

The increase in cohabitation and the role of marital status in family policies: a comparison of 12 European countries

Across Europe, an increasing number of couples live together without being married and many raise children together. By analyzing data from the European Social Survey (ESS) and a self-constructed policy database, we compare the proportion of men and women who cohabit in twelve countries and their rights in different policy areas. This allows us to estimate the proportion of couples who are currently covered or fall outside the scope of family policies in their country.

Key Points

- Large differences in cohabitation levels and levels of childrearing within cohabitation exist between countries. The extent to which cohabitation is legally regulated also varies considerably.
- Countries with higher cohabitation levels tend to have more extensive policies on cohabitation, but exceptions exist.
- Cohabitation laws are likely to matter most for long-term couples whose property becomes intertwined or who practice a gendered division of labour and care.

Introduction

Both an increase in cohabitation, and an increase in childrearing within cohabiting couples, provide a challenge to welfare states because they have traditionally placed marriage at the centre of family policies and ignored or penalized cohabitation. A lack of legal regulation also constitutes a challenge for cohabitants who are financially dependent on their partner, e.g. because they maintain the household rather than being in paid

employment. These cohabitants may be in a vulnerable situation if the relationship ends by their partner's death or separation, and when legal rules or state benefits would be needed to solve property disputes and avoid drops in income.

The study

We investigate whether welfare states grant heterosexual cohabitants the same legal rights and obligations as married spouses or whether

cohabitation remains unregulated. Drawing on a policy database, which reflects laws that were in place in 2010, we examine a range of policies that are relevant for families in case of unemployment, separation or one partner’s death. This includes tax laws, inheritance laws and tenancy laws. We focus on twelve European countries with different welfare regimes and family traditions. We also analyse data from the European Social Survey (ESS, wave of 2010) to quantify how many couples cohabit in these countries and whether they live with children. By comparing cohabitation data and policy information, we estimate the proportion of couples who fall outside the scope of policies in each country. This allows us to conclude how well European welfare states are currently equipped to deal with the increasing number of cohabiting couples.

Main findings

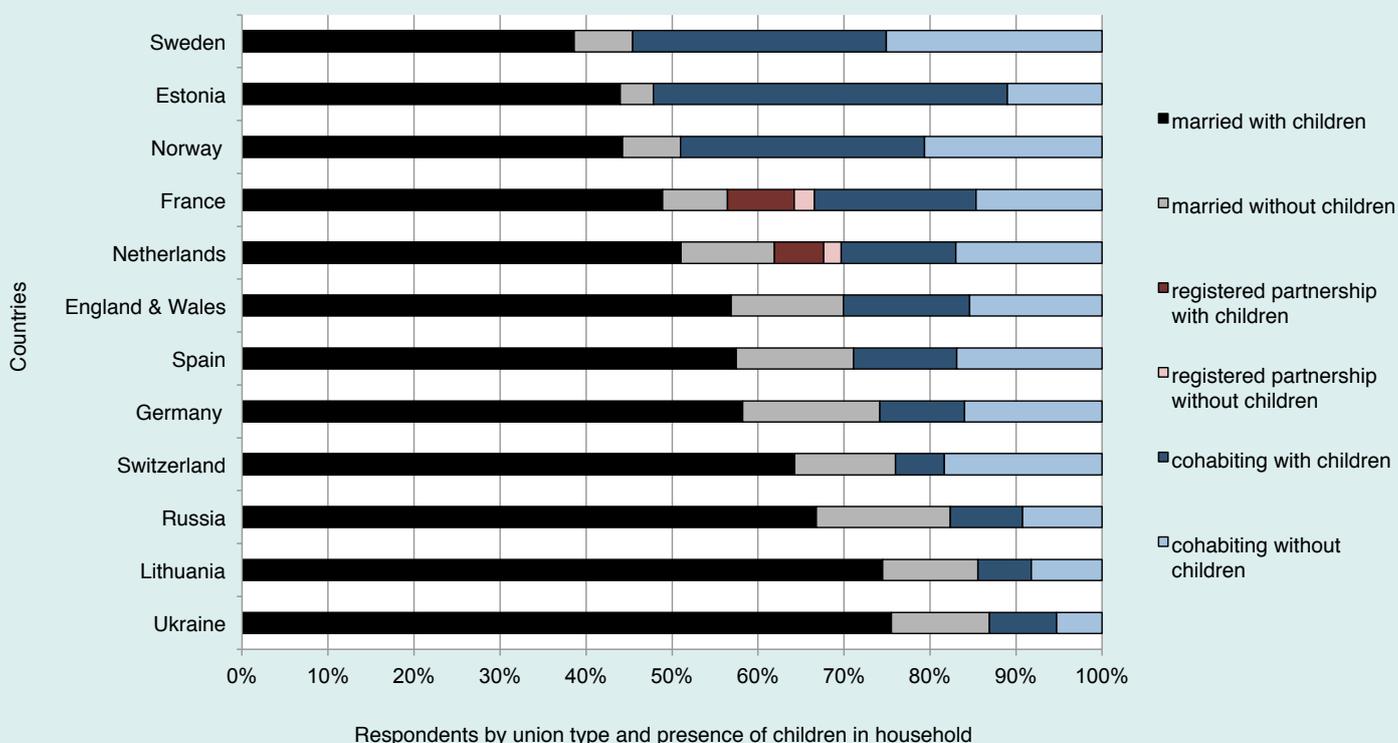
In all countries, cohabitation is most popular

among people aged 15 to 44. We therefore restricted our analyses to this age group. Figure 1 shows partnered respondents of the ESS aged 15 to 44 by type of union (marriage or cohabitation) and whether they live with children. In France and the Netherlands, cohabitants can formalize their union by entering into a cohabitation contract or registering their partnership, and we distinguish these union types as well.

The incidence of cohabitation and childrearing in cohabitation

Among the twelve countries in Figure 1, in 2010 cohabitation was most common in Norway, Sweden and Estonia, with around half of all respondents cohabiting. In France and the Netherlands, between 30% and 35% lived as cohabitants, and an additional 8% to 10% had registered their partnership. In England, Spain, Germany and Switzerland, cohabitation levels reached around 25% to 30%, while in Ukraine, Lithuania and Russia it was least widespread.

Figure 1: Partnered respondents by type of union and presence of children in the household (in %, ages 15-44)



Source: European Social Survey, 2010

A large majority of married spouses lived with children in all countries in 2010. Among cohabitants, we find larger variation. In Estonia, France, Sweden, Norway and Ukraine, more than half of all cohabitants lived with children. These may be joint children of the couple, children from a previous relationship or adopted children. The majority of registered partners also lived with children in France and the Netherlands. In the other countries, childrearing in cohabitation was less common.

The legal regulation of cohabitation

The legal status of cohabitants also varies across countries. Extensive cohabitation policies exist in the Netherlands and France. These countries allow cohabitants to register their partnership. In the Netherlands, this gives cohabitants virtually the same rights and obligations as married spouses in almost all policy areas. In France, registered cohabitants (PACS-partners) have similar rights as married spouses in some policy areas, but differences remain in others. Cohabitants who do not register have fewer rights in both countries. In Ukraine, Sweden and Norway cohabitants have similar rights as married spouses in many, but not all, policy areas, for instance when the relationship ends by one partner's death. In Germany, Spain and England cohabitation is only taken into account in a few policy areas, for instance in tenancy laws, and ignored in many others. In Russia, Switzerland, and Lithuania the legal consequences of marriage and cohabitation differ most strongly. Overall, we find that many countries provide at least limited rights and obligations to cohabitants in inheritance laws and tenancy laws that become important if one partner dies. By contrast, fewer countries regulate cohabiting couples' separation. In some countries like Norway more laws apply to cohabitants with children than to childless couples.

Matches and mismatches between family policies and cohabitation levels

Overall, more policies apply to cohabitants in countries with higher cohabitation levels and where more children are raised by cohabitants, such as Sweden, than in countries where cohabitation is less common, such as Switzerland. Nonetheless, exceptions exist: Estonia has one of the highest cohabitation levels of all countries and almost half

of all couples with children are cohabitants, yet this type of union was ignored in most policy areas in 2010. Conversely, many laws cover cohabitation in Ukraine, even though cohabitation is less common than elsewhere. With the exception of registered partnership in the Netherlands, none of the countries considered here has fully equalized the rights and obligations of married and cohabiting couples.

Policy implications

The lower legal regulation of cohabitation in comparison to marriage is not necessarily to cohabitants' disadvantage. Some cohabitants may be financially independent and able to keep their living standard if the union dissolves or one partner dies. Many cohabitants may also eventually marry and fall under the legal framework for married spouses. Other couples may cohabit precisely to avoid legal regulation, because they reject the institution of marriage or to keep their property separate. The fact that marriage remains more strongly regulated than cohabitation in most countries may be irrelevant in these cases. Nonetheless, a lack of legal regulation makes cohabitants vulnerable if their property becomes intertwined or if one partner is financially dependent on the other, for instance while raising children. If these unions end by separation or death, the economically weaker cohabitant may have no right towards the partner's property in some countries or may not be eligible for welfare benefits that are available for widowed persons. Where cohabitants live with children, these will be affected as well. Cohabitants may be able to avoid some of these risks by drawing up a cohabitation agreement that defines their individual rights and obligations. However, research shows that only few couples do so. In the future, the legal status of cohabitation is likely to become even more important, since cohabitation rates are rising.



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