

Common law marriages research paper sample

[Sociology](#), [Social Issues](#)



A common law marriage is a union where a man and woman live together as a married couple would, but do not have a marriage certificate or license showing that they are legally married (Lind 1). Common law marriage is also known as informal marriage, or marriage by habit. There are many nations and states of America that have still not accepted this kind of marriage. However, a few nations such as Canada recognize such marriages and have provisions in their constitutions to regulate the way these types of marriages are handled.

Research carried out in Canada shows that there has been a steady increase of the common law marriages (Kronby 2). The research goes further to show that many residents in Canada are now getting married at a very tender age. Ten years back, ladies were getting married at an average age of 31 years and the men at the average age of 38 years. In the present day, ladies are getting married at even an age of 24 years. This has in a way contributed to the increase of common law marriages where many young people start cohabiting, eventually ending up in a marriage contract.

However, not every couple that is living together can be said to be married. There are certain conditions that a couple living together must fulfill so that they are recognized as being married. One condition is that the couple has to be living in the same house for a given period of time. The time frame here differs in various states but in Canada it has to be at least for more than twelve months (Kronby 165). Another condition is that the couple has an intention of officiating their marriage at some point. This means that as they live together, they treat each other and refer to each as husband or wife (Kronby 168).

Common law marriages have become so common and this can be attributed to a number of factors. One is that the changes of the economy have in a way led to people who are dating to cohabit and even live like husband and wife. With the tough economic times, the cost of life has risen. For this, some couples will want to live together so that they can share the daily costs and help each other whenever they can.

It is possible that a young couple that is dating will opt to have a common law marriage if the woman happens to get pregnant. Generally, the society tends to look down upon young women that get pregnant out of wedlock. A man may then therefore chose to have a common law marriage to reduce the shame and embarrassment that the woman would go through if it became public that she is expecting a baby (Lind 37).

More to that, people will also opt to have a common law marriage to avoid the excessive expenses associated with organizing weddings today. This again goes back to the issue of a deteriorating economy. Weddings have since become an expensive affair and many couples in the current day will opt to have a simple ceremony. The expenses of organizing a church wedding have forced many couples to stick to the option of just living together and behaving like a married couple, without having to go through the hustle.

Another reason why people will opt for a common law marriage is in the chance that parents from one side do not give an approval of the other half. If the pressure is too much, the couple can elope to a far off place and start living together as husband and wife.

Despite the many justifiable reasons that are there as to why people will opt

to have a common law marriage, there are several risks that are involved. Since there is no legal document that is available to show that the marriage is valid, the foundation of the marriage is a bit shaky (Kronby 180). Some spouses will take advantage of the situation and do anything they want to, not minding the feelings of their partner.

With the lack of a legal certificate or license, the marriage does not have permanence take to it (Conway 29). This element may affect even the way the two partners relate to each other, to their relatives, and even to their friends. There are reported cases where some parents have detached themselves from their children when they opt to have a marriage based on common law. It can therefore be said that the common law marriages have had a negative impact on the general structure of marriages, though quite a handful of marriages have reported to be successful (Lind 12).

Despite the lack of permanency, common law partners do enjoy a few rights as partners who are legally married (Conway 212). They also do have the same obligations that they should meet, just like a legally married couple. However, for a common law couple to enjoy the rights that a legally married couple does, they have to give some evidence showing their commitment to each other (Lind 221). One is that they have to have a joint savings account besides proving that they have lived under the same roof for more than a year. The couple has also to jointly pay their taxes at the end of the year, and provide any other evidence that the legal institution may require.

In the chance of a separation, property is split differently as in how it would if the couple were legally married. For instance, the property is not split into two, but each partner is supposed to show what they individually own and

that is what they leave with. However, the splitting of property amongst common law partners remains the most complicated part of the Canadian family law, and no definite law is still in place as to how the property should be split. The one thing the law is sure to avoid is “ unjust enrichment”, where a partner will probably get into the relationship hoping to walk out with something after some period of time (Conway 102).

Another privilege that the common law partners do not have is that they have no right over the matrimonial home and any other property that the couple owned (Conway 264). If one partner passed away, the only way that the surviving partner would lay claim over the property is if it was in their name. Otherwise, they would just have to leave and the property is taken over by a relative instead. This case is different where the couple is married since the surviving partner automatically takes over everything.

Common law partners also cannot enjoy spousal support from their partners, unless they lay claim within a given period of time, usually two years from their demise. This means that the common law partners have a lot of limitations as a couple (Kronby 324).

In conclusion, common law marriages have a lot of limitations when compared to the legal marriages where a document is involved. It is therefore advised that a couple should seek to have a license to show that they are legally married, so as to ease the complications that come when one partner dies or during a separation.

Works Cited

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