

Should common law marriage be abolished?

The availability of common law marriage may affect couple formation, labor supply, and the decision to have children

Keywords: common law marriage, couple formation, marriage, labor supply, fertility, civil unions

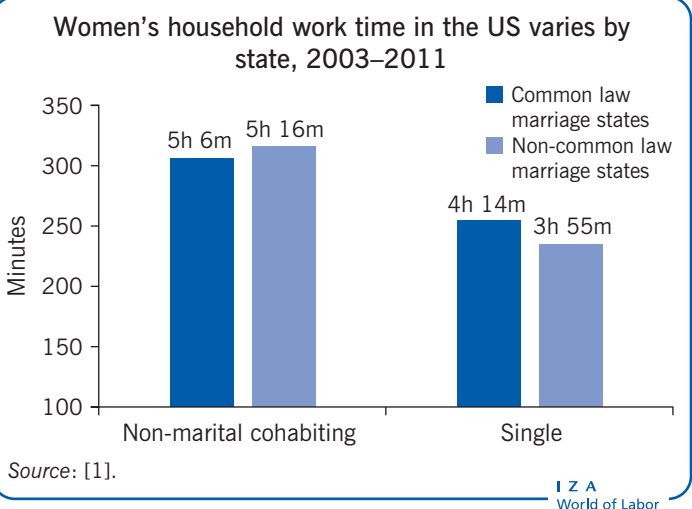
ELEVATOR PITCH

In addition to regular marriage, Australia, Brazil, and 11 US states recognize common law (or de facto) marriage, which allows one or both cohabiting partners to claim, under certain conditions, that an informal union is a marriage. France and some other countries also have several types of marriage and civil union contracts. The policy issue is whether to abolish common law marriage, as it appears to discourage couple formation and female labor supply. A single conceptual framework can explain how outcomes are affected by the choice between regular and common law marriage, and between various marriage and civil union contracts.

KEY FINDINGS

Pros

- ⊕ The availability of common law marriage in a jurisdiction is associated with lower teenage birth rates, especially among teenagers younger than 18 and among black teenagers.
- ⊕ When common law marriage is available married men participate more in the labor market.
- ⊕ The availability of common law marriage seems to be associated with more leisure time for married and cohabiting women, who spend one to two hours less per week in work outside the home.



Cons

- ⊖ Couple formation among college-educated men and non-college-educated women is discouraged when common law marriage is available.
- ⊖ The availability of common law marriage in the US and marriage under a community property contract in France discourages labor market participation of married and cohabiting women.
- ⊖ Where common law marriage is available, married and cohabiting women tend to spend more time in household work.

AUTHOR'S MAIN MESSAGE

Laws regulating marriage and divorce have more economic and social implications than most policymakers realize. Common law marriage is no exception. Recognizing common law marriage affects couple formation, labor supply, and the decision to have children. These impacts appear to be related to what men and women can expect when they consider cohabitation. Policymakers may want to add the introduction or removal of marriage-related laws—such as common law marriage or choice between legal regimes for distributing assets in case of divorce—to the tools they use to influence labor supply, fertility, and related outcomes.