

Measuring legal marital status
*Cognitive interviews on two instrument versions
in a Norwegian context*

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Abstract

Information regarding a person's legal marital status and cohabitation makes up an important part of the background characteristics covered in most surveys. However, measuring these concepts in an international context is not a straightforward task. We have performed cognitive interviews in a Norwegian context on two separate instrument versions measuring legal marital status: the version used in the European Social Survey (ESS) and a version set up by us. The results show that the respondents have certain problems with the "legal marital status" concept that the ESS version asks about. The term "registered partnership", which refers to a legal alternative to marriage for gay couples, also turned out to be problematic. We believe that these, or similar, issues may also be relevant in other countries.

Background

Information regarding a person's legal marital status and cohabitation makes up an important part of the background characteristics covered in most surveys. Measuring these issues in a cross-national European context is, however, not a straightforward task. On the one hand the partnership legislation across Europe has become more diverse, and different kinds of same- or opposite sex civil union alternatives exist in addition to marriage. On the other hand, unregistered cohabitation has become quite common in many European countries.

The official definition of the legal marital status concept is challenged by these changes. Decisions must be made as to which new laws allocating legal and social rights to same- and opposite sex couples that should result in a revision of the official legal marital status definition. An additional complicating factor is that a colloquial interpretation of the concept exists alongside the official legal marital status definition in at least some countries where cohabitation is common. This colloquial interpretation confuses the “de facto” relationship to a partner with the “de jure” marital status.

We are aware of two separate efforts made at a cognitive testing of the legal marital status concept: one put forward by Statistics New Zealand in 2005 as a preparatory work for their 2006 census (Statistics New Zealand 2005), and the other in the UK in 2002 (Barrett and Wellings 2002). Barrett and Wellings (2002) conclude that some of the British participants understood the concept in a colloquial rather than in a legal sense. Furthermore, their interviews reveal that when being asked a question about legal marital status, it is not unusual among respondents to answer about the status of his/her relationship to a current partner, and maybe select the category that resembles most if the “exact” alternative cannot be found (eg. “marriage” if living in a consensual union). This may be the case even if the legal marital status of the respondents in terms of the official concept is related to a *previous* relationship (eg. divorced). Statistics New Zealand (2005) reports that some of the respondents did not know what the legal marital status alternatives in their country were.

A particular challenge is thus to ask questions about legal marital status and cohabitation cross-nationally in a way that can be understood by the respondents. The European Social Survey (ESS) is an academically driven multi country general social survey, fielded every second year since 2002 and aiming at high methodological standards. Since its start the ESS has included an item on legal marital status. The legal marital status question is asked separately from de facto marital status, or cohabitation.

Since its third round, the ESS legal marital status question contains categories related to both marriage and civil partnership, in countries where such exist. A question version with nine categories is asked in countries with other legal marital status alternatives than marriage (Version A, see Appendix 1). Countries with no legal partnership alternatives to marriage use a simpler version (Version B, see Appendix 1).

Analyses of data on legal marital status from round 3 of the ESS reveal, however, that the category “married” tends to be over-reported compared to Eurostat statistics for most countries. Furthermore, the share of respondents in the “civil partnership” categories (categories 2, 4, 7 and 8) is probably over-reported in most countries using version A of the questionnaire. This is however difficult to verify for most countries, due to a lack of comparable statistics (Orten 2008). The question that thus arises is whether or not the legal marital status instrument of the ESS can be improved, and if so, how this should be done.

With this background, our aim has been to construct an alternative instrument to the ESS version, and then have both versions cognitively tested in a Norwegian context. In this effort knowledge from the previous cognitive interviewing performed by Barrett and Wellings (2002) and Statistics New Zealand (2005) has been taken into account. This implies asking questions that are related to a current or previous partnership (if any), and try to avoid difficult or vague concepts in the question wording. In our case this would mean to avoid directly using the legal marital status concept, to ask about de facto and de jure relationship to partner separately, and to ask easy questions related to legal marital status if this cannot be retrieved from asking about a partner. The questions are set up in a way that allow for post-coding the data into a legal marital status variable. Our alternative instrument, which is displayed in Appendix 2, contains six questions (H1 to H6) that were designed to be easy for Norwegian respondents to answer, but that may also work internationally.

Cognitive interviews

In order to test how the two arrays of questions work in a Norwegian context, a range of cognitive interviews were carried out. Ten people were interviewed, with half of them being asked the ESS version, and the other half receiving our version. The respondents were recruited among our acquaintances. Although we tried to make sure that the respondents were as diverse as possible with regards to age, gender, education and relationship status, those with higher education and those in a relationship are somewhat overrepresented.

Each respondent went through a face-to-face interview. In order to make the interview situation as authentic as possible, a range of other questions from the ESS were asked before getting to the questions on marital status and relationship to partner. These include questions on media and social trust, gender, age and education. After going through the survey

questions, the respondents were asked some open questions on how they had perceived and interpreted the questions on marital status and relationship to partner. Examples of such questions include:

- “How were you thinking when you answered this question?”
- “What do you understand by the term *marital status*?” (for the respondents being asked the ESS version)
- “What do you understand by the term *registered partnership*?”
- “What do you understand by the term *partner*?”

The interviews were recorded, and the survey interview section on marriage and relationship to partner, along with the cognitive interview, was transcribed.

Results

The ESS array of questions starts out by asking about the respondent’s current “legal marital status”, before continuing on to questions about living arrangement and previous experiences. The following discussion will be centred on the question on “legal marital status”, as this is where our cognitive interviews were most fruitful. Subsequently, the discussion will turn to how the respondents perceived our version.

The interviews revealed certain problems with the “legal marital status” concept that the ESS question is based on. Three of the five people who were asked this question had a colloquial interpretation of the Norwegian translation of “legal marital status”. In this interpretation, “marital status” is understood as the “de facto” relationship you have to your partner, and cohabitation is thus seen as a marital status. This interpretation seems to be very prevalent in Norway today. For example, when people are interviewed in a newspaper or magazine, and they are asked about their marital status, “cohabitation” is a very common answer. Even in semi-official organisations, this use of the term can be found.

Despite this evident mismatch between the respondents’ understanding of the term “marital status”, and the way it is used in the ESS, most of the respondents managed to answer the question correctly (that is, according to its underlying intentions). This was, however, probably due to the fact that four out of five respondents were married, a category that is less prone to misunderstandings than others. However, it is unclear how these respondents would

have fared if they had not been married. One of them pointed out that she thought it was easy to answer the question now, because she was married, but that it would have been more difficult if she had been asked this question before she had gotten married. She stated that there should be an answer category for cohabitation, because this is such a common living arrangement in Norway today.

Comparing the results of ESS round 3 with register data for Norway indicates that there may indeed be a discrepancy between people's "de facto" understanding of the term marital status, and the "de jure" content that the ESS question is based on. While data from Statistics Norway show that only 0.1 percent of Norwegians are in a civil partnership, 3 percent of the Norwegian ESS sample say that they are in a civil partnership (Statistics Norway 2009A, European Social Survey 2006). In Norway, the legal partnership alternative to marriage that exists is called "registered partnership", and refers to a civil partnership for gay couples. However, the interviews indicate that far from everyone makes this connection when confronted with the term "registered partnership". Three of our ten respondents understood this term to mean a couple that lives together. Two additional respondents associated "registered partnership" with gay couples, but they were not sure that it might not also refer to cohabitation. This confusion may have something to do with the name of the partnership type being very generic. This understanding of the term in fact led one respondent, who is living with a partner of the opposite sex, to choose the "civil partnership" answer category.

All of the respondents who were asked the ESS version thought it was easy to answer the questions on marital status and relationship to partner. However, the interviews made it clear that the question on legal marital status is far from unproblematic, and that there is reason to believe that the "civil partnership" category may be overreported.

In our version we start out by asking about the de facto relationship to partner, and then move on to ask about the de jure status of this relationship. The problem with two different understandings of the term "marital status" ("de facto" versus "de jure" relationship to partner), is therefore avoided.

The term "partner" is central in this version. The interviews indicate that the respondents share the understanding that a partner is someone you "share a home and a bed with", and consequently all respondents were able to answer the questions quite easily. We have already

mentioned that some respondents are confused as to the meaning of “registered partnership”, associating it with cohabitation rather than a civil union for gay couples. A few of the interviews indicate that this confusion may in fact also work in the opposite direction, so that the term “partner” is sometimes associated with “registered partnership” and thus with gay couples. This is certainly enhanced when the term “registered partnership” is mentioned shortly before or after a question about one’s “partner”. However, although some respondents may have this association, they seem to know that it is not “correct”, and are therefore able to answer the questions.

Another problem in the ESS version was that the respondents do not necessarily know what makes up a “civil partnership”. In our version, we tried to remedy this by including a definition of registered partnership on the relevant show cards.¹ However, this was not successful, as several respondents did not notice the definition, and thus retained their understanding of “registered partnership” as cohabitation. We would therefore instead recommend inserting an intuitive version of the name of the partnership in the answer categories themselves. In Norway, for instance, we would recommend using “registered gay partnership” as an answer category instead of the generic “registered partnership”.

Concluding remarks

So to what extent can we expect these results to be valid in other countries? The following will present a few thoughts on this question, showing that the cross-cultural validity of our findings will depend on the legal framework, social reality and language of the country in question.

Our interviews showed that a colloquial understanding of the term “marital status” is very prevalent in Norway today. Cohabitation is a very common living arrangement in Norway, with 40 percent of people from 25 to 29 years old living with a partner without being married or in a civil partnership (Statistics Norway 2009B). The fact that this living arrangement has become so common is probably part of the explanation why cohabitation has been merged into the concept of “marital status” in the consciousness of so many. It is probably reasonable to think that the same may have happened in other countries that have experienced a similar

¹ This definition reads: “By registered partners we mean two persons of the same sex who have entered into a registered partnership.”

growth in cohabitation. In fact, the results from cognitive interviews in the UK (Barrett and Wellings 2002) indicate that a colloquial understanding of the term “marital status” is in use here as well.

Furthermore, it was clear from the interviews that Norwegian respondents are not necessarily familiar with the categories that make up the official legal marital statuses. More specifically, several of our respondents were not sure what the Norwegian civil partnership consists of. Naturally, familiarity with the legal marital statuses will vary from country to country. However, the cognitive interviews performed in New Zealand indicate that a sizeable number of their respondents did not know what a “civil union” was (Statistics New Zealand 2005). It seems likely that other countries may have similar problems. Familiarity with the legal statuses present in a country will depend on the types of unions that are legally recognised, and on how commonly used the partnership types beside marriage are. In Norway, “registered partnerships” are very uncommon (only 0.1 percent of the adult population are in a registered partnership). In contrast, the French “Pacte de solidarité civil” (PACS), which is a legal alternative to marriage for same- and opposite sex partners, has gained substantial popularity in the later years. In 2008, one out of three legal partnerships formed in France was a PACS (Rault 2009). Consequently, it can probably be expected that the French will be more familiar with this partnership type than what is the case in Norway.

Another aspect that is likely to influence familiarity with the civil partnership type in a country is the name this partnership type is given. More specifically, it may be problematic if the name of the partnership type is very generic, as in Norway, where the civil partnership type available is called “registered partnership”. We believe that using a more meaningful name in the questions will improve the respondents’ understanding in such cases. Our recommendation for the Norwegian case is to use the more descriptive “registered gay partnership”. The best solution in other countries will depend on the specific content of the partnership type, and on how it is generally referred to in the public. We do not think that it will always be expedient to refer directly to homosexuality in the questions, even if the partnership type is for same-sex couples, as this may be seen as offensive in countries where homosexuality remains a sensitive issue.

In conclusion, we believe that this small study has pointed out some issues that may significantly affect the way Norwegians answer questions on their legal marital status, and

that these or related issues probably are at play in other countries as well. As a general rule, it will probably be true that countries where the collection of official statistics is very common will face fewer problems, since people will be familiar with the official legal marital statuses available. However, we believe that it in most cases will be easier to ask about the relationship to a de facto partner than to ask about legal marital status. Furthermore, it is important to avoid using concepts that may be confusing to the respondent, and instead strive to include wordings that have their root in everyday language. We would very much welcome other studies that investigate how questions on legal marital status may successfully be asked in various national contexts.

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Appendix 1: The ESS instrument

ESS3 and ESS4

Version A²

F62 CARD 63 Could I ask about your current legal marital status? Which of the descriptions on this card applies to you?

INTERVIEWER NOTE: PRIORITY CODE IF NECESSARY

Married	01	ASK F63
In a civil partnership ³	02	
Separated (still legally married)	03	GO TO F64
Separated (still in a civil partnership)	04	
Divorced	05	
Widowed	06	
Formerly in a civil partnership, now dissolved	07	
Formerly in a civil partnership, partner died	08	
Never married AND never in a civil partnership	09	
(Refused)	77	
(Don't know)	88	

F63 Are you currently living with your husband/wife/ civil partner?

Yes	1	GO TO F65
No	2	ASK F64
(Refused)	7	
(Don't know)	8	

F64 Are you currently living with a partner?

Yes	1	GO TO F67
No	2	ASK F65
(Refused)	7	
(Don't know)	8	

² Version A should be used in countries where legal partnerships other than marriage exist.

³ Insert country specific name of legal partnership i.e. legal recognition of a union between two people other than marriage whether of the opposite or same sex.

F65 INTERVIEWER REFER TO F62 AND F63 CODE:

RESPONDENT IN A CIVIL PARTNERSHIP (CODE 02 at F62)
AND LIVING WITH PARTNER (CODE 1 at F63)

1 **GO TO F68**

ALL OTHERS

2 **ASK F66**

F66 Can I just check, have you ever lived with a partner without being married to them?

Yes 1

No 2

(Refused) 7

(Don't know) 8

F67 INTERVIEWER REFER TO F62 AND CODE:

RESPONDENT DIVORCED OR 'NEVER MARRIED AND
NEVER IN A CIVIL PARTNERSHIP' (F62 = 05 or 09)

1 **GO TO F69**

ALL OTHERS

2 **ASK F68**

F68 May I just check, have you ever been divorced?

Yes 1

No 2

(Refused) 7

(Don't know) 8

Version B⁴

F62 CARD 63 Could I ask about your current legal marital status? Which of the descriptions on this card applies to you?

Married	01	ASK F63
Separated (still legally married)	03	GO TO F64
Divorced	05	
Widowed	06	
Never married	09	
(Refused)	77	
(Don't know)	88	

F63 Are you currently living with your husband/wife?

Yes	1	GO TO F66
No	2	ASK F64
(Refused)	7	
(Don't know)	8	

F64 Are you currently living with a partner?

Yes	1	GO TO F67
No	2	ASK F66
(Refused)	7	
(Don't know)	8	

THERE IS NO QUESTION F65 IN THIS VERSION.

F66 Can I just check, have you ever lived with a partner without being married to them?

Yes	1
No	2
(Refused)	7
(Don't know)	8

⁴ Version B should be used in countries where legal partnerships other than marriage DO NOT exist

F67 INTERVIEWER REFER TO F62 AND CODE:

RESPONDENT DIVORCED OR
NEVER MARRIED (F62 = 05 or 09)

ALL OTHERS

1	GO TO F69
2	ASK F68

F68 May I just check, have you ever been divorced?

- Yes 1
- No 2
- (Refused) 7
- (Don't know) 8

**Appendix 2: Our instrument
(to be used in countries where legal partnerships other
than marriage exist)**

H1 Are you currently living with a partner?

Yes	1	ASK H2
No	2	
(Refused)	7	GO TO H3
(Don't know)	8	

H2 **CARD H1** Are you and your partner married, [civil partners⁵] or cohabitants?

Married	1	GO TO H7
[Civil partners]	2	
Cohabitants	3	GO TO H5
(Refused)	7	
(Don't know)	8	

H3 Have you ever been living with a partner?

Yes	1	ASK H4
No	2	
(Refused)	7	GO TO H5
(Don't know)	8	

H4 **CARD H1** Were you and your partner married, [civil partners] or cohabitants?
Answer about last partner living with

Married	1	GO TO H6
[Civil partners]	2	
Cohabitants	3	ASK H5
(Refused)	7	
(Don't know)	8	

⁵ Insert country specific name of legal partnership i.e. legal recognition of a union between two people other than marriage whether of the opposite or same sex.

INTERVIEWER NOTE: Ask if not currently married/in a civil partnership (code 3 at H2), and not married/in a [civil partnership] with last partner (code 3 at H4), or if never lived with a partner (code 2 at H3)

H5 CARD H2 Have you ever been married or in a [civil partnership]?

Married	1	ASK H6
In a [civil partnership]	2	
Never married and never in a [civil partnership]	3	GO TO END
(Refused)	7	
(Don't know)	8	

INTERVIEWER NOTE: Ask if married/in a [civil partnership] ever, but not with current partner (code 1 to 2 at H4, code 1 to 2 at H5)

H6 CARD H3 Are you and the person you married/engaged in a [civil partnership] with currently divorced, separated, or did your spouse/[civil partner] die?
Answer about last marriage/[civil partnership]

Divorced/[civil partnership] dissolved	1	ASK H7
Separated but still legally married/[civil partners]	2	
Spouse/[civil partner] died	3	
(Refused)	7	
(Don't know)	8	

H7 INTERVIEWER REFER TO H2, H4 AND H5 AND CODE:
 COHABITANT OR IN A [CIVIL PARTNERSHIP] NOW OR EVER
 (CODE 2-3 AT H2 OR CODE 2-3 AT H4 OR CODE 2 AT H5)

ALL OTHERS

1	GO TO H9
2	ASK H8

H8 Have you ever been living with a partner not married to?

Yes	1	
No	2	ASK H9
(Refused)	7	
(Don't know)	8	

H9 INTERVIEWER REFER TO H6 AND CODE:

DIVORCED/[CIVIL PARTNERSHIP] DISSOLVED
(CODE 1 AT H6)

ALL OTHERS

1	GO TO END
2	ASK H10

H10 Have you ever been divorced?

Yes

1

No

2

GO TO END

(Refused)

7

(Don't know)

8

1
2 GO TO END
7
8