

## Cohabitation Vs Marriage

Increasingly however, marriage seems to be on shaky ground as the rate of divorce is slowly but surely increasing even in hitherto traditional societies. Whereas it was an occasional occurrence and treated with a great deal of trepidation, divorce has attained a certain amount of acceptance. This is a sign that marriage isn't held so sacred anymore.

As if in response to the unhappy state of modern marriages more and more couples especially in Western societies prefer cohabitation rather than a traditional marriage that doesn't seem to have the same meaning in the modern context. Couples who choose to cohabit are not commitment phobic but just do not see any reason for the piece of paper that makes it legal. They are equally involved, believe in monogamy and have children together. However, though the relationship between married couples and those who cohabit are similar, the rule of law is distinctly different. In fact there is almost no rule of law in the latter context and even if matters come to head they are decided by a trust law rather than family law.

Same sex couples in most parts of the world have very few legal rights in the context of property, pension etc. Even though more and more same couples choose to live together and lead their lives as partners they do not have legal recognition except in very few countries. They share the same space and make similar sacrifices to keep the relationship going as married couples but unfortunately are not recognized in the same way.

### **Changing Times and the Law**

While there are no definite laws in place to protect the interests of cohabiting couples, the ubiquitous nature of this new form of family is making law makers sit up and notice. Currently there are an estimated 2.2 million couples cohabiting in the U.K and this figure is expected to rise to 3.8 million by the 2031. This is definitely a figure that cannot be ignored.

Currently only legally married spouses are entitled to a partner's property after death. A person who has been cohabiting with a partner might have to pay up to 40% as gift tax should he/she benefit from a partner's demise.

Whereas after the death of a partner, the spouse is entitled to pension there is no such right to a cohabitee. In case a couple had taken up a rental accommodation, a surviving cohabitee (opposite sex couples) may stake a claim for the tenancy. However, the law is discriminating when it comes to same sex couples as they do not have the same right.

The Law Commission is trying to put in place some form of legal rights so that cohabiting couples do not suffer financial consequences. Currently couples who have lived together for between two and five years can claim certain rights if they can prove the context of their live in arrangement.

### **To Marry or Not to Marry**

People who have burnt their fingers in a bad marriage become wary, disillusioned and bitter and vow to cohabit rather than marry the next time round. This seems to offer them more freedom, appears easier to move on if things go wrong and financial repercussions seem less. While couples who cohabit are in a serious relationship they seem less bound and accepting of the other versus being tied down and restrained by a piece of paper.

There appears to be a live and let live ethos to cohabiting couples when compared to the "you are bound for life and there is no escape" tone of marriage.

The flip side though is that couples who legally separate are protected by the law and are not left stranded if a marriage fails. There are also legal inheritance laws which are fair to expect when one has made a life with another but cohabiting couples do not enjoy this security.

It is too early to pass judgement on cohabiting and as it becomes a more recurring theme it will become a more established way of life which will eventually lead to legal rights being bestowed.

In the meantime, a good old fashioned marriage is not absolutely written off yet and while the rate of divorce is increasing, it is still not stopping people from wanting the social and legal acceptance of their bond.

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