City Research Online

City St George's, University of London

Citation: Maine, A. & Nonell I Rodríguez, A. (2026). Unburdening the Burden: a comparative study on the legal recognition of cohabiting siblings in England and Wales, Catalonia, and Belgium. Journal of Social Welfare and Family Law, pp. 1-22. doi: 10.1080/09649069.2026.2696732

This is the published version of the paper.

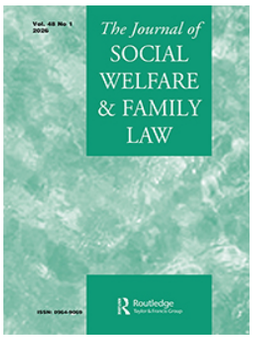
This version of the publication may differ from the final published version. To cite this item please consult the publisher's version.

Permanent repository link: https://openaccess.city.ac.uk/id/eprint/37940/

Link to published version: https://doi.org/10.1080/09649069.2026.2696732

Copyright and Reuse: Copyright and Moral Rights remain with the author(s) and/or copyright holders. Copies of full items can be used for personal research or study, educational, or not-for-profit purposes without prior permission or charge, unless otherwise indicated, provided that the authors, title and full bibliographic details are credited, a hyperlink and/or URL is given for the original metadata page and the content is not changed in any way. For full details of reuse please refer to City Research Online policy.

City Research Online: http://openaccess.city.ac.uk/ publications@citystgeorges.ac.uk



Routledge
Taylor & Francis Group

Journal of Social Welfare and Family Law

ISSN: 0964-9069 (Print) 1469-9621 (Online) Journal homepage: www.tandfonline.com/journals/rjsf20

Unburdening the Burden: a comparative study on the legal recognition of cohabiting siblings in England and Wales, Catalonia, and Belgium

Alexander Maine & A. Nonell I Rodríguez

To cite this article: Alexander Maine & A. Nonell I Rodríguez (06 Jul 2026): Unburdening the Burden: a comparative study on the legal recognition of cohabiting siblings in England and Wales, Catalonia, and Belgium, Journal of Social Welfare and Family Law, DOI: 10.1080/09649069.2026.2696732

To link to this article: https://doi.org/10.1080/09649069.2026.2696732

© 2026 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.

Published online: 06 Jul 2026.

Submit your article to this journal

View related articles

View Crossmark data

Full Terms & Conditions of access and use can be found at
https://www.tandfonline.com/action/journalInformation?journalCode=rjsf20

JOURNAL OF SOCIAL WELFARE AND FAMILY LAW
https://doi.org/10.1080/09649069.2026.2696732

Routledge
Taylor & Francis Group

OPEN ACCESS Check for updates

Unburdening the Burden: a comparative study on the legal recognition of cohabiting siblings in England and Wales, Catalonia, and Belgium

Alexander Maine [a] and A. Nonell I Rodríguez [b]

[a]The City Law School, City St George's, University of London, London, UK; [b]Faculty of Law, Universitat Pompeu Fabra, Barcelona, Spain

ABSTRACT

This article provides a comparative analysis of the legal recognition and protection of cohabiting siblings in England and Wales, Catalonia, and Belgium, aiming to identify viable models for accommodating this relationship form. In England and Wales, there is no informal cohabitation regime, and siblings have been consistently excluded from major reform proposals in horizontal family law – despite early debates on their inclusion in civil partnerships. In contrast, Catalonia's cohabitation relationships of mutual aid bind legal effects to informal cohabitation among siblings and other non-conjugal cohabitants, while also allowing them to formally enter these arrangements. However, the default rights attached to this status are far fewer than those granted to married or recognised conjugal couples. Belgium offers the most robust model, enabling siblings and other non-conjugal pairs to register as legal cohabitants. While its private law effects are limited, its status grants substantial tax and social benefits. The comparison is timely as England and Wales revisit cohabitation law reform. Excluding siblings from legal protection – whether through ascriptive or formal regimes – denies a group often engaged in caregiving both recognition and benefits. Experiences from Catalonia and Belgium demonstrate that including cohabiting siblings in future care-based reforms is not only possible but compelling.

KEYWORDS

Cohabitation; siblings; prohibited degrees; relationship recognition; England and Wales; Catalonia; Belgium; comparative family law

Introduction

Cohabiting relationships are often defined by care and interdependence, and come in a plurality of forms, including those between adult siblings. However, the extent to which such diverse relationships receive legal recognition varies across jurisdictions. In Belgium and the Spanish region of Catalonia, sibling cohabitants may be eligible for limited forms of protection under particular cohabitation regimes. By contrast, in England and Wales, sibling cohabitants remain largely invisible: they are not counted as a distinct household category in census data, nor is there a cohabitation scheme available to recognise them.

CONTACT Alexander Maine arnau.rodriguez@novalaw.unl.pt

Present affiliation for A. Nonell I Rodríguez is NOVA School of Law, Universidade NOVA de Lisboa, Lisbon, Portugal.

© 2026 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.
This is an Open Access article distributed under the terms of the Creative Commons Attribution License (http://creativecommons.org/licenses/by/4.0/), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited. The terms on which this article has been published allow the posting of the Accepted Manuscript in a repository by the author(s) or with their consent.

Nevertheless, in the past two decades there has been one case in the European Court of Human Rights (ECtHR), and multiple bills in Parliament that sought to provide some form of recognition to siblings who cohabit. This article focuses on sibling cohabitants as an under-examined group, yet one facing different levels of recognition and attention in the three jurisdictions we analyse. We argue that any cohabitation regime established in England and Wales should focus primarily on caring codependency (Herring 2013, 2015) rather than simply mirroring conjugal arrangements for intimate couples. Under previous cohabitation proposals, sibling cohabitants in England and Wales would face a particular disadvantage in being denied access to such a scheme.

Thus, this article challenges the prevailing assumption that cohabiting relationships should be protected only insofar as they mirror conjugal or marital partnerships, whether through ascriptive or formal regimes, focussing on the open-ended function of family relationships (Swennen 2025). Instead, it advocates for a more inclusive and pluralistic function-based framework (Griffiths 2024) that acknowledges a wider spectrum of relational formations (Croce and Swennen 2021). Cohabiting relationships are among the fastest-growing forms of family life across many jurisdictions (Kennedy and Bumpass 2008, Perelli-Harris and Sánchez Gassen 2012, Esteve *et al.* 2012, Office for National Statistics 2023, Perelli-Harris and Kuang 2024), yet the legal recognition afforded to them remains inconsistent and limited. In Spain, there is no unified national regime under private law for the recognition of cohabiting relationships. However, the autonomous region of Catalonia stands out for distinguishing between two forms of cohabitation: 'stable couples', which apply to conjugal partners; and 'cohabitation relationships of mutual aid', which legally recognise some non-conjugal relationships, including those between siblings. Belgium, for its part, draws a clear distinction between informal and formalised cohabitation. Informal cohabitants have very limited private law rights and obligations (Swennen 2023, pp. 408–11), while the 'legal cohabitation' regime grants a stronger legal status, even to non-conjugal pairs such as cohabiting siblings. This formalised status is automatically recognised for the purposes of tax and social measures, however it is sometimes on additional conditions, such as the relationship being conjugal in nature (Eggermont 2016). Similarly, England and Wales provide minimal legal protection to cohabitants who are neither married nor in a civil partnership beyond the general private law frameworks, but the United Kingdom's Government in their 2024 election manifesto promised cohabitation reform to extend protections to women in cohabiting relationships (Party 2024, p. 68).

In England and Wales, all historical attempts to create a cohabitation regime have excluded sibling cohabitants. This exclusion reflects a broader legal and conceptual oversight: sibling cohabitants, like other non-conjugal groups, remain a largely neglected family form. As a result, cohabitation is still framed primarily as an alternative to marriage, limited to intimate partners who have not formalised their relationship through legal means. However, we argue that this framing fails to recognise a multitude of family forms that do not conform to the romantic couple dyad. While the incremental development of English and Welsh family law has focussed on the conjugal couple, we believe that cohabitation reform offers a possibility for a more pluralistic development of the law. We acknowledge that cohabitants can take multiple configurations and should not be limited to dyadic couples who have not registered their relationship, whether by choice or circumstance. Our focus is specifically on cohabiting

siblings, due to the varied ways in which they are included or excluded across the three jurisdictions we examine, as well as a relevant case from the ECtHR, which has denied their recognition as civil partners. We also consider recent efforts in the UK House of Lords aimed at addressing the consequences of that ECtHR jurisprudence and will develop an analysis of how this might be practically introduced.

While the need for reform of cohabitation arrangements for couples has been well-documented (see for example Barlow *et al.* 2005, Barlow and Smithson 2011), siblings represent a particularly revealing case study for the broader category of non-conjugal cohabitation. We concentrate on sibling cohabitation rather than other forms of non-conjugal cohabitation because of the distinct lack of recognition available to them. For example, two best friends living together in a caring, co-dependent, and platonic relationship in England and Wales could marry or enter a civil partnership, and have recourse to annulment or divorce if the relationship breaks down. In contrast, two siblings in a similar relationship are barred from any formal recognition due to the prohibited degrees of relationship. We do not argue that marriage or civil partnership should be expanded to include those within the prohibited degrees (s11 Matrimonial Causes Act 1973), but that provisions should be made for siblings who cohabit within reform.

If cohabitation is to be recognised on a functional basis – reflecting the caring duties and interdependence that develop when people share a household over time (Herring 2013) – then excluding siblings is difficult to justify. Care may be defined as 'everything we do to help people meet their vital biological needs, develop or maintain their basic abilities, and avoid or alleviate unnecessary or unwanted pain and suffering, so that they can survive, develop, and function in society' (Engster 2007, p. 28). This broad conception allows for its fulfilment by different personal bonds, whether between romantic partners, friends, or relatives. Cohabitation should therefore be understood as an institution that recognises the caring duties assumed when people live together for a significant period, regardless of whether their bond is conjugal, platonic, or fraternal.

Our focus on cohabitation is also pragmatic. Across the examined jurisdictions, recognition of non-conjugal relationships is consistently tied to the fact of living together. Cohabitation thus serves as the minimal and common criterion for protection. While care can and does occur in relationships where individuals live apart, we take the view that relevant care is more commonly and more clearly embedded in shared household arrangements (Souralová and Žáková 2019). For this reason, this paper does not address the recognition of living-apart-together relationships.

That said, cohabitation remains a contested and jurisdiction-sensitive legal category. In contexts where binding legal effects to informal cohabitation is considered constitutionally problematic, as in the Spanish region of Navarre where it was seen to infringe on the fundamental right to the free development of the personality (Judgement of the Spanish Constitutional Court 93/2013, Martín-Casals 2013),[1] recognition through formally constituted regimes may offer a more appropriate alternative. Crucially, however, such regimes should be conceived from the outset with a non-conjugal scope, so as to meaningfully include siblings and other non-normative cohabitants.

This article begins by examining the absence of legal recognition for cohabiting siblings in England and Wales, with particular attention to *Burden v UK* [2008] ECHR 357 and past reform proposals. The analysis then turns to two jurisdictions that offer such recognition: the Spanish region of Catalonia, through its regime of

'cohabitation relationships of mutual aid', and Belgium, through its formalised system of 'legal cohabitation'. While each model has its own limitations, both afford cohabiting siblings greater legal security – albeit in different ways and to varying extents. The final section undertakes the comparative analysis of these models and builds on those insights to make the case for recognising cohabiting siblings in law and considers how such recognition might be structured.

While the article adopts a comparative approach, the analysis is conducted across jurisdictions with markedly different tax and social security regimes. England and Wales retain a strongly marriage and civil partnership centred model, in which non-conjugal cohabitants have no general access to tax or social security advantages. This stands in contrast to Catalonia and Belgium, where, to differing and limited degrees, certain tax and social consequences may attach to formally recognised non-conjugal relationships. These structural differences are taken into account when considering how the legal recognition of cohabiting siblings in England and Wales might be designed.

England and Wales

The Civil Partnership Act 2004 and cohabiting siblings

In 2004, the UK Parliament created civil partnerships to be marriage in all but name, granting the same rights, responsibilities and duties to civil partners as to spouses. Prior to the Civil Partnership Act 2004's royal assent (for detailed discussion of the Act's passage through Parliament and subsequent life see Hayward 2025, pp. 29–31) however, there was further discussion as to whether siblings should be included in civil partnerships, which would have further distanced the institution from marriage and demark it as an entirely separate and distinct relationship. Subsequently, case law has confirmed the nature of civil partnerships as at once a distinct and separate institution, but one that confers the same rights and responsibilities (*Wilkinson v Kitzinger* [2006] EWHC 2022 (Fam), see also Wilkinson and Kitzinger 2020, Hayward *et al.* 2020, Maine 2020).

Civil partnerships' significance lays in the introduction of the first form of status-based recognition for same-sex couples, and it would be remiss to ignore such significance in context. Section 3(1)(d) of the Civil Partnership Act 2004 stipulates that two people would not be eligible to register as civil partners to each other if they are within the prohibited degrees of relationship, paralleling section 11 of the Matrimonial Causes Act 1973. As such, this ensures that any attempted formation of relationship between siblings, even if entirely non-sexual and platonic (as a civil partnership may be) would be void. Following these debates, the Government described sibling cohabitants as a 'separate issue' with which there were 'no plans for changes to the law in that area' (Department of Trade and Industry 2003, p. 18). But the exclusion of siblings from the civil partnership regime caused consternation, in particular from two elderly siblings who wished to receive the same benefits that same-sex couples, who were not married but civil partnered, would also receive.

The case of the Burden sisters is well known to family lawyers; a pair of wealthy, unmarried cohabiting elderly sisters who were each other's primary carers wished to enter into a civil partnership to benefit from the inheritance tax exemption granted to surviving spouses and civil partners. They complained of discrimination on the ground

that, when one of them died, the other would face a substantial inheritance tax bill, unlike the survivor of a marriage or civil partnership, who benefits from the spousal exemption under Section 18 of the Inheritance Tax Act 1984 and can inherit property tax-free, regardless of its value.

The sisters appealed to Strasbourg, claiming in *Burden v United Kingdom* (App no. 13,378/05 ECtHR, 12 December 2006 [Fourth Section] and 29 April 2008 [Grand Chamber]) that the State was in breach of Article 14 (the right to be free from discrimination) when taken in conjunction with Article 1 of Protocol 1 (the right to peaceful enjoyment of possessions). From this, they argued that the state should extend the benefits enjoyed by conjugal couples, namely the freedom to inherit without paying tax, to those whose relationship was not conjugal. This, they argued, would be for the benefit of stable, long-term family relationships who were analogous to spouses.

They lost in both the lower chamber of the ECtHR and on appeal to the Grand Chamber. The majority's reasoning focusses on the nature of the relationship between spouses and siblings, and in particular the express exclusion of siblings from marriage and civil partnership owing to the illegality of consanguineous relationships. The Grand Chamber stated that marriage and civil partnerships were deliberately set apart from other forms of cohabitation, stating that the length of time the siblings cohabited did not determine the analogous rights of those who had entered such unions. Ultimately, the siblings were fundamentally different to a married or civil partnered couple. To this conclusion, we agree.

Despite the outcome in the Burden sisters' case, siblings are not always without legal remedy in the instance of death. The position of siblings on intestate succession is provided for in the Inheritance (Provision for Family and Dependents) Act 1975, in which, in the event of intestacy, a sibling who was dependent on their deceased siblings, can apply for reasonable financial provision. This provision is not specific to siblings and does not address the inheritance tax issue that the sisters were relying on, nor does it expand our understanding of conjugal norms.

As Auchmuty (2009) has stated, the sisters are unlikely to achieve much feminist sympathy, as an attempt to avoid a form of tax borne by wealthy clients (also Barker 2016, pp. 1261–64). However, the case serves to challenge the notion that married couples and civil partners are the only ones deserving of conjugal rights and benefits (Ibid, p. 1264). As Infanti (2020, p. 180) further argues, tax law expresses what and whom a country values, validates, and supports through tangible financial rewards, defining and influencing family law and recognising relationships. In this context, there is a wealth of queer literature which calls into question the prioritisation of marriage as a family form and the accumulation of benefits to married couples (such as Berlant and Warner 1998, Warner 2000, 2002, Halley 2001). We recognise that as marriage and civil partnership *are* institutions that confer benefits to conjugal couples, and that cohabitants *may* become part of another privileged institution, then the focus on conjugal relationships should be altered (see also Cossman and Ryder 2001). Moving away from a conjugal to a care-based recognition scheme would provide a more inclusive and beneficial avenue for family law's incremental and pluralistic development and cohabitation represents an opportunity to break from the status quo of the marriage and civil partnership framework.

Legislative proposals: the Civil Partnership Act 2004 (Amendment) (Sibling Couples) Bill [HL] (2017), Cohabitation Rights Bill 2021, and Labour's manifesto commitment

Following *Burden*, there have been a small number of Parliamentary attempts to create space within civil partnerships for siblings who live together in caring, co-dependent relationships. Lord Lexden, in 2017, introduced a private members Bill to amend the Civil Partnership Act to allow cohabiting siblings meeting additional specific criteria to register their relationship as same-sex couples could. Lexden introduced the Bill in order to alleviate the 'injustice' faced by 'sibling couples' who were unable to access benefits extended to civil partners in cohabitation, which has further been described as 'discriminatory' (Gillett 2018). He further justified the proposal by highlighting that civil partnerships are deliberately constructed as legally sexless relationships (Maine 2021, 2024), unlike marriage, and therefore should be open to siblings.

The amendment would have enabled 'sibling couples' to enter a civil partnership, defining sibling couples as: 'Two persons who are considered to be siblings, both of whom are aged over thirty years, . . . if they have lived together for a continuous period of twelve years immediately prior to the date of registration' inclusive of full, and half-siblings (s1(3), Civil Partnership Act 2004 (Amendment) (Sibling Couples) Bill [HL]). Lexden's amendment ties the ability to register a sibling's relationship to a significant length of cohabitation, and debate from the second reading of the Bill highlights the important aspects of care and love as a feature of a co-dependent caring relationship not exclusive to conjugal bonds: 'love, as my noble friend said, is not expressed only in the conjugal act' (Lord True, HL Deb 20 July 2018 vol 792, 10.29am). The central issue is that although marriage and civil partnership have rightly been expanded to include greater ranges of relationships (in the development of same-sex marriage and different-sex civil partnerships), the understanding of both institutions as a romantic and conjugal relationship is societally important in our conception of the law's interaction with such unions. The concept of cohabitation, however, does not necessarily need to be linked to an ideology of romantic love or conjugality, and can instead be linked to the provision of legal protections for alternative family forms and the increasingly pluralised forms of relationship recognition (Vercellone and Pecile 2023, pp. 37–41).

A cohabitation recognition scheme would have no *need* to be based on an intimate or conjugal partnership (Herring 2015, Vercellone and Pecile 2023, p. 38). Therefore, we believe that any reform in cohabitation in England and Wales would be a better suited vehicle for the protection of co-dependent, cohabiting siblings, and question the utility of restricting cohabitant rights to those in conjugal, intimate relationships.

The latest version of the Cohabitation Rights Bill reached second reading in the House of Lords in 2021. This Bill intended to provide certain protections for cohabitants and make provisions for property in the event of death or relationship breakdown, introduced by Lord Marks. The Bill allowed the family court to make financial orders that reflect the powers provided in the Matrimonial Causes Act 1973, reflecting those issued in the event of divorce and dissolution.

The Bill defines cohabitants as a couple (whether same- or different-sex) who live together, and have a child together but are not married, or who have lived together for a period of 3 or more years. Importantly, for our purposes, the Bill restricts this

definition, and those who are within the prohibited degrees of relationship cannot be defined as cohabitants (section 5). Therefore, under the 2021 Bill, siblings were explicitly restricted from joining a scheme designed to protect the financial interests of those who cohabit. By reproducing a formalistic approach to relationship recognition, this Bill would have enabled a replication of a marriage-like institution in lieu of marriage for cohabiting couples with a degree of intimacy. The utility and effectiveness of such a scheme is to be questioned, as such a definition is unnecessarily restrictive. If Parliament wishes to rectify the disadvantages faced by cohabiting couples, it should think in a broader and more inclusive way, assessing the functioning relationships of those who cohabit, and not restricting those who are siblings yet live together in co-dependent relationships. We may also consider alternative frameworks from other jurisdictions, such as those in Catalonia and Belgium, as potential sources of inspiration for recognising a broader range of family forms and moving beyond the couple norm (Polikoff 2008, Auchmuty 2009). We do this, however, with the acknowledgement that each state has very different tax and social security regimes; there is no capital or income tax advantage available to anyone other than spouses and civil partners in England and Wales and benefits such as health or social security insurance are dealt with very differently here as compared to many European states.

Catalonia

A better outcome: 'cohabitation relationships of mutual aid' and their tax relief

While sibling cohabitants are left without legal protection under English and Welsh law, some jurisdictions have adopted a more inclusive approach for individuals in similar circumstances. These legal frameworks refrain from extending to this social group the full array of rights reserved for conjugal partners through marriage or quasi-conjugal regimes, yet they also reject the premise that cohabiting siblings are wholly unworthy of legal recognition.

A notable example of such an approach can be found in Catalonia, a region of Spain that possesses the authority to develop its own civil law across a broad range of matters (Article 149.1.8th of the Spanish Constitution and Article 129 of the Catalan Statute of Autonomy). In 1998, Catalonia introduced a legal institution known as 'cohabitation situations of mutual aid', which allowed non-conjugal cohabitants, including siblings and other collateral relatives, to formalise their living arrangements through private agreements. In addition to contractual autonomy, the law also provided a default set of rights applicable in the event of relationship dissolution, whether due to death or separation. This institution was renamed 'cohabitation relationships of mutual aid' (CRMA) and underwent modest reform in 2010, when it was incorporated into the Catalan Civil Code (CCCat).

The most significant modification was the elimination of the default right to a compensatory payment for unpaid work performed during the relationship. This provision was repealed in 2010, following concerns that it made the institution too closely resemble marriage or stable couples. Lawmakers argued that the intended beneficiaries of this legal arrangement were primarily elderly individuals (Preamble to Book II CCCat, Section III.d §1), who are typically no longer of working age. Despite the removal

of this provision, the fundamental structure and purpose of the institution have remained intact. These relationships are currently defined in Article 240–1 CCCat as: 'Two or more people who live together in the same habitual residence and who, without compensation and with the intention of permanence and mutual aid, share common expenses or domestic work, or both'.

Thus, the theoretical purpose of this institution is to provide legal protection for older individuals who cohabit in order to avoid social isolation (Navarro Michel *et al.* 2011, p. 1403, Monedero Ribas 2014, p. 143, Gili Saldaña 2014, pp. 1033–35), implicitly referring to those who have lost a spouse or partner, or who have never formed a nuclear family through coupledom. However, the criteria for establishing such relationships, as outlined in Article 240–2.1 CCCat, do not strictly reflect this objective (Gili Saldaña 2014, p. 1035, Carpi Martín 2018, p. 188, Arnau Raventós *et al.* 2021, p. 258). The provision states: 'A cohabitation relationship of mutual aid may be established by adults who are related by collateral kinship of any degree, as well as by those who share a relationship of simple friendship or companionship, provided they are not married to or in a stable couple with another person with whom they live'. Therefore, any person of legal age may enter this regime with other adults (up to four when they are not collateral relatives), without any personal eligibility criteria that reflect its supposed focus on elders.

The CRMA may be established either through a public deed or the mere fact of cohabiting for more than two years (Article 240–3 CCCat). This renders this hybrid method of constitution both parallel and alternative (Palazzo 2021, pp. 46–47): individuals may formally opt into the regime before reaching the two-year threshold, or, if no contrary intention is expressed, the regime will apply automatically upon completion of the two-year period.

As previously discussed, the legal regime governing the cohabitation period is determined by agreements made between the parties themselves (Article 240–4.1 CCCat), with no default rules regulating their day-to-day dynamics. Similarly, cohabitants may agree in advance on the legal consequences of the dissolution of the relationship (Article 240–4.2 CCCat). In the absence of such agreements, only a few default provisions apply upon dissolution. However, as the regime is dispositive in nature, cohabitants may opt out of these default rules by mutual agreement (Navarro Michel *et al.* 2011, Gili Saldaña 2014, p. 1040), without the requirement that such exclusions be made in any specific form – unlike in the case of marriages and stable couples, where they must be executed through a public instrument (Puig Blanes 2020).

Under CRMA, private law rights and duties are deliberately minimal, consisting of only two sets of rights. The first concerns the shared residence: pursuant to Article 240–6 CCCat, after a breakup, the non-owning cohabitant(s) may remain in the home for three months; if the owner passes away, for six months; and if the deceased was a tenant, the survivor(s) may take over the lease for up to a year. These rules aim to provide a temporary safeguard while survivors secure alternative housing (Navarro Michel *et al.* 2011, p. 1419, Puig Blanes 2020). The second concerns maintenance: under Article 240–7 CCCat, a financially dependent surviving cohabitant may receive an allowance from the heirs of the deceased for up to three years, with the amount depending on the estate's value, the duration of

support, and its cost. The purpose of this provision is to mitigate the risk of economic hardship for a surviving cohabitant who was materially dependent on the deceased (Navarro Michel *et al.* 2011, p. 1421, Gili Saldaña 2014, pp. 1062–63, Puig Blanes 2020).

Beyond the examined private law framework, entering a CRMA entails a single fiscal advantage concerning the inheritance and gift tax. Under Article 631–34 of the Catalan Tax Code, members of a CRMA are treated as equivalent to second-degree or more remote descendants classified under Group II (acquisitions by descendants aged 21 or over, spouses, and ascendants) with respect to the reductions provided in Subsection One (reductions for personal circumstances) and Subsection Six (reduction for the acquisition of the deceased's main residence), as well as the application of the multiplying coefficient for determining the tax liability in acquisitions due to death. This preferential treatment applies only if the cohabitants can prove the existence of the relationship 'through a notarised public deed formalising the relationship, granted at least two years before the death of the deceased, or through a notarial certificate of notoriety demonstrating a minimum cohabitation period of two years'.

Consequently, the Burden sisters would, in fact, have been better off had they lived in Catalonia, although the specific fiscal treatment they sought – equating their status to that of spouses or civil partners – would not have been available in this case either.

When partial protection falls short: issues within the Catalan framework

The Catalan regime for CRMA offers some legal recognition for cohabiting siblings but remains notably limited in scope and effectiveness. Despite its potential to provide protection for non-traditional family forms, the rights it grants are minimal, and its practical relevance has declined due to reductions such as the elimination of the compensatory payment for unpaid work.

A key limitation of the regime is that it does not confer formal family status and is instead considered 'pseudo-familial' (Carpi Martín 2018, p. 181 and 185), which restricts its influence in both private and public law. This consideration arises from its placement within Book II of the CCCat, devoted to family law and the law of the person, where it appears under an autonomous Title IV rather than within Title III, which is dedicated specifically to the family. This structural distinction has tangible consequences in private law: cohabitants are excluded from intestate succession, and compensatory payments are only enforceable if explicitly agreed upon in advance. On the public law side, the regime offers only a modest tax benefit, with no additional social or fiscal advantages. Consequently, rather than gaining traction, this legal framework appears to be losing visibility and significance (Villagrasa Alcaide 2011, p. 550, Carpi Martín 2018, p. 182, Gomá Lanzón 2024, pp. 14–17).

Recognising these shortcomings, some scholars have proposed aligning CRMA more closely with 'extended family' models. This would grant cohabitants a broader set of private law rights (Tarabal Bosch 2015, pp. 10–12) or enhanced tax benefits (Carpi Martín 2018, p. 192), addressing some of the regime's current deficiencies.

Another major challenge is the lack of traceability. Even formally established CRMA are not recorded in any registry, making it difficult to track their prevalence. In cases of ascriptive constitutions, estimating participation is virtually impossible. Similar concerns

have arisen in Germany, where debates over implementing a comparable regime highlighted the difficulty of assessing its impact without a proper registry (Walper 2024, p. 31, Dethloff and Leven 2024, pp. 149–50).

This limited, pseudo-familial framework also contrasts sharply with evolving conceptions of family law. In many jurisdictions, including Spain after the legalisation of same-sex marriage, the normative basis of horizontal family relationships has shifted from reproduction to caregiving (Miccoli 2022 and 8, pp. 5, Monk 2024, pp. 165–68, Eekelaar 2024, pp. 26–27). The state cannot verify the authenticity of conjugal bonds without disproportionately intruding upon individuals' privacy (Brake 2014, p. 7, Jeske 2018, p. 182, Palazzo 2021, p. 112), and marriage and stable couples no longer serve exclusively as the legitimate framework for reproduction, especially as individuals who cannot biologically reproduce without third-party assistance are still eligible to enter these institutions (Brown 2024, pp. 18–21). Against this backdrop, excluding a form of relationship that similarly fulfils caregiving and mutual support functions from formal family recognition appears increasingly unjust (Goldfarb 2024, p. 131).

Overall, the CRMA regime's limited protections and lack of recognition as a formal family structure significantly undermine its appeal and practical effectiveness, especially in supporting caregiving arrangements among cohabiting siblings. Nonetheless, it represents a preferable alternative to the absence of any legal framework, as is currently the case in England and Wales. Notably, it provides a mechanism through which more than two cohabitants can access certain legal protections and benefit from inheritance tax relief. This feature may partly explain why the tax benefit is less generous than that granted to spouses or stable partners, where only one individual may qualify. However, despite offering a comparatively better solution, the regime still falls short of strongly recognising and supporting the realities of non-traditional caregiving relationships.

In this respect, Belgium also offers a limited regime in terms of private law, but a more inclusive legal framework from a public law perspective in the realm of tax and social benefits, providing the highest level of protection currently available to cohabiting siblings and serving as a valuable model for future reform.

Belgium

The best possible ending? 'Legal cohabitation'

Belgium provides a noteworthy example of how legal recognition can extend beyond conjugal relationships. Since the year 2000, the institution commonly translated as 'legal cohabitation' (LC) has been in force, offering an alternative legal status to a range of cohabiting pairs that includes sibling cohabitants. From its inception, LC was conceived as a minimalist framework compared to marriage (Swennen 2016, p. 12, 2024, p. 278, Willems 2017, p. 382). While not purely contractual, it was deliberately designed as a very light regime with few default rights, reflecting its intent to encompass cohabiting relationships between two individuals regardless of whether their bond was romantic, familial, or rooted in friendship (Swennen 2023, p. 395).

Symbolically, LC was codified in Book III of the Belgian Civil Code (BCC), which concerns property, rather than in Book I, which governs persons and includes marriage.[2] This placement reflected its original conception as closer to a contractual arrangement

than to a personal status like marriage (Willems 2017, p. 384). As a result, the law was initially met with criticism from many legal commentators, who viewed it as inconsistent and lacking sufficient legal consequences (Swennen 2023, pp. 395–96). Nevertheless, despite initial scepticism, LC has gradually gained broader legal recognition and protection – particularly in public law – and recent statistics show that the institution has become increasingly popular among Belgian citizens (Willems 2017, p. 385, Palazzo and Kornet 2023, pp. 284–88).

In order to form LC, as stated in the very name of the institution, members are supposed to cohabit, although the strictness of this requirement is discussed (Willems 2017, pp. 386–87). The Code refers simply to a 'situation of common cohabitation' (Article 1475 §1 BCC), which after the declaration contained in Article 1476 will give their relationship the status attached to the institution. If all formalities are fulfilled, the civil registrar records the declaration in the population register. This regime has, thus, a formal constitution which means that cohabitants must opt in, not receiving any of its rights ascriptively (Swennen 2016, p. 13).

Article 1475 §2.1 BCC establishes that to enter legal cohabitation, both parties must not be bound by marriage or legal cohabitation (with another person), implying that the relationship must be exclusively dyadic. As a second requirement, they must be capable of contracting, which means that this is an institution that can only be entered by adults without their legal capacity modified (Article 1475 §22 BCC).[3]

LC in Belgium is subject to a limited family law framework, governed by only five articles in the BCC. As with the CRMA, legal cohabitants may agree on additional contractual rules applicable to their property and maintenance regime, provided the agreement is signed before a notary, does not contravene the law, public policy or morality, and is also properly recorded in the population register (Article 1478 BCC). Under this article, legal cohabitants are subject to a default separation of property regime. If neither partner can prove ownership of an asset, it is presumed to be jointly owned. There is no obligation of maintenance between the partners, although the duty to contribute to household expenses in Article 1477 §3 BCC may be interpreted as implying a minimum level of financial solidarity (Willems 2017, pp. 394–95). Additionally, Article 1477 §4 holds both partners jointly liable for debts incurred to meet household needs, provided the expenses are not excessive in relation to their means.

Over time, legal cohabitants have acquired certain protections in other areas of law. For example, they now have limited default entitlements to the family home and household furnishings in the intestate succession of their deceased partner. These are, however, much more restricted than the rights of spouses (Article 4.17 of the new BCC and Article 4.23 of the new BCC).

Contrarily, tax treatment of legal cohabitants aligns with that of spouses in many respects.[4] For instance, regarding inheritance tax, legal cohabitants in Wallonia receive the same benefits as spouses, including exemption from tax on inheritances under €12,500 (Inheritance Tax Code of the Walloon Region, Article 54) and full or partial relief on the family home depending on its value (Article 60ter). In Flanders, the Flemish Tax Code treats spouses and legal cohabitants equally for tax purposes (Article 1.1.0.0.2), granting cohabitants access to similar reductions and bonifications, such as the family home exemption (Article 2.7.4.1.1 §2). Brussels follows the same approach, with exemptions on inheritance tax for legal cohabitants regarding the family home (Inheritance Tax

Code of the Brussels-Capital Region, Articles 48 a and b, and 55bis). However, in Brussels, this exemption excludes legal cohabiting siblings, and similar exceptions apply to direct relatives who are legal cohabitants across all three regions.

In social law, legal cohabitants are also treated as spouses in several key areas. These include entitlement to unemployment benefits, social integration and assistance rights, family allowances, and public health insurance, among others (Willems 2017, p. 397). However, the survivor's pension in cases where the deceased was receiving a retirement pension is still reserved for spouses (Van de Voorde 2022, p. 208).

As demonstrated, the range of private law rights attached to LC in Belgium remains limited, comparable to the CRMA's situation in Catalonia. However, the legal framework evidences clear state recognition of this form of partnership in core areas of public law, particularly taxation and social protection. In light of this, the claims raised by the Burden sisters concerning discriminatory fiscal treatment would likely have been resolved under Flemish and Walloon law, rendering litigation unnecessary in those contexts. The comparatively favourable legal position afforded to LC in these domains may offer a partial explanation for the institution's success in Belgium. Nonetheless, it has not been immune from academic and policy critique.

The other side of the coin

Despite the broad personal scope of LC, it remains particularly difficult to determine how many such arrangements involve non-conjugal or kin relationships (Willems 2017, p. 386). Although it is generally assumed that most legal cohabitants are conjugal couples, existing statistical data on non-conjugal partnerships is limited and partial, capturing only relationships between some relatives (Statbel 2024). This narrow statistical focus contributes to the underrepresentation and underestimation of the broader spectrum of non-conjugal cohabiting arrangements that likely exist in practice, even if current data suggest they constitute only a small minority (Palazzo and Kornet 2023, pp. 286–87).

Within this otherwise constrained statistical landscape, the constitution of legal cohabitation between siblings is one of the few non-conjugal arrangements for which annual administrative data are publicly available. Unlike England and Wales and Catalonia, where no comparable disaggregated data exist, Belgium publishes yearly figures on LCs constituted between siblings. While these data capture only a narrow subset of non-conjugal cohabitation and do not permit broader generalisations, they nonetheless offer a limited empirical indication of the prevalence of sibling cohabitation under LC (Statbel 2024). Across the seven-year period for which disaggregated data are available, the number of LCs constituted between siblings has remained consistently low but stable. In 2023, 82 LCs were registered between siblings out of a total of 36,990 (0.22%). Comparable proportions can be observed in preceding years: 74 out of 38,359 in 2022 (0.19%); 83 out of 37,768 in 2021 (0.22%); 80 out of 36,329 in 2020 (0.22%); 85 out of 40,801 in 2019 (0.21%); 112 out of 38,921 in 2018 (0.29%); and 91 out of 39,038 in 2017 (0.23%).

While these figures suggest that LCs among siblings constitute only a small minority of all registered legal cohabitations, their persistence over time indicates that such arrangements are neither exceptional nor merely transitory. Moreover, the limited scope of the available data constrains further analysis: although aggregate figures exist

for LC based on age groups, these are not disaggregated by relationship type. As a result, it is not possible to determine whether sibling cohabitation under LC is predominantly a phenomenon among older siblings, potentially linked to widowhood or divorce, or whether it is evenly distributed across age cohorts. This evidentiary gap adds to the broader absence of comparable census or administrative data in other jurisdictions, including England and Wales and Catalonia, where the scale and characteristics of shared sibling households remain largely invisible in official statistics.

The limited data available on non-conjugal cohabitants reinforces longstanding critiques of the institution's failure to differentiate between fundamentally distinct types of relationships. A central argument is that the legal framework fails to distinguish between couples, relatives, and friends who opt for LC, despite the differing nature and degrees of emotional and economic interdependence among these groups (Willems 2017, pp. 408–09). It is often assumed that conjugal couples engage in more intensive relationships, which should arguably justify a regime more closely aligned with marriage. However, narrowing the institution to conjugal relationships alone, while at the same time extending its legal effects, seems unlikely given the institution's success (Ibid, p. 409).

On the other hand, the requirement that an individual may only enter into a legal cohabitation with one other person at a time, further complicates matters when applied to non-conjugal arrangements. This restriction may give rise to problematic situations, such as three or more cohabiting siblings being compelled to choose which two may formalise their bond under the LC framework, thereby excluding the others from the legal protections and benefits it entails (Ibid, p. 387, Swennen 2023, p. 395).

Proposed legal framework: siblings and de facto/formal cohabitation

This comparative analysis illustrates the possibility of granting legal recognition and protection to cohabiting siblings in co-dependent relationships, addressing controversies such as those raised by the Burden sisters. But, while the models in Catalonia and Belgium (albeit with distinct limitations) permit such recognition under their respective legal frameworks, the legal landscape in England and Wales continues, two decades after *Burden v UK*, to leave such relationships unrecognised.

Although it is beyond the scope of this article to prescribe the exact configuration that future cohabitation law in England and Wales should take (see Hayward 2024), our findings suggest that siblings who cohabit should not be excluded from whatever framework emerges in this jurisdiction. While sibling cohabitation diverges from marriage-like relationships, such arrangements can nonetheless exhibit emotional, economic, and domestic interdependence sufficient to warrant recognition (Herring 2013, pp. 193–96). Including these forms of cohabitation would also reflect a broader trend in which legal frameworks increasingly acknowledge non-traditional family structures and forms of intimate association (Palazzo 2021).

While the only available census data (Belgium) show that legal cohabitation between siblings accounts for only a very small proportion of registered arrangements, this limited scale does not undermine the normative relevance of this inclusive legal reform. In the context of the so-called 'third demographic transition', characterised by population ageing, persistently low birth rates, and rising life expectancy (Coleman 2006), care and mutual aid are increasingly likely to take place outside traditional conjugal and

reproductive family forms. Thus, legal frameworks that recognise non-conjugal cohabiting relationships may end up responding not to marginal lifestyles, but to emerging structural needs in societies that can no longer rely on conjugal relationships alone to organise care (Barker 2016, p. 1264).

Historically, the UK Parliament has considered whether to extend civil partnerships to cohabiting siblings. From a feasibility standpoint, this could appear as the most straightforward route to offering them protection. However, civil partnerships (like marriage) remain firmly situated within the realm of conjugal coupledom. Though available to both different and same-sex couples in the UK and Catalonia, quasi-conjugal institutions are underpinned by assumptions of sexual and romantic intimacy despite no explicit requirement of such (Maine 2021). In contrast, newer forms of relationship recognition that fall outside traditional marital paradigms, such as Belgium's LC, are not encumbered by these assumptions and can more easily accommodate non-conjugal family forms, including cohabiting siblings.

Thus, the inclusion of non-conjugal cohabitants within quasi-marital institutions remains highly contested. Courts have been reluctant to interpret their exclusion as a breach of human rights (*Burden*). Moreover, the legislative expansion of civil partnerships or stable couple statuses to include siblings may be politically and symbolically fraught. As the CRMA and LC examples illustrate, only a lighter-touch regime, limited in its private law effects and publicly recognisable without necessarily mimicking marriage, may be suitable for accommodating horizontal relationships that do not align with the conjugal model.

In this context, the potential introduction of a standalone cohabitation regime in England and Wales presents a valuable opportunity. If framed appropriately, such a regime could offer recognition based not on the conjugal nature of the relationship but on demonstrable co-residence and mutual support over time as 'sibling couples'. Notably, cohabitation – as a factual condition rather than a symbolic or ceremonial status – does not need to be defined in sexual or romantic terms. This way, extending legal recognition to cohabiting siblings would neither undermine the symbolic importance of civil partnerships or marriage for historically marginalised conjugal couples nor threaten existing institutions, while offering meaningful protection to those who organise cohabitation in non-normative ways and reflecting an adaptive shift in family law towards care-based rather than reproductive logics.

Palazzo (2021) observes that marriage rates continue to decline across the West, while growing numbers of individuals invest in enduring relationships beyond the conjugal model. Recognising sibling cohabitants under a new cohabitation framework could help position this law as a new and distinct legal instrument for acknowledging non-traditional, non-conjugal families.

But, while cohabitation law may offer a promising avenue for recognising and protecting cohabiting siblings in places such as England and Wales, its suitability varies across jurisdictions. In some legal systems, the automatic attribution of legal consequences to informal cohabitation is seen as an infringement on the fundamental right to the free development of one's personality, particularly where individuals may be unwilling to have the state impose a legal status on their private living arrangements (Aloni 2025, pp. 9–10). In such contexts, cohabitation law may not be the most appropriate mechanism. However, as illustrated by the Belgian model, legal frameworks that include

cohabiting siblings need not rely on ascription. This jurisdiction provides for a formalised regime open to non-conjugal relationships, allowing individuals to opt into a legally recognised status while preserving personal autonomy. What proves critical, especially in light of *Burden v UK*, is that any institution extended to siblings must have been conceived from the outset as inclusive of non-conjugal bonds, rather than retro-fitted into frameworks originally designed for intimate or conjugal couples.

Another notable conclusion that emerges from this comparative analysis is that, irrespective of whether legal recognition and protection is granted through a de facto or registered framework, the decisive factor in the effectiveness of such institutions seems to lie in the strength of the public law benefits they confer. In both Catalonia and Belgium, the private law effects of the analysed regimes are relatively weak. People in CRMA and LC receive limited default rights and obligations, particularly in areas such as inheritance, maintenance, or property division, yet the uptake and visibility of these regimes diverge significantly. While Catalonia's CRMA remain relatively obscure and underutilised, Belgium's LC framework enjoys broad societal acceptance and high rates of registration.

As discussed earlier, this contrast appears closely linked to the disparity in public law incentives. Whereas Catalonia offers a single tax benefit in the form of limited inheritance tax relief, Belgian law extends a wide range of fiscal and social advantages to legal cohabitants, often on par with those available to married couples. This divergence illustrates the central role that public benefits might play in motivating individuals to formalise their cohabiting arrangements (see this point regarding marriage in Van Acker 2017).

It should also be noted that Catalonia offers a more robust intermediate status through the 'stable couple', which diverts conjugal cohabitants away from the CRMA framework. Belgium, by contrast, lacks an equivalent intermediate institution. Its LC regime is deliberately open to both conjugal and non-conjugal cohabitants, thereby extending its reach across a wider demographic. Still, it is reasonable to infer that increasing the public law benefits associated with the CRMA status, particularly in the fiscal domain, could enhance its attractiveness and public visibility. This inference is supported not only by the Belgian experience but also by the facts underlying *Burden v UK*, which centred on the denial of inheritance tax exemption to cohabiting siblings.

Returning to the context of England and Wales, while it remains unclear what form the proposed cohabitation legislation will ultimately take, it is foreseeable that any such regime will adopt a more modest scope than that governing marriage or civil partnerships. This would align with prevailing concerns that cohabitation law risks imposing obligations on individuals who have deliberately avoided entering a formal legal relationship (Aloni 2025, p. 10). Respect for personal autonomy, including the right to freely develop one's personality without state-imposed family obligations, arguably justifies a more limited regulatory framework in the private law domain. Nevertheless, this does not preclude the state from acknowledging long-term care relationships among cohabitants. The state could offer tax or social benefits that, while financial in nature, help support the caregiving and emotional labour invested in these relationships. Unlike the imposition of legal duties, which may be seen as disproportionate without voluntary consent, the extension of benefits carries minimal risk of harm to the affected individuals and could represent a proportional and

politically feasible compromise. Any such recognition, however, would need to account for the fact that in England and Wales tax reliefs and social security entitlements are tightly structured around marriage and civil partnership, and operate differently from the more integrated welfare models found in the other two jurisdictions. Consequently, given the fiscal implications of such reforms, further economic analysis would be necessary to design sustainable models that balance recognition with the need to finance public services. Similar considerations could guide the development of Catalonia's CRMA regime, where expanding public law effects might enhance both its functionality and legitimacy.

This comparative study also highlights a distinct tension within non-conjugal legal frameworks. While proposals to extend conjugal institutions to multi-partner arrangements often meet strong resistance (Aviram and Leachman 2015, pp. 306–08), similar objections might be less likely in non-conjugal frameworks. Moreover, as Belgian scholars have noted, restricting non-conjugal frameworks to dyadic arrangements can produce inequitable outcomes. In households where three or more relatives cohabit and share caregiving responsibilities, the legal framework permits only two individuals to formalise their relationship, thereby excluding others from legal protection.

The Burden sisters' case involved only two cohabiting siblings and would likely have been better addressed under Belgium's LC regime than under the frameworks of England and Wales or Catalonia – specifically in Flanders and Wallonia, since Brussels excludes siblings in LC from tax exemptions on the family home. However, had there been three or more cohabiting siblings, only Catalonia's CRMA would have offered any legal recognition, albeit minimal. In practice, the CRMA regime does permit tax benefits for more than two cohabitants, though these remain weak and are not scaled based on household size. This suggests the potential for more flexible models, particularly in jurisdictions such as Belgium or England and Wales, where non-conjugal frameworks could be reimagined to accommodate a wider range of caregiving constellations.

Overall, the Catalan and Belgian models suggest that, by adopting the logic of the 'theory of small changes' (Aloni 2024, p. 125), England and Wales could adopt modest but incremental reforms to facilitate broader recognition of diverse family forms without undermining existing institutional frameworks or public consensus. Our analysis leads us to conclude that by adopting an approach comparable to Catalonia or Belgium, sibling cohabitants could be recognised within a cohabitation scheme. We propose that after a significant period of cohabitation, siblings should be eligible to access such regime. This scheme should offer limited rights to cohabiting parties in relation to inheritance, next-of-kin status, and property dissolution. Further, any inheritance tax benefits offered to cohabiting couples, if any, should also be eligible for siblings.

Conclusion

Cohabiting siblings continue to be a significantly overlooked group within family law, even though they have actively sought legal recognition in England and Wales through litigation. While these efforts have not yet succeeded, our comparative analysis shows that other legal systems, such as those of Catalonia and Belgium, do provide protection for such relationships, although through different legal and conceptual models. Each of

these frameworks has its own limitations, but together they demonstrate that recognising non-conjugal cohabitation is both possible and justifiable.

We have argued that cohabiting siblings, who often engage in sustained relationships of care and interdependence, should be entitled to legal recognition, particularly in systems that already attribute legal value to caregiving within familial structures. In the context of England and Wales, where cohabitation reform is once again on the political agenda, we suggest that any new framework should be deliberately framed in non-conjugal terms. Doing so would not only accommodate sibling relationships but would also contribute to a more pluralistic and inclusive understanding of family life.

At the same time, we acknowledge that in some jurisdictions, imposing legal consequences on informal cohabitation may be viewed as an overreach into personal autonomy. In such cases, formalised regimes like the Belgian one may offer a more appropriate path to recognition, provided they are designed from the outset with a broad, non-conjugal scope. As *Burden* makes clear, the problem lies not simply in the lack of recognition, but in the exclusionary logic of regimes intended solely for conjugal partners.

Through this comparative exercise, we have also observed that the substantive content of legal protection may be more important than the mode of constitution. Specifically, what seems to matter most is that the relationship acquires a recognised legal status that confers concrete advantages in public law areas such as taxation, domain where the Burden sisters faced particular hardship.

Our analysis also highlights the limitations of the dyadic norm that dominates most legal frameworks for cohabitation. While the Burden case involved only two sisters, similar caregiving arrangements may involve three or more siblings – or even wider familial networks. Although examples of non-dyadic recognition do exist, these remain rare and underdeveloped. Further research is therefore needed to explore how legal regimes might better reflect the complexity of contemporary cohabitation arrangements, both in terms of the benefits they confer and the mechanisms for distributing those benefits when more than two individuals are involved.

Finally, further empirical research is needed about wider household sharing practices and how they are evolving over time (we point to Trotter's 2025a, 2025b, 2025c forthcoming project examining cohabiting siblings). Current demographic trends, including persistently low fertility rates and population ageing, suggest that care and mutual aid are likely to become increasingly central functions of cohabiting households. A clearer empirical understanding of these dynamics would not only illuminate the scale and diversity of non-conjugal living arrangements, but also strengthen the case for extending legal recognition and protection beyond spouses and civil partners. Such evidence would provide policymakers in England and Wales with a stronger foundation for developing a cohabitation regime that formally includes and recognises sibling cohabitants.

Notes

1. The factual constitution of stable couples in Catalonia is currently under review (questions of unconstitutionality 6205–2023 and 8613–2024) and may likewise be declared unconstitutional, following the same reasoning applied in Navarre.

2. Belgium is gradually revising its Civil Code through a phased legislative process. As a result, certain areas, such as matrimonial property regimes, have already been incorporated into the new Code. In contrast, other domains, including the provisions on legal cohabitation and most rules concerning marriage, continue to apply under the former Civil Code, which remains partially in force. Accordingly, references in this text will specify when the new Code is meant; otherwise, references should be understood to concern the former Code.
3. Nevertheless, an adult whose legal capacity has been modified may request judicial authorisation to make the declaration required to enter into legal cohabitation (Article 1475 §2.2[1] BCC).
4. This generally also applies to informal cohabitants, provided they can demonstrate uninterrupted cohabitation for a fixed period. However, direct blood relatives are excluded from these benefits, and in some cases siblings are as well, as in Brussels.

Acknowledgments

We are grateful to Professors Andy Hayward and Frederik Swennen for their valuable feedback on earlier drafts of this paper. We also thank the JSWFL anonymous reviewers and editors for their insightful and constructive suggestions.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

Funding support for this article was provided by the the Ministry of Science and Innovation of the Government of Spain (Research project 'New developments on self-determination at personal and family levels: from status to self-regulation' [PID2021-123985NB-I00], led by Josep Ferrer Riba). Arnau Nonell i Rodríguez participated in this project during the preparation of the manuscript.

ORCID

Alexander Maine http://orcid.org/0000-0002-0962-750X
A. Nonell I Rodríguez http://orcid.org/0000-0002-3313-2486

References

Aloni, E., 2024. A queer perspective on property protections in marriage and other registered partnerships. *In*: M. Briggs and A. Hayward, eds. *Research handbook on family property and the law*. Cheltenham, UK: Edward Elgar, 121–138.

Aloni, E., 2025. Marital rules for unmarried couples: feminist objections to a feminist proposal. *International Journal of Law, Policy, and the Family*, 39 (1), 1–20. doi:10.1093/lawfam/ebaf017.

Arnau Raventós, L., Ginebra Molins, M.E., and Tarabal Bosch, J., 2021. *Dret de família. Teoria i casos*. 2nd ed. Barcelona: Atelier.

Auchmuty, R., 2009. Beyond couples: burden v United Kingdom (2008) 47 EHRR 38; [2008] 2 FLR 787; Grand Chamber of the European Court of human rights, 29 April 2008. *Feminist Legal Studies*, 17 (2), 205–218. doi:10.1007/s10691-009-9121-x.

Aviram, H. and Leachman, G.M., 2015. The future of polyamorous marriage: lessons from the marriage equality struggle. *Harvard Journal of Law & Gender*, 38, 269–336. doi:10.2139/ssrn.2485853.

Barker, N.J., 2016. Rethinking conjugality as the basis for family recognition: a feminist rewriting of the judgment in Burden v. United Kingdom. *Oñati Socio-Legal Series*, 6 (6), 1249–1275.

Barlow, A., *et al*., 2005. *Cohabitation, marriage and the law: social change and legal reform in the 21st Century*. Oxford: Hart.

Berlant, L. and Warner, M., 1998. Sex in public. *Critical Inquiry*, 24 (2), 547–566. doi:10.1086/448884.

Brake, E., 2014. Recognizing care: the case for friendship and polyamory. *Syracuse Law and Civic Engagement Journal*, 1 (1), 1–36.

Brown, A., 2024. What is the purpose of marriage in contemporary legal regulation? *In*: R. Probert and S. Thompson, eds. *Research handbook on marriage, cohabitation and the law*. Cheltenham, UK: Edward Elgar, 8–22.

Carpi Martín, R., 2018. Familia por pacto. Relaciones convivenciales de ayuda mutua en Cataluña, tras casi veinte años en vigor: luces y sombras. *In*: C. Sanciñena Asurmendi and J. Carbajo González, eds. *La voluntad privada en las relaciones jurídico-familiares*. Cizur Menor, Navarra: Thomson Reuters Aranzadi, 179–192.

Coleman, D., 2006. Immigration and ethnic change in low-Fertility countries: a third demographic transition. *Population & Development Review*, 32 (3), 401–446. doi:10.1111/j.1728-4457.2006.00131.x.

Cossman, B. and Ryder, B., 2001. What is marriage-like like? The irrelevance of conjugality. *Canadian Journal of Family Law*, 18 (2), 269–326.

Croce, M. and Swennen, F., 2021. Cont(r)actualisation: a Politics of transformative legal recognition of adult unions. *Social & Legal Studies*, 30 (2), 230–250. doi:10.1177/0964663920914064.

Department of Trade and Industry, 2003. *Civil partnership: a framework for the legal recognition of same-sex couples*. London: House of Commons.

Dethloff, N. and Leven, F., 2024. Adult relations of love and beyond: what legal recognition and protection do they need? *In*: F. Swennen, E. Goossens, and T. Van Hof, eds. *Rethinking Law's families and family law*. Cheltenham, UK: Edward Elgar, 139–155.

Eekelaar, J., 2024. The place of 'family' in family law. *In*: F. Swennen, E. Goossens, and T. Van Hof, eds. *Rethinking Law's families and family law*. Cheltenham, UK: Edward Elgar, 21–32.

Eggermont, S., 2016. *De Juridische Bescherming Van Private Relaties*. Antwerp: Intersentia.

Engster, D., 2007. *The heart of justice: care ethics and political theory*. Oxford: Oxford University Press.

Esteve, A., Lesthaeghe, R., and López-Gay, A., 2012. The Latin American cohabitation boom, 1970–2007. *Population & Development Review*, 38 (1), 55–81. doi:10.1111/j.1728-4457.2012.00472.x.

Gili Saldaña, M., 2014. Articles 240-1 a 240-7. *In*: J. Egea i Fernàndez, J. Ferrer i Riba dirs., and E. Farnós i Amorós, et al. eds. *Comentari al llibre segon del Codi civil de Catalunya: família i relacions convivencials d'ajuda mútua*. Barcelona: Atelier, 1033–1066.

Gillett, F., 3 Oct. Available from: 2018. Civil partnerships: 'why I want one with my sister'. BBC News. Available from: https://www.bbc.com/news/uk-45732851.

Goldfarb, S.F., 2024. Closing the gap between family life and family law in the United States through legal recognition of nontraditional adult relationships. *In*: F. Swennen, E. Goossens, and T. Van Hof, eds. *Rethinking Law's families and family law*. Cheltenham, UK: Edward Elgar, 121–138.

Gomá Lanzón, I., 2024. Comunidades y contratos asistenciales o de ayuda mutua: una realidad social necesitada de reconocimiento jurídico. *El notario del siglo XXI: revista del Colegio Notarial de Madrid*, 118, 14–17.

Griffiths, K., 2024. Cohabitation law reform in England and Wales: the case for reform and challenges of definition. *In*: R. Probert and S. Thompson, eds. *Research handbook on marriage, cohabitation and the Law*. Cheltenham, UK: Edward Elgar, 322–336.

Halley, J., 2001. Recognition, rights, regulation, normalisation: rhetorics of justification in the same-sex marriage debate. *In*: R. Wintemute and M. Andenas, eds. *Legal recognition of same-sex partnerships: a study of national, European and International Law*. London: Hart, 97–112.

Hayward, A. F. Hamilton and G. Noto La Diega (2020. *Relationships with status: civil partnership in the era of same-sex marriage*, eds. *same-sex relationships, Law and social Change*. London: Routledge, 189–208.

Hayward, A., 2024. Cohabitation reform in England and Wales: time for action. *In*: C. Bendall and R. Parveen, eds. *Family law reform Now: proposals and critique*. Oxford: Hart, 243–267.

Hayward, A., 2025. Civil partnerships and the repurposing of relationship formalisation: from creating a space to developing a script. *The Journal of Social Welfare & Family Law*, 47 (1), 28–48. doi:10.1080/09649069.2025.2499385.

Herring, J., 2013. *Caring and the Law*. Oxford: Hart.

Herring, J., 2015. Why marriage needs to be less sexy. *In*: J. Miles, P. Mody, and R. Probert, eds. *Marriage rites and rights*. Oxford: Hart, 275–292.

Infanti, A.C., 2020. LGBT rights and tax law: a comparative perspective. *In*: C. Ashford and A. Maine, eds. *Research handbook on gender, sexuality and the law*. Cheltenham, UK: Routledge, 180–192.

Jeske, D., 2018. Moral and legal obligations to support 'family. *In*: E. Brake and L. Ferguson, eds. *Philosophical foundations of children's and family law*. Oxford: Oxford University Press, 173–190.

Kennedy, S. and Bumpass, L., 2008. Cohabitation and children's living arrangements: new estimates from the United States. *Demographic Research*, 19, 1663–1692. doi:10.4054/DemRes.2008.19.47.

Maine, A., 2020. The hierarchy of marriage and civil partnerships. *In*: F. Hamilton and G.N. L. Diega, eds. *Same-sex relationships, Law and social change*. Cheltenham, UK: Routledge, 209–227.

Maine, A., 2021. Queer(y)ing consummation: an empirical reflection on the marriage (Same sex couples) Act 2013 and the role of consummation. *Child and Family Law Quarterly*, 33 (2), 143–162.

Maine, A., 2024. Consummating in court. *In*: R. Probert and S. Thompson, eds. *Research handbook on marriage, cohabitation and the law*. Cheltenham, UK: Edward Elgar, 371–385.

Martín-Casals, M., 2013. El derecho a la 'convivencia anómica en pareja': ¿Un nuevo derecho fundamental? Comentario general a la STC de 23.4.2013 (RTC 2013\93). *InDret*, 3, 1–43.

Miccoli, F., 2022. Should all Families be treated equally by Law? In support of equal dignity and legal recognition of unconventional Families. *Biblioteca della libertà*, LVII, 1–32. doi:10.23827/BDL_2022_9.

Monedero Ribas, M., 2014. Las relaciones convivenciales de ayuda mutua. Algunos aspectos concretos. *In*: M. Monedero Ribas, ed. *Otras fórmulas de convivencia en el Código Civil de Cataluña*. Valencia: Tirant lo Blanch, 143–155.

Monk, D., 2024. Law and friendship: principles, projections and paradoxes. *In*: F. Swennen, E. Goossens, and T. Van Hof, eds. *Rethinking Law's families and family law*. Cheltenham, UK: Edward Elgar, 156–174.

Navarro Michel, M., 2011, 1403–1423. Artículos 240-1 a 240-7. *In*: E. Roca Trías and P. Ortuño Muñoz, et al. eds. In: *Persona y Familia: Libro Segundo del Código Civil de Cataluña*. Las Rozas, Madrid: Sepín.

Office for National Statistics, 2023. People's living arrangements in England and Wales: Census 2021. Available from: https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/livingarrangementsofpeopleinenglandandwales/census2021. [Accessed 22 Sep 2025].

Palazzo, N., 2021. *Legal Recognition of Non-Conjugal Families: New Frontiers in Family Law in the US, Canada and Europe*. Oxford: Hart.

Palazzo, N. and Kornet, N., 2023. A Closer Link: Recent Trends on Registered Partnerships and Modern Families in Europe. *Child and Family Law Quarterly*, 35 (3), 275–304. doi:10.2139/ssrn.4731692.

Party, L., 2024. Change: Labour Party Manifesto 2024 Available from: https://labour.org.uk/wp-content/uploads/2024/06/Labour-Party-manifesto-2024.pdf. [Accessed 22 Sep 2025].

Perelli-Harris, B. and Kuang, B., 2024. Demographic perspectives on cohabitation. *In*: R. Probert and S. Thompson, eds. *Research handbook on marriage, cohabitation and the law*. Cheltenham, UK: Edward Elgar, 296–312.

Perelli-Harris, B. and Sánchez Gassen, N., 2012. How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe. *Population and Development Review*, 38 (3), 435–467. doi:10.1111/j.1728-4457.2012.00511.x.

Polikoff, N.D., 2008. *Beyond (Straight and Gay) Marriage: Valuing All Families under the Law*. Boston: Beacon Press.

Puig Blanes, F.D.P., 2020. Artículos 240-1 a 240-7. *In*: F.D.P.P.B. Sospedra Navas and J.H. Esteban, eds. *F.J Comentarios al Código Civil de Cataluña*. 3rd ed. Cizur Menor, Navarra: Civitas, [online].

Souralová, A. and Žáková, M., 2019. 'Everybody takes care of everybody': Care circulation and care relations in three-generation cohabitation. *Journal of Family Issues*, 40 (17), 2628–2657. doi:10.1177/0192513X19860177.

Statbel, 2024. Cohabitation légale. Available from: https://statbel.fgov.be/fr/themes/population/partenariat/cohabitation-legale#figures. [Accessed 22 Sep 2025].

Swennen, F., 2016. The changing concept of 'family' and challenges for family law in the Benelux countries. *In*: J.M. Scherpe, ed. *European Family Law Volume II: The Changing Concept of 'family' and Challenges for Domestic Family Law*. Cheltenham, UK: Edward Elgar, 5–21.

Swennen, F., 2023. *Het personen- en familierecht (achtste, herziene uitgave). Een benadering in context*. 8th ed. Antwerp: Intersentia.

Swennen, F., 2024. Un-coupling family law revisited: Non-conjugal adult unions in family law. *In*: R. Probert and S. Thompson, eds. *Research handbook on marriage, cohabitation and the law*. Cheltenham, UK: Edward Elgar, 275–294.

Swennen, F., 2025. Recognition and protection of queer families in European family law. *International Journal of Law, Policy, and the Family*, 39 (1), 1–30. doi:10.1093/lawfam/ebaf019.

Tarabal Bosch, J., 2015. Reflexions sobre el llibre quart del Codi civil de Catalunya, relatiu a les successions: encerts, interrogants i propostes de reforma. *InDret*, 3, 2–20.

Trotter, S., 2025a. Should cohabiting siblings be offered legal protection? [online].LSE British Politics and Policy Blog. Available from: https://blogs.lse.ac.uk/politicsandpolicy/should-cohabiting-siblings-be-offered-legal-protection/. [Accessed 21 Jan 2026].

Trotter, S., 2025b. The legal position of cohabiting siblings in the UK. [online].Family Law Week. Available from: https://www.familylawweek.co.uk/articles/the-legal-position-of-cohabiting-siblings-in-the-uk/. [Accessed 21 Jan 2026].

Trotter, S., 2025c. Cohabiting Siblings Project webpage. *In*: Available from: https://www.cohabitingsiblingsproject.co.uk/. [Accessed 21 Jan 2026].

Van Acker E., 2017. The Neglect of the Marriage Divide and Disadvantaged Cohorts. In: *Marriage and Values in Public Policy: Conflicts in the UK, the US and Australia*. London: Routledge, 100–125.

Van de Voorde, J., 2022. La catégorie du cohabitant en droit de la sécurite sociale. *Revue belge de la sécurité sociale*, 64 (2), 177–219.

Vercellone, A. and Pecile, V., 2023. We Are Family: A Queer Legal Analysis of Nonconjugal Relationships. *The Cardozo Electronic Law Bulletin*, 29 (2), 31–44.

Villagrasa Alcaide, C., 2011. La pareja de hecho y otras situaciones convivenciales no reguladas. *In*: R. Barrada Orellana, M. Garrido Melero, and S. Nasarre Aznar, eds. *El nuevo derecho de la persona y de la familia: libro segundo del Código Civil de Cataluña*. Barcelona: Bosch, 539–556.

Walper, S., 2024. Verantwortung und Gemeinschaft aus sozialwissenschaftlicher Perspektive. *In*: D. Coester-Waltjen, V. Lipp, P. Reuß, E. Schumann, and B. Veit, eds. *Verantwortung und Gemeinschaft in modernen Gesellschaften: 19 Göttinger Workshop zum Familienrecht 2023*. Göttingen: Universitätsverlag Göttingen, 19–46.

Warner, M., 2000. *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life*. Cambridge, MA: Harvard University Press.

Warner, M., 2002. Beyond Gay Marriage. *In*: W. Brown and J. Halley, eds. *Left Legalism/Left Critique*. Durham: Duke University Press, 259–289.

Wilkinson, S. and Kitzinger, C., 2020. From the litigants' perspective: Wilkinson v Kitzinger and the pursuit of marriage equality in England and Wales. *In*: C. Ashford and A. Maine, eds. *Research Handbook on Gender, Sexuality and Law*. Cheltenham, UK: Edward Elgar, 8–16.

Willems, G., 2017. Registered Partnerships in Belgium. *In*: J.M. Scherpe and A. Hayward, eds. *The Future of Registered Partnerships. Family Recognition Beyond Marriage?* Cambridge: Intersentia, 381–409.