

Consensual unions

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The previous chapter examined marriage and how the prevalence and timing of marriage influences fertility, and hence population size and structure. Whilst in some countries and cultures, the vast majority of children are born to married couples and there is a clear connection between marriage prevalence and timing on the one hand and fertility on the other, this is not true of all countries. Furthermore, attitudes to cohabitation without marriage are changing across the world, and non-marital couplings should be factored into any review of population dynamics.

This chapter focusses on consensual unions that are not formal, legal marriages and discusses the problems with measurement and analysis. It is important to consider these unions, partly because they are increasing in prevalence but also because they affect population change. For example, in England and Wales in 2003, although 41% of infants were born from non-marital unions and thus were not a rarity, those children were 30% more likely to die before their first birthday. If their mother lived alone, they were 59% more likely to die aged less than one year compared to a child born of married parents (Office of National Statistics 2004:69).

There is a wealth of literature showing that married people have lower mortality rates compared to never-married people. Although there is only limited research on the impact of being in a consensual union on mortality, the current evidence indicates that being in a consensual union is associated with excess mortality, but not as much as for single people. For example, in Finland in the period 1996-2000, people in consensual unions had 70% excess mortality, compared to married people, although this was somewhat attenuated by controlling for socio-demographic factors such as education (Koskinen et al. 2007).

Consensual unions, like marriages, usually involve a change of residence for one or both partners, and this can be locally, nationally or internationally. Thus, the prevalence of consensual unions influences population structure by affecting fertility, mortality and migration of a population.

For many people, consensual unions are part of their life courses, with some seeing it as a precursor to marriage, some seeing it as an alternative to marriage and still others seeing consensual unions as an alternative to singlehood. This chapter focusses on the definitions, measurement and prevalence of consensual unions, then discusses change over time and choice of partner.

DEFINITIONS

A consensual union is 'the situation when two persons belong to the same household, and have a 'marriage-like' relationship with each other, and are not married to or in a registered partnership with each other' according to the European Union's Statistical Directorate (Eurostat 2019). In the United Kingdom, they are referred to as *common-law marriages*.

In Australia, consensual unions are officially referred to as *de facto relationships* and are defined in Section 4AA of the Family Law Act 1975 as a couple who are not legally married or related by family and who live together 'on a genuine domestic basis'. The vernacular terminology has changed significantly over the last two generations, with couples being referred to as lovers, then as *de factos* and now as partners. In the 21st century, the term *de facto* is now only used in legal situations. What constitutes a consensual union has also changed over time, with less emphasis on cohabitation, public acknowledgement of the relationship, joint finances and theoretical monogamy than in the 1970s.

In some countries, people can be considered to be in a consensual union even though they do not reside with one another. In the Caribbean these are known as 'visiting unions' (Leridon and Charbit 1981). In Anglophone countries, this type of relationship is referred to as 'Living-Together-Apart', or LAT. In Australia in 2005, 9% of people aged 18 years and over were in LAT relationships, making up 24% of people who were not married or cohabiting (Reimondas, Evans and Gray 2011). Similar figures are reported from Britain and other European countries (Haskey 2005).

The definition of consensual unions differs between and within countries, and over time. This leads to difficulties in measurement, and hence problems in calculating their impact on demographic and socio-economic variables.

MEASURING CONSENSUAL UNIONS

Key issues with consensual unions relate to definitions and measurement. By their very nature, consensual unions do not have a defined date on which they commenced, nor indeed on which they ended. Whether or not cohabitation is required varies by country. The formation of a consensual union is not recorded formally in any state or legal registry, so we are left with two imperfect measures: registration of children born from non-marital unions, and censuses or surveys.

The birth registration of infants born from non-marital unions does not provide us with a complete picture of couples in consensual unions, who may not produce children for a variety of reasons. Box 1 discusses problems with using registration of children born outside of marriage as a proxy for the rate of consensual unions.

BOX 1: Using birth registration as a proxy measure for consensual unions

One proxy for estimating the prevalence of consensual unions is to measure the birth registration of infants born when the mother's marital status is not listed as married. Whilst this may be useful as a general measure to track broad changes over time, or contrast between different cultures and countries, this measure cannot produce an acceptable estimation of prevalence of consensual unions.

There are many situations in which couples may be in a consensual union and not produce children. Some couples in consensual unions may not have children by choice, particularly when they have produced children from a previous relationship. Cohabitation without childbearing may be an alternative to marriage. Dyson (2010:31) argued that 'as childbearing and child-rearing have come to occupy a much smaller fraction of women's lives, so the institution of marriage has become weaker.' With a much wider array of life choices for women now compared to the past, marriage is not necessarily the best choice for all women.

Some couples may desire children but be prevented from conceiving by biology. For example, as seen in the Fertility chapter, women's fertility declines rapidly with age and whilst consensual unions are more common in younger age groups across all cultures, they are not non-existent at older ages.

Same sex couples in a committed stable relationship will not be able to produce biological children together, although there are many and varied ways to bring children into a same-sex family. Using birth registration of children conceived through surrogates, for example, would not capture the rate of consensual union.

Couples who have not physically given birth to children within their current relationship would be invisible in a measure of consensual unions that was based solely on birth registration. Nevertheless, we can examine the proportion of children born within marriage and outside of it, and note changes over time and place, as a very imperfect proxy for change in the prevalence of consensual unions, but a much better measure is using censuses and surveys.

With the growth of consensual unions in Australia there has been a wider array of options to describe marital state in censuses. From 2006 the options for answers to the question 'What is the person's present marital status?' included 'Married in a registered marriage' and 'Married de facto'. Then in 2011 the Australian Census asked two questions related to marriage: 'What is the person's relationship to Person 1/Person 2?' The six pre-coded answers begin with 'Husband or wife of person 1', followed by 'De facto partner of Person 1.' A separate question asked, 'What is the person's current marital status?' and adds the explanation that 'Married refers to registered marriages'. Such detailed options allow a greater insight into the prevalence of various forms of unions. However, most national censuses and surveys do not go into such exhaustive detail and so estimation of the prevalence of consensual unions is often based on surveys of a sample of the population.

In most countries, same-sex marriage is not valid and in 72 countries, homosexuality is illegal, including eight countries for which the penalty for homosexual acts is death (Carroll and Mendos 2016). So whilst same-sex consensual unions are recognised and are included in the statistics of a minority of countries, the vast majority of consensual unions worldwide refer to heterosexual couples. Whilst the invisibility of same-sex couples is a matter of social equality, the number of same-sex couples, whether legally married or not, has limited influence on population size and structure due to the small numbers involved. In Australia it is estimated that just under 2% of men identify as gay and just over 1% of women identify as lesbian (Wilson et al. 2020).

PREVALENCE OF CONSENSUAL UNIONS

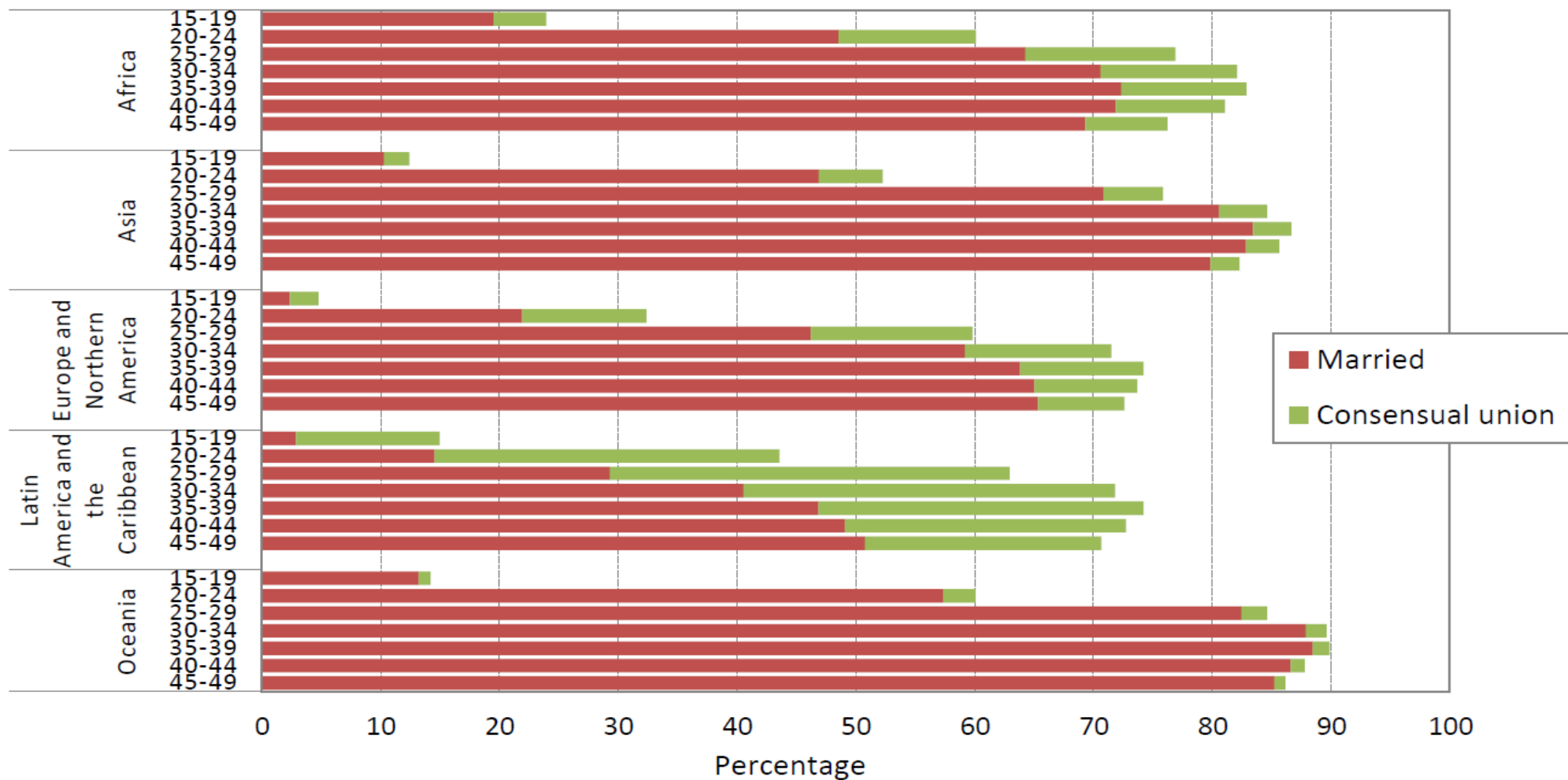
In Europe, unmarried cohabitation became common in Sweden in the late 1960s (Villeneuve-Gokalp 1991:82) to be followed by some other Western European countries and then by the rest of Europe, North America and Australasia (Carmichael 1995:55-57).

The United Nations Population Division notes that the rise in consensual unions is a key change in union patterns. It states, "Consensual unions not only characterise young people's unions, they have increasingly become more common among both the never-married and ever-married persons across many age groups" (United Nations 2016:2).

Further, there is wide regional variation. Figure 1 illustrates the percentage of women in marriage and consensual unions, by United Nations regions. Consensual unions are very common in Latin America and the Caribbean but almost non-existent in Oceania and Asia.

CONSENSUAL UNIONS

FIGURE 1: Percentage of women married or in consensual unions by age group and region, 2000-2014



Source: United Nations 2016

Table 1 shows that the percentage of people in Latin America who are in consensual unions is amongst the highest in the world. For example, 40% of women aged 25-29 years in Argentina and 31% of women in Bolivia are in consensual unions. This is not a recent phenomenon, with consensual unions being common in many Latin American countries for centuries (Landale and Fennelly 1992). In contrast, less than 1% of women in northern sub-Saharan African countries (Burkina Faso, Ethiopia) are in such unions. In central Africa (Burundi) the rate is 11% and in southern Africa it climbs again to 15% in South Africa and 37% in Botswana. It will be recalled from the previous chapter that Ethiopia had a marriage rate of 99% for women aged 45-49 years, whereas the rate was 79% for South Africa. Thus, there is a clear inverse correlation between the marriage rate and the rate of consensual unions.

TABLE 1: Per cent of persons aged 25-29 years in consensual unions in selected countries, by sex

Country	Year	Men	Women
Argentina	2010	37.9	40.0
Belgium	2011	18.6	20.5
Bolivia	2012	28.6	30.7
Botswana	2011	29.0	37.2
Benin	2002	0.8	1.2
Bhutan	2005	0.2	0.2
Burkina Faso	2006	2.2	0.5
Burundi	2008	10.9	11.2
Ethiopia	2007	0.2	0.2
France	2013	32.7	36.0
Kiribati	2009	29.6	20.9
New Zealand	1996	22.5	20.8
Papua New Guinea	2007	1.8	0.4
Philippines	2015	19.2	17.4
South Africa	2011	10.9	15.3
Tonga	2012	4.1	5.4
United Kingdom	2011	25.4	27.6
Ukraine	2001	5.5	6.0
USA	2002	17.8	12.9

Source: *United Nations 2017*

The Australian Bureau of Statistics (ABS) uses different age groups and for this metric, does not distinguish gender. In Australia in 2012-13, 22% of people aged 20-34 years were in de facto relationships (ABS 2015), which puts it on the same scale as the United Kingdom and New Zealand, but far higher than the USA and far lower than Sweden. Of the 2.1 million adult Australians who were in a de facto relationship, 45% expected to enter into a registered marriage with their current partner. This expectation was higher in younger people, where just under two-thirds of those aged 34 years or less who were currently in a de facto relationship expected to enter into a registered marriage with their current partner. For some, consensual unions may be a life course

stage and seen as a possible pathway to registered marriage, however this is not universal. Over a quarter of people in a de facto relationship did not expect to enter into a registered marriage with their current partner and a further 22% did not know whether they would do so (ABS 2015).

Consensual unions tend to have less stability than formal, legal marriage and individuals can move from being in a consensual union to being single. This contrasts with formal marriage in which, if the marriage is dissolved, the individuals' status becomes divorced or widowed, but not single. This impacts later census or survey results, which typically ask for current marital status.

CHANGES OVER TIME

For most countries, the rate of consensual unions has increased dramatically since the 1970s, as recorded in censuses (United Nations 2016). It is also evidenced by the rising number of children born from non-marital unions. Table 2 lists several OECD countries with the proportion of children born when the mother's marital status was not listed as married, in 1970, 1995 and 2018. The rise in proportion of children born outside of marital unions signals a rise in consensual unions. Whilst this is an imperfect measure of prevalence (Box 1), it is useful when this information is not explicitly captured in censuses.

TABLE 2: Per cent of all births where the mother's marital status at the time of birth is other than married (selected years)

	1970	1995	2018
Costa Rica		45.9	71.8
Iceland	29.9	60.9	70.5
Mexico		37.1	69.3
Bulgaria	8.5	25.7	58.5
Norway	6.9	47.6	56.4
Portugal	7.3	18.6	55.9
Sweden	18.6	53.0	54.5
Netherlands	2.1	15.5	51.9
Belgium	2.8	17.3	49.0
United Kingdom	8.0	33.5	48.2
New Zealand	13.3	40.7	48.2
Spain	1.4	11.1	47.3
Finland	5.8	33.1	44.6
Hungary	5.4	20.7	43.9
Austria	12.8	27.4	41.3
United States	10.7	32.2	39.6
Ireland	2.7	22.3	37.9
Australia		26.6	35.3
Italy	2.2	8.1	34.0
Germany	7.2	16.1	33.9
Canada	9.6	30.5	33.0
Poland	5.0	9.5	26.4
Japan	0.9	1.2	2.3

Source: OECD 2018

The rise in number of consensual unions is reflected in the organisation of this book. In the 1994 edition, consensual unions were considered to be of limited impact on population size and structure and so only warranted a paragraph in the chapter on nuptiality. In the current edition, an entirely new chapter was required to reflect the change in prominence of this form of coupling.

Some cultures have always accepted the validity of consensual unions without a formal marriage ceremony. For example, amongst the Semang people of Malaysia, who are traditionally hunter-gatherers and live mainly in semi-temporary houses in the Malaysian jungle, no marriage ceremony exists. Couples may have sexual intercourse, and change partners, but the bond is only considered to be semi-permanent when a child arrives. However, even the presence of a child does not ensure absolute permanence of the union, with couples splitting and forming, without social censure, throughout their lives (Schebesta 1973).

Consensual unions have also existed to a greater or lesser degree in European cultures for many centuries. In some villages in England in the middle of the 19th century, around 7% of all births were illegitimate (Oosterveen et al. 1981; Day 2013:193-197). In many cases this may have been a prelude to marriage. For example, in rural Wiltshire villages in the 18th and 19th centuries, 27% of the mothers of illegitimate children eventually married the father of the child (Day 2013:203).

One result of increasing rates of consensual unions in modern times is later ages of marriage. How this affects fertility within a population depends on whether it is acceptable within the culture of that population to bear children outside of marriage. If the culture is not welcoming to children from non-marital unions, then consensual unions prior to marriage may be associated with lower fertility rates. There may also be legal implications to being married, or not. For example, in Australia until 1966 married women were barred from employment in the Australian public service. From the perspective of a child of a non-marital union, there can be legal, citizenship and inheritance issues. For example, a child born before 2006 to an unmarried British father is ineligible for British citizenship (Home Office 2019).

The rise in consensual unions does not represent more people living together than earlier, but rather a change in the legal status of those who live together. Breton et al. (2019) note that the proportion of people living together did not change in France between 2006 and 2015, but within the cohort of people living together, the proportion who were in consensual unions increased and the proportion who were married decreased.

CHOICE OF PARTNER

For formal marriages, the choice of partner is often related to caste, age, wealth, status, clan and religion. Since society regulates formal marriages, there are boundaries to what type of partner an individual is permitted to choose. For example, most countries will prohibit the marriage of close kin. For

consensual unions, there are fewer boundaries, since approval of family and community is not required.

Since choice of partner in a consensual union is decided exclusively by the couple, rather than by parents or community members, a key requirement is that the partners meet each other and develop a relationship, as a prelude to the consensual union. For this reason, geographical proximity is important. Potential partners must be close enough to meet each other. The average distance over which an individual might travel to meet a potential partner has increased dramatically over the past century. For example, in rural Wiltshire, 60% of grooms married within the parish of their own birth in the 1750s, but this plummeted to 18% in the first decade of the 20th century (Day 2013:103). The invention of the 'safety bicycle' in 1885 dramatically increased the distance over which potential spouses could select their partners, which resulted in individuals marrying partners from more distant locations (Perry 1969). This trend continues to this day, with greater access to long-distance transport and thus a wider choice of partner. The increase in availability of transport options, from bicycles to cars to planes, may also help to explain the rise in consensual unions, compared to formal marriages.

Furthermore, individuals seeking a partner today can dispense with the requirement to meet the other person first, before getting to know them. With the rise of various dating and matchmaking apps and websites, individuals can take the first steps towards a relationship through their smartphone or computer. This in turn further widens the pool of potential partners. Most modern dating sites do not focus on formal marriage as their goal, although the Indian site <http://www.shaadi.com> is one of the few dedicated to formal marriage (*shaadi* means 'marriage' in Hindi).

THE FUTURE OF CONSENSUAL UNIONS

As the previous chapter indicated, the number of formal marriages is in decline throughout the world, to greater or lesser degrees. This is associated with an increase in the number of consensual unions, as humans are driven to social and sexual partnerships of one kind or another.

The impact on the discipline of demography of this changing behaviour is that it will become more difficult to estimate population structure in the future. As seen in the previous chapter, marriage rates and age can be used to inform estimates of fertility and hence population size and structure. As marriage becomes less common, the difficulty in making these estimates will increase.

The trend towards later age at first marriage and a greater proportion of people who never formally marry is closely associated with rising levels of education, particularly female education, and greater economic development (Jones 2018). As both education levels and economic development are increasing worldwide, albeit at varying rates, it is likely that the rate of consensual unions will continue to increase in the foreseeable future.

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