

Research reveals Common-law Marriage is myth created by 1970s press

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The myth that co-habiting couples have the same legal rights as those who are married can be traced back to misleading press reports in the 1970s, according to research from the University of Warwick.

Professor Rebecca Probert, from the University's Law department, has trawled through newspapers, magazines and parliamentary documents from as far back as the 1700s to trace the evolution of the myth that Common-law [Marriage](#) exists and offers [couples](#) the same legal rights as marriage.

Before the 1960s, the phrase 'Common-law Marriage' was used to refer to an overseas marriage when local law was not available.

Professor Probert said: "This comes from a much earlier time when people were travelling to undiscovered parts of the world and there were no Anglican clergy on hand to perform a marriage ceremony. But it is important to note that there would have been some form of ceremony. Today the term 'Common-law marriage' is used when there has been no marriage ceremony at all."

The changing meaning of the term begins to take shape in the late 1960s and by the mid 1970s a handful of legal reforms cemented the idea that couples who have lived together for a number of years have a Common-law Marriage, believed to offer couples the same or similar rights as marriage, without the need for a ceremony.

Professor Probert said: “During the 1970s there is some confusion because we do see a few rights being granted to couples who live together, but the media misunderstood what these new rights actually meant.

“In 1975 the Inheritance (Provision for Family and Dependants) Act was introduced which meant that someone who had been dependant on the deceased could have a claim on their estate. In 1976 another new law was passed so courts could make orders to oust violent co-habiting partners from the family home. These laws were blown out of proportion by some press.”

In a Daily Express story called ‘Model Cassandra sues her “husband”, dated September 1975, readers are told that a new bill going through parliament meant that common-law wives would soon be entitled to an interest in their “husband’s” estate. Similarly The Times in January 1976 welcomed the new legislation and said it gave common-law wives ‘some legal recognition’.

Professor Probert said: “These articles are examples of how the press were misunderstanding the new laws and misleading their readers. This legislation was not automatically giving co-habitants legal rights to a share of their partner’s estate if they died, or their assets if the relationship broke down. There were certain conditions that had to be met .”

According to the research, the belief in common-law marriage was well established by the late 1970s, although it took different forms. Woman magazine suggested in November 1979 that couples had to be together for seven years before they had a Common-law Marriage. Other sources claimed the period was only two years.

Professor Probert added: “This evidence shows how the myth only really

took shape in the second half of the 1970s. When we look at the press reports and magazine articles it is easy to see why the belief that the law recognised common-law marriage was a rational and justified one – if one that ultimately operated to the detriment of many of those who lived together in the assumption that they enjoyed the protection of the law.”

More information: ‘The Evolution of the Common-law Marriage Myth’ , Professor Rebecca Probert, *Family Law Journal*, March 2011.

Provided by University of Warwick

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