

Marriage in Canada

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alberta theatre projects -*Mary's Wedding*

Actors Meg Roe and Alessandro Juliani in Stephen Massicotte's *Mary's Wedding* (photo Trudie Lee Photography, courtesy Alberta Theatre Projects).

Marriage remains one of the most important social institutions in Canada, but overall the marriage rate is declining and the traditional portrait of a family is being transformed. In 2011, 67 per cent of Canadian families were headed by married couples — down from 70 per cent in 2001, according to [Statistics Canada](#). In 2011, for the first time in Canadian history, there were also more single-person households than couple households with children.

Century of Change

Over the last century marriage rates have fluctuated and often corresponded with historical events. During the [Great Depression](#) the rate fell, presumably related to high unemployment and negative economic conditions. During and following the [Second World War](#) there were fewer single men, which lowered the number of marrying couples, however following the war couples were reunited and the marriage rate rose.

Since the 1960s, marriage in Canada has undergone profound changes. The [baby-boom](#) period (1946 to 1965) was a time when couples married relatively young and by current standards had large families. Today the trend for an aging population continues and there are more couples without children, and couples are less likely to marry early and have children.

Marriage ceremonies are performed either by clergy during a religious ceremony or during a civil ceremony. At the beginning of the 21st century, 76 per cent of marriage ceremonies were religious.

In 2000, the census indicated a slight rise in the marriage rate, five for every 1,000 people, which was attributed to

couples choosing to marry at the start of the new millennium. After the millennium the marriage rate fell to 4.7 marriages per 1,000 people (compared to 10.9 in the 1940s), continuing the trend of a declining rate. Married couples are still the predominant family structure. However, between 2006 and 2011, the number of common-law couples rose 13.9 per cent, which is more than four times the increase for married couples over the same period.

Age at First Marriage

The overall number of young people who are marrying is decreasing and the average age for both men and women when they first marry has been gradually rising. In 1950 the average age for first marriage for men was 28.5 years and for women was 25.9 years. This was higher than the 1960s-70s, when people married at younger ages — for example, in 1972 the average age was 23.0 years for women and 25.4 years for men. By 2008, the average age for first marriage was much higher, 29.6 years for women and 31.6 years for men.

What has remained stable is that grooms are generally two years older than brides. This has implications both during the marriage and towards its end. Women, on average, live longer than men (in 2004 the life expectancy for women was 82.6 years and 77.8 years for men). A woman is therefore much more likely to die as a widow, while a man is much more likely to die as a husband.

Age of newlyweds is also a key factor for first marriage dissolution. Teens who marry face a marriage dissolution risk that is almost double that of individuals who marry between the ages of 25 and 29, and people who wait until their mid-30s or later who have a 43 per cent lower risk.

Common-Law Unions

A [common-law union](#) occurs when two people live together in a conjugal relationship, generally for at least a year (or more depending on the province they reside in). Common-law couples in Canada have many of the same legal, parental and financial rights and obligations as married couples.

In 1961, 92 per cent of Canadian families were headed by married couples. By 2011, this number had declined to 67 per cent — a change mostly due to the rising popularity of common-law unions. In 1981 (the first year census data on common-law couples was collected), such unions accounted for fewer than 10 per cent of all families in Canada. By 2011 common-law unions accounted for almost 20 per cent of all Canadian families.

Today, first unions among Canadian couples are more likely to be co-habitations rather than marriages. Although common-law relationships often lead to marriages, they are generally more short-lived and dissolve more frequently than marriages.

Common law unions fall under provincial jurisdiction, and are treated differently in different provinces. In [British Columbia](#) and [Newfoundland and Labrador](#), for example, couples must live together in a conjugal relationship for two years before they have the same rights and responsibilities as married couples. In [Ontario](#) and [Manitoba](#), the period is three years, or one year with a child. Under the [Civil Code](#) in [Québec](#), common-law relationships are not recognized as they are in other provinces. They are referred to as *de facto unions*, and spouses living in such unions have the same rights and responsibilities as married couples regardless of the number of years the couple has lived together.

Nuptial patterns in Québec differ from the rest of Canada. Some of the differences are rooted in the [Quiet Revolution](#) of the 1960s, when fewer people chose a religious marriage and more began to choose common-law unions. In 2006, 29 per cent of all families in Québec were common-law couples and Québec accounted for 44 per cent of all common-law families in Canada. Québec's rate is similar to that in Sweden, which has one of the highest incidences of non-marital unions, and Québec's rate is approximately three times the number of common-law unions in the United States.

Same-Sex Marriage

Marriage between two partners of the same gender became legal in Canada in 2005.

In 2001, [Statistics Canada](#) began collecting information about same-sex partnerships. At that time about 0.5 per cent of all Canadian couples reported living in same-sex unions. After same-sex marriage became available in 2005, the 2006 census was the first to collect data on legally married same-sex couples. It showed there were more than 45,000 declared same-sex couples in the country, and that 16.5 per cent of those were married.

By the time of the next census in 2011, there were more than 64,500 declared same-sex couples — 0.8 per cent of the total number of couples — and about 33 per cent of those same-sex couples were married. That represents a tripling in the number of married, same-sex unions across the country between 2006 and 2011.

Canada was the fourth country to permit [same-sex marriages](#), after the Netherlands (2000), Belgium (2003) and Spain (2005). While marriage itself falls under [federal](#) jurisdiction, the [provinces](#) regulate the solemnization of marriage and grant marriage licenses. In 2003, [Ontario](#) and [British Columbia](#) became the first two provinces to legalize the licensing of same-sex marriage. Since then all the provinces have recognized same-sex marriages, and in 2005, the federal *Civil Marriage Act* came into force, making same-sex marriage legal across Canada.

This change required that definitions for husband and wife be amended to "spouse." The *Income Tax Act* also replaced the term "natural parent" with "legal parent" to ensure that upon divorce, support payments would include the children of both opposite-sex and same-sex couples.

Although some religious denominations endorse same-sex marriage, others do not. The [Supreme Court](#) has ruled that under the [Charter of Rights and Freedoms](#), a religious official cannot be legally compelled to perform same-sex marriages if it is contrary to their religious beliefs. At the same time, government does have a duty to provide access to civil marriage (as opposed to a religious marriage ceremony) for those same-sex couples who want to marry.

In 2003, Canada was the only country in the world that allowed same-sex marriages between people who were not Canadian residents, and during that year, 5 per cent of the same-sex marriages involved non-residents, although the vast majority (95 per cent) did live in Canada.

Polygamy and Polyamory

Polygamy — being married to more than one person at a time — is unlawful in Canada under Section 293 of the [Criminal Code](#). In a landmark ruling in 2011, a [British Columbia](#) trial court upheld the constitutionality of Section 293, calling it a reasonable infringement on the freedom of religion and association guarantees of the [Charter of Rights and Freedoms](#). The ruling was prompted by the BC government's efforts to prosecute residents of Bountiful, a small, polygamous community in that province. The Supreme Court of British Columbia ruled that polygamy was harmful to children, women, society and to the institution of monogamous marriage, and should therefore remain a crime. However, the court also said the law should not be used to criminalize minors, particularly teenage women who find themselves in polygamous marriages.

Those convicted of polygamy face a maximum sentence of five years in prison. Despite the recent attention given to the issue in BC, cases of polygamy are only rarely prosecuted in Canada. This is partly because members of polygamous unions, such as those in some Muslim families, are reluctant to provide evidence to authorities.

The BC court ruling also said that the law on polygamy does not apply to polyamorous unions — conjugal relationships between more than two people — as long as polyamorous unions are between consenting adults and remain outside the institution of marriage. Once a polyamorous union involves polygamous marriage, it becomes a crime.

Although polyamory is believed to only be practised by a small number of Canadians, some of its adherents say

governments should accord them the same legal and financial privileges and responsibilities as those accorded to married and common-law couples.

Division of Labour

In the past there was a rather strict division of labour between husbands and wives in most marriages. In general, husbands were responsible for the economic well-being of the family, while wives were considered responsible for child care, housework, keeping the family in good emotional and physical health, and generally for many of the service functions associated with families. In addition, farm wives worked on the farm, and many wives in working-class households took in boarders or sold their household services to non-family members, to contribute to their family's income.

Since the early 1980s, the majority of Canadian wives have been earning an independent income and contributing financially to the family income. This situation has reduced the economic dependency of wives on husbands and shifted the balance of power within marriages. It has also meant that the majority of preschool children are cared for by somebody other than a parent during portions of their day. By 2003, more than one-half (54 per cent) of Canadian children were in some form of child care.

Although the gap between men and women still exists, the division of labour for such tasks as housework is slowly narrowing. In 1986, 48 per cent of men and 78 per cent of women reported doing some housework; by 2010, 65 per cent of men and 76 per cent of women of the same age range reported doing housework.

Family Law and Responsibility

Family law comprises separation, divorce, custody, access, child and/or spousal support arrangements, protection orders and guardianship. There are also programs and services such as mediation and conciliation to resolve some family law disputes outside of the court.

Since 1978, all provinces have substantially changed their family laws, generally assigning equal responsibility to husbands and wives for all types of family responsibilities, including housework, child care and provision for the financial well-being of the family. As a consequence, in divorce settlements housework and child care are now generally recognized as contributions to a family's overall economic well-being through which a spouse may claim matrimonial assets.

Separation and Divorce

Marriages can be dissolved through annulment or **divorce**, both of which involve a **judicial** decree. Remarriage to another person can occur only after a previous marriage has been legally terminated.

Divorce law is under federal jurisdiction. In 1968, Canada's first unified divorce law was passed. At that time, divorce became easier to obtain, although considerable legal and other difficulties remained. Divorce could be obtained on the basis of a matrimonial offence (previously the only basis on which divorce was available) or on the basis of marriage breakdown. Before 1986, if marital breakdown was cited as the reason for divorce, a couple had to have lived three years apart before they could obtain a divorce.

In 1986 a revised *Divorce Act* (1985) was proclaimed in force. The revised act included a "no-fault" divorce and the sole reason for divorce now is marriage breakdown, which is defined as either living apart for at least one year or committing adultery or treating the other spouse with physical or mental cruelty.

Divorce rates alone are not sufficient indicators of the breakdown of relationships because they do not include judicial separations, divorces granted in other countries and desertions. The break-up of common-law unions is also not reflected in divorce rates, despite the increase in the number of these unions.

Single-Parent Families

Lone-parent families result from divorce, separation, death or having a child outside of a union. Recent studies indicated that common-law families are five times more likely to experience a parental split than married parents. When there are dependent children involved, divorce usually leads to the formation of one-parent households.

In 2002, approximately one in four Canadian families with children (approximately 1.4 million families) were headed by one parent, a 58 per cent increase from 1986. About one-third of all lone parents were divorced, one-quarter were separated, and a fifth were widowed.

In 1986 figures for joint custody began to be recorded. In that year, joint custody was awarded for 1.2 per cent of the children involved but by 2002 the rate had increased to 41.8 per cent. Joint custody does not mean that the child spends 50 per cent of the time with each parent; rather, it may only mean that both parents have an equal right to make certain decisions about the child's life. In 2006, there were about four times as many female lone-parent families as male lone-parent families, however, from 2001 to 2006, male lone-parent families grew more rapidly (15 per cent) than did female lone-parent families (6.3 per cent). These changes were partially a result of greater acceptance of births outside marriage and a result of the changes in legislation.

Remarriage

Given that a high proportion of marriages end in divorce, a large number of people in their middle years again become available for marriage. The majority of people who divorce remarry, although men are more likely to remarry than women. In the 1990s, approximately one-third of all Canadian marriages involved at least one partner who was previously married, and by far the largest component came from divorced rather than widowed people. By the turn of the millennium, about 10 per cent of Canadians had married twice and approximately 1 per cent had married more than twice.

Families involving dependent children who have two parents who are still alive but not married to each other have become more common in Canada. Questions of overlapping and competing responsibilities and rights of step-parents versus biological non-residential parents are in the process of being socially defined.

Families in which at least one of the children in the household is from a previous relationship from one of the parents are often referred to as step-families. Blended and stepfamilies have changed the composition of Canadian families. By 2001, 12 per cent of Canadian families were step-families that incorporated children from the parent's previous relationships. The term "blended family" is also used to describe a family that incorporates children of one or both spouses from previous unions and one or more children from the current union. Almost half of Canadian families are blended and more than 81 per cent of these families have children from the current union.

Contemporary Families

According to the General Social Survey, most Canadians marry once and fewer than 1 per cent marry more than twice. The demographic trends that have been noted for Canadian families (e.g., rising divorce rate and greater numbers of [women in the labour force](#)) are not restricted to Canada but are typical of all highly industrialized nations, although significant national differences remain.

Another common trend among industrialized countries is a sharp decline in fertility rates. In Canada between 1960 and 1980, fertility rates dropped by more than 50 per cent in all age categories and by 2003 the birth rate was 10.6 per 1,000 people. While the average number of children per woman was 3.9 in 1960, within 40 years that figure had dropped to 1.5.

The availability of divorce and the marked increase in common-law relationships underlines the voluntary rather than compulsory character of marriage.

In 2006 approximately 4 per cent of Canadian couples comprised one visible minority group member and one non-member. The number of couples with persons belonging to two different visible groups, or mixed unions, has grown at more than five times the growth for all couples. Given the increasing diversity in Canada's population, mixed unions and relationships in many different social, educational and work-related settings, the 2011 census began to report couples with children as intact families or stepfamilies.

Marriage and Divorce in First Nations

For generations, Indigenous people registered under the federal [Indian Act](#) as status Indians were affected differently by marriage and divorce than most Canadians. A woman would lose her registered status, and her [First Nation](#) band membership, if she married a non-status man. Such women also lost the ability to pass on Indian status to their children. However, a non-status woman who married a status Indian man would gain status, and be able to pass status onto her children.

This was changed in 1985, when new federal legislation ended such discriminatory rules. The changes protected the status of registered Indian women who married non-status partners, and allowed those who had lost their status and band membership to reclaim it, or reapply for it.

Until recently, the provincial and territorial marital property laws available to most Canadians also did not apply to Indigenous people who lived on reserves, which are under federal jurisdiction. Most homes on reserves were owned by husbands, not wives. This meant that a woman had no property rights to the couple's matrimonial home in the event of divorce, or the end of a common-law partnership. Women could also be kicked out of the home, and off the reserve, by abusive husbands.

In 2013, the federal government introduced new matrimonial property laws, which would eventually apply on all First Nations reserves except those that created their own local rules with matrimonial property rights for women. The 2013 changes conferred equal property rights to male and female spouses, living on reserve, in a marriage or common law relationship.

See also [History of Marriage and Divorce](#).

Suggested Reading

- Julien D. Payne & Marilyn A. Payne, *Canadian Family Law*, 4th ed. (2011)