seychelles, South Africa and Zambia), Kenya, Seychelles and South Africa were found to disseminate useful statistics for gender-based analysis, such as statistical data on births and deaths disaggregated by sex and other background characteristics. The Vital Statistics Reports from Zambia include sex ratio at birth by province and deaths data disaggregated by age and sex. However, marriage and divorce registration and statistical processing were weak or uncoordinated in all the study countries, except in South Africa and Seychelles. South Africa has a dedicated statistical release on marriage and divorce. Seychelles includes a table on marriages by age of bride and groom in the bi-annual Population and Vital Statistics Report series and tabulates divorce data by age and previous marital status of brides and bridegrooms.

- (d) 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% 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. Beyond these purposes, birth registration is critical for robust datasets to ensure the SDG principle of leaving no one behind and meet the expectations of a human-rights based approach to data disaggregation.

5. The ECA review of the state of affairs of CRVS in Africa raises an important point about the situation with registration or certification of marriages and divorces in the continent. It shows that marriage and divorce registration are 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, the same way birth and death certificates are. Therefore, as the decade for repositioning CRVS in Africa gains momentum, and efforts to strengthen CRVS systems in the continent are rolled out, a holistic approach that aims to increase the systems' capacities to register [all] the vital events that are recommended in the Principles and Recommendations of a CRVS system (revision 3) is crucial. This means every improvement effort , including the Africa Programme on Accelerated Improvement of Civil Registration and Vital Statistics (APAI-CRVS) should have, as an integral part, improvements in marriage and divorce registration.

B. Why marriage and divorce registration matter

6. Registration of marriage is important in helping to prevent marriage fraud, bigamy, and child marriage. In addition, marriage registration is important for the realization of certain rights, such as rights to inheritance, family benefits, marriage allowances, collection of pension and insurance of a deceased spouse, and the right for a spouse to acquire a nationality, among others. Divorce registration helps demonstrate a person's right to remarry and provides evidence of termination of rights of a former spouse.
7. Marriage and divorce statistics are also important for better understanding of the family formation and dissolution patterns and for developing programs on family welfare and protection of rights of women and children. Marriage and divorce certificates are therefore important facilitators of gender equality and the SDGs.
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.
9. Coupled with a proper birth registration, marriage registration can provide legal backing against child marriage. Even if it fails to prevent child marriage due to the existence of a legal technicality in many countries that allows for children that are below the stipulated minimum marriageable age to get married if there is consent from parents, marriage

registration can at least facilitate compilation of statistics on the prevalence of child marriage. A divorce certificate/ decree, on the other hand, is legal proof of dissolution of a marriage and it confers to the individuals involved the right to remarry under civil, religious and/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 assets acquired in the marriage or union.

C. Objectives

10. The objectives of the session are to:

- a. Impress upon relevant stakeholders in the CRVS space in Africa the importance of prioritizing the registration of marriage and divorce,
- b. Underscore the social value of continuous assessment of the quality and coverage of these 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. Recognize and discuss the challenges to marriage registration in Africa in light of the varied types of marriage practiced, and showcase ways that governments are contending with this challenge, e.g. by promoting registration of all marriages, and collecting new data on marriage type and registration within population censuses.

D. Format of the session

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

E. Issues for discussion

12. The session will address the following key issues:

- a) What do we know today about marriage and divorce registration completeness and quality in Africa?
- b) How adaptable are the methods used for birth and death registration completeness assessment to being used to inform marriage registration completeness?
- c) How can awareness about the benefits of registration of 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 bottlenecks, weaknesses 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 does strengthen 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 assure that all marriages, (regardless of type) and divorces, are registered in Africa?
- h) How can incentive systems be designed to avoid punitive consequences for some of those most vulnerable, such as women married before the legal age of marriage, and their children?