
SOCIO-LEGAL ASPECTS OF LIVE-IN RELATIONSHIPS: INDIAN SCENARIO

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ABSTRACT

The dichotomy of a live-in relationship is a very debatable topic, especially after various judgements of the Apex Court in its favor. The courts held this form of a relationship to be legal and not to be labelled as an offence. Beliefs such as marriage and custom of the Indian traditions are deep rooted in the society and a deviance from it causes raucous. Marriage is considered to be a sacred union, which is legalized as well as highly respected in the society. But, with the influence of the West, a certain population seems to adopt the Western culture i.e. the trend of live-in relationships. This paper highlights the problems and challenges faced in a live-in relationship, and further throws light on the judicial interpretation of the same. India lives in the absence of a legislation which particularly addresses live-in relationships, and which confers rights and duties of live-in couples as well as the children born out of such a bond. The judiciary has played a crucial role of a watchdog to facilitate the tradition of live-in, breaking the orthodoxies of the society. It is high time that people stop considering live-in relationships as a taboo and accept it with its own pros and characteristics.

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TO EXAMINE THE NATURE OF MARRIAGE, LIVE-IN RELATIONSHIP AND ITS PROBLEMS

In the modern times, things are changing at a fast pace. Globalization has brought the whole world closer and customs or system followed by one part of the world are spread through media to other parts and people start following these customs, though it may be totally different system in their own country. In our country particularly, the western culture has started affecting the social customs. The youth of our nation are being affected by the lifestyle of west-side countries, gradually renouncing the basic family traditions. For example another feature of live-in relation has started making inroads in our society. It has started replacing, though not completely, the very sacred relationship called marriage. Marriage is a legal bonding and entitles maintenance to wife, and children as legal heir. To avoid the obligation of providing the maintenance to wife and legal right to the children taking birth due to such marriages, the couples tend to resort living in live-in relationships. They want to live freely and do not want to have any burden of responsibility on their shoulder. In this type of arrangement, two individuals decide to live together in an unmarried way, for long, in a manner that it shows proximity to a marriage, but without any legal obligation of a marriage. Through this kind of a relationship, the couples evade the responsibilities of a marriage.

The view of the judiciary has been such that if a couple are residing together for long, they will be presumed to be married legally. In simpler terms, live-in can be understood as two individuals living together to enjoy the benefits of staying together like a married couple. In this type of arrangement, there is no responsibility and obligation but it does not have any legal binding. It is not even defined in Hindu Marriage Act, 1955. But in some of the recent cases law has given security to the affected parties.

The Law Commission along with the Malimath Committee (2003)³ have been instrumental in suggesting that a woman should benefit from the legal status that is provided to the wife if she is residing in a live-in for long. But still there is need to have some regulation on this as Court do not frame rules. The Apex Court has given several decisions favouring live in relationships. In one of its cases⁴, the Apex Court mentioned that there needs to be

³ JUSTICE V.S. MALIMATH COMMITTEE REPORT, <https://mha.gov.in/sites/default/files/criminal_justice_system_2.pdf>, pp. 181-194.

⁴ D. Velusamy v. D. Patchaiammal, A.I.R. 2011 SC 479 (India).

compliance with certain conditions for claiming palimony. The conditions mentioned are that the individuals residing together must resemble themselves as a couple being equivalent to spouses; both of them must have reached the legal age of marriage; both of them must be eligible to enter into the contract of marriage; there must be voluntary cohabitation for a considerable time period. The Court also reviewed the women falling under the scope of live-in relationships who would get excluded from reaping the benefits of the Domestic Violence Act, 2005, the Supreme Court concluded that it is not the Court's responsibility to amend or legislate the law. Further, the expression "live-in relationship" has not been used by the parliament while explaining the character of marriage. The Court is incompetent to change what is written in the statute.⁵ In another case, the Apex Court held, "Livein is not a sin or a criminal act, however socially inadmissible in this nation. Long-standing relationship as a concubine, however not a relationship in the idea of a marriage, obviously, may now and again, merits insurance since that woman probably won't be financially independent, yet we are anxious about the possibility that that Domestic Violence Act doesn't deal with relationships that may require a change within the definition of Section 2(f) of the DV Act, which is confining and comprehensive."⁶ The Parliament was ordered by the Court to institute relevant amendments to the Security of Women from Domestic Violence Act, to the enactment of a proper legislation where stake-holders are protected, i.e. the children and the women, even if these type of relationships don't come under the scope of the relationship in the character of a marriage.

The above-mentioned Act considers unmarried females, cohabiting in a live-in, similar to that of a wife in the character of marriage. Section 2(f) of the legislation gives the definition of a domestic relationship stating it to be one between two individuals, living, or at some time interval, cohabited in a shared household. Thus, the wide scope of the definition of domestic relationship includes a relationship "in the nature of marriage" and not only a relationship of marriage.

Such relationships are mostly prevalent in metro or urban areas where people have more freedom to be in such relationships. Society has started accepting it, even laws do not term it as an offence but these result in enormously damaging the fabric and fibre of the society.

⁵ Indra Sarma v. V.K.V. Sarma, A.I.R. 2014 SC 309 (India).

⁶ J. Venkatesh, Amend law to protect women and children in live-in relationships: court, The Hindu, (Nov 29, 2013, 3:38 PM), <http://www.thehindu.com/news/national/Amend-law-to-protect-women-and-children-in-live-in-relationshipsCourt/article11760728.ece>.

Though there is no law for this type of relationship but interpretation has given some relief to the individuals who are affected. Though the legislation imparts the maintenance, security and right of palimony to a woman, but there is a need of a proper legislative intervention to regulate the same.

TO ANALYSE THE IMPACT OF LIVE-IN RELATIONSHIPS IN INDIAN SOCIETY

An organized and welfare society is all about the relationship between human beings and society where they are mutually dependent and one grows with the help of other, this growth and care for each other is desired to all irrespective of their gender. Family is the most important primary group in society, where we live together and care for each other. Each member has an obligation towards each other. When family members are together, they maintain each other, which is a natural obligation but when married partners in a family separate, then issue of maintenance of wife arises. Law also protects the separated women.

Since personal laws facilitates divorce on various grounds, it creates social insecurities to women from poor communities. Hence women are given the right to claim maintenance after divorce. This provision in law is necessary to render equity to the aggrieved women belonging to poor classes.

Personal laws for most communities in our country provide for the maintenance of women. These provisions have their own limits and are mostly available only to a legally wedded wife. The institution of polygamy which prevailed traditionally in India has declined in last few decades. Monogamy has been accepted in law for Christians, Hindus, Parsis and Jews except Muslims. Nevertheless, marrying for the second time is a familiar trend in the societal setup of India. Due to the above listed extremities of the law and societal practice, second marriages are deemed to be invalid in India as a result of which that woman shall not be maintained by law.

Hindu Marriage Act, 1955, which is applicable to other Indian communities such as Jains, Sikhs and Buddhists also, provide for maintenance during pendency of proceedings of divorce and after divorce maintenance has to be provided according to the capacity of the individual, who is to provide maintenance.

As per provision in Chapter III, Section 18,⁷ a married woman has every right to claim maintenance during her lifetime from her partner and shall be given the right to cohabit in a different place than that of her partner without sacrificing her right to be maintained. The only condition when she will not be qualified to maintenance is when she is either unchaste or she renounces Hinduism as a religion by converting into some other religion.

The Code of Criminal Procedure, 1973 is relevant to the persons (wife/wives) regardless of religion. According to Section 25,⁸ only a woman who is a legal wife can claim and receive maintenance.⁹ In the scope of the term, “wife” a female who has divorced from her partner can also claim maintenance.¹⁰ As bigamy is an offence, second marriage shall not be covered under this provision.

Under the provisions of Muslim Law, Mehr is an amount that is to be decided at the time the marriage takes place, not fixing a limit of the amount of Mehr. The main purpose of Mehr is to act as a sanction on the husband for divorcing his wife and to provide the woman with adequate resources so that she can look after herself either post-divorce or after the death of the husband, but if the divorce is taken by both the parties mutually or specifically by the will of the wife, the woman thereafter loses her claim on Mehr.¹¹ The Mehr amount gives the financial security to the women. The power of reducing or waiving the Mehr amount is not given to men. The wife is only allowed to reduce or waive the quantum of the Mehr. Thus, Mehr protects the interests of a married woman. However, Muslim personal law nowhere states a provision that talks about the maintenance of wife after divorce.

Concept of providing maintenance under Mohammedan law is not similar to the provisions regarding maintenance given under the personal laws of other religions in India. Under Islamic law, men are allowed to practice polygamy and all wives are to be maintained by the husband. Unlike the provisions of Hindu law, the second marriage is held valid and the wife does get all the benefits and rights that are entitled to the first wife.

Under Muslim personal law, ‘Iddat’ is referred to the time period that a woman is supposed to observe after the separation or demise of the husband, during which she cannot marry

⁷ Hindu Adoptions and Maintenance Act, 1956, No. 78, Act of Parliament, 1956 (India).

⁸ Criminal Procedure Code, 1973, No. 2 of 1974, INDIA CODE (1994).

⁹ Section 125 of Criminal Procedure Code, 1973 -Order for maintenance of wives, children and parents.

¹⁰ Rohtash Singh v. Ramendri, 2000 Cr. L. J. 1498 (SC) (India).

¹¹ Shankar Rao C. N., Sociology, S Chand & Co., 7th edition, Reprint 2015

another person. After the period of iddat is over, the wife can only claim the Mehr but not any other maintenance¹². Before the landmark judgement of Mohammad Ahmed Khan v. Shah Bano Begum,¹³ under the Muslim law, a wife could not claim maintenance after the completion of her 'Iddat' period. The Supreme Court though, did grant maintenance to Shah Bano. The Court observed that a Muslim woman who is incapable of taking care of herself is entitled to maintenance under Section 125 of Criminal Procedure Code, even after the Iddat period, till the time she has not remarried.

The Union Legislature passed a legislation, Muslim women (Protection of rights on divorce) Act, 1986 due to controversies that was created after Shah Bano case. As per Section 3 of the Act¹⁴, a Muslim can only seek maintenance during the period of 'Iddat'. After Iddat, she is entitled to claim maintenance from her parents and relatives, and in the absence of relatives, the act¹⁵ also provides that the Magistrate shall direct the State Wakf Board for maintaining the woman. After the Act was passed, various High Courts had different opinions when it came to the applicability of Section 125 Cr.P.C. to a Muslim divorced wife.

The Act was made in haste and was not drafted properly which can be seen by a plain reading of it. The unfortunate part is that such an Act still persists in a country that deems to deliver social justice.

Section 125 of Cr.P.C, whose main motive is to prevent starvation, indirectly provides basic necessities required to a person. The concept of human rights in today's democratic society is still a challenge in making these rights a reality for everyone. India being a member of the International Covenants and Declarations, has a duty to fulfil the needs of the people. The state has a constitutional obligation to facilitate an adequate standard of living to its citizens and also to uphold other provisions of the constitution such as Art 15(3) and Art 21.

As society is progressing and western culture is affecting our culture, many new western concepts are adopted in our nation like live-in relationship. As this relationship led to

¹² Ibid.

¹³ Mohammad Ahmed Khan v. Shah Bano Begum, A.I.R. 1985 SC 945 (India).

¹⁴ Ibid.

¹⁵ Ibid section 4.

various issues relating to security of woman, they were also provided relief under Domestic Violence Act 2005.

Various personal laws concerning different communities, namely Hindus, Parsis, Christians and Muslims establish a concept of maintenance and alimony. The Christians find relief under the provisions of Indian Divorce Act, 1869. The law that seeks to give Parsis relief is listed in the Parsi Marriage and Divorce Act, 1936. It provides for a temporary as well as permanent maintenance. Usually, the conditions of the parties will be given primacy and looked into the quantum of maintenance. For a wife, husband's economic condition as well as the financial stability of the wife and her living conditions are considered. The laws in this field are cumbersome and lack uniformity because each personal law has its distinct customs and practices and have its influence on Section 125 Cr. P.C.

Section 125 which discusses maintenance is novel and a big relief to those women who are not entitled to any social justice under their personal laws. There is a need for a fresh look over other aspects relating to maintenance. For instance, women who are not aware of the existence of first marriage of a man marry him, but when the question of their maintenance arises, laws recognise only legally wedded wife. In some cases Courts have given due consideration to the circumstances and on the basis of circumstances maintenance has been awarded to the second wife also. In the case of *Vimala v. K. Veeraswamy*¹⁶, maintenance was awarded to second wife on the basis of the circumstances. Therefore, there is a need of uniform rules, so as to protect the right of affected parties.

TO IDENTIFY THE INTERNATIONAL LEGAL RESPONSES WHICH ARE RELEVANT FOR THE MAINTENANCE OF LIVE-IN RELATIONSHIPS AND FURTHER EXAMINE THEIR ADEQUACY OR OTHERWISE.

“When a married woman was questioned as to how she and her husband managed to be together for 65 long years, the woman replied, “They were born in a generation where if something was broken, it could be mended, but not thrown away”.

This quote shows the importance of institution of marriage. It was never intended to break the wed lock or marriage. The couple remained committed despite having difference of

¹⁶ *Vimala v. K. Veeraswamy*, (1991) 2 S.C.C. 375 (India).

opinion and thoughts. The marriages in the earlier times were borne out of the societal setting to secure an environment which is safe to breed, protect and grant property rights. In European nations, the institution of marriage was traditionally considered a civil institution. Marriage has been considered as a sacred relationship. In Hindus it is even considered the relationship of seven births continuously and marriages have been performed as per Vedic customs. Registration of marriage was also introduced by Hindu Marriage Act 1955, and before the enactment of this Act, there was nothing like broken marriage. This Act introduces a separate provision for divorce and maintenance.

As mentioned above, we can understand the importance of marriage. Through marriage, two individuals mark their relationship official, public, and permanent. It is through marriage that two people are unified in a legal way. It is a formal commitment between the couples. Marriage has and will continue to be an important practice across all the societies of the world. It encapsulates within itself religious or/and legal obligations. It is not only accepted socially, but it comes handy with the status of one being married and certain rights, obligations and even benefits attached to it. The marriage ceremony binds two souls together and they remain committed to each other for lifelong and shoulder the responsibility attached to it, be it financial, social or legal responsibility.¹⁷ Every culture has a different perspective in which it understands marriage.

The institution of marriage, traditionally, is viewed as a permanent institution that cannot be broken unless a partner ceases to exist. From law's point of view, the institution of marriage can only be dissolved by a divorce. The Roman Catholic Church in the 12th Century formally established marriage to be a sacrament, sanctioned by God. In Catholicism, the sacrament of marriage is supposed to be between God, the woman and the man. Each religion has its own way to solemnize the marriage ceremony and to deal with the issue related to marriage. All Indian communities except Muslims do not support polygamy. Only Muslim law permits to have multiple wives, each one with equal rights.

Marriage has given stability in the life of an individual. It binds him/her to each other. The married couple have some responsibilities towards each other and their off-spring. This relation mandates them to follow the norms of the society.¹⁸ A lot of responsibilities come

¹⁷ A Brief History of Marriage, Yesterday, <https://yesterday.uktv.co.uk/history/article/brief-history-marriage>

¹⁸ Kirti Sinha, 10 Reasons Why Live In Relationship is better than marriage, Topyaps, (Sept 2, 2019, 4:26 PM), <http://topyaps.com/live-in-relationships>

hand in hand with marriage such as children, culture and the relatives. The reason for the popularity of marriage is because an individual is provided with not only companionship, but also stability and security in life. There is a sense of responsibility that is attached with the idea of marriage.

The idea of marriage may not be right for everyone. Some might want to bypass the responsibilities attached to it, while others might not want to be burdened with financial debts. Some individuals just might want to cohabit without the legal union. However, under the eyes of law, marriage and live-in are treated differently. In one case, couples choose to live together without the legal obligation of a marriage even though they profess love for each other and treat the relationship to be a permanent one. They do so because if and when the relationship goes wrong, they don't have to indulge in the legal trouble, expense and the trauma related to a divorce. What the couple doesn't realize is that without the commitment of marriage, there is no incentive for them to revive their relationship in times of distress. It becomes convenient for one or the other to just "cut and run" when difficulties arise, as the individuality becomes a bigger priority than saving an informal relationship.

The rate of the couples in live-in has increased manifold since 1970 in America. Getting into a live-in has become the "normative experience", with nearly half of the population of youth aged between twenty to forty living in such relationships. This produces a cultural flux resulting for the couple as well as public policies.

Each aspect of marriage and Live in relationship has its merits and demerits. But since marriage is accepted by society and law, so in marriage partners are obliged to take care of each other. They are bound to share all the responsibility which arises of their wedlock. They have to take care of the requirement of their children also, born out of their marriage. These norms bring them closer and make them emotionally attached to each other. But there are many things that go against Live-in relationship than in its favour. First and foremost opinion that goes against it is that is not recognised by law, though judicial interpretation of law has helped in some of the cases. But it is not accepted by the law and society. It is prevailing in only big cities and metro cities. In live in relationship no one is bound to follow the society's customs as in marriage but children born out of that relationship face the brunt of this type of relationship because these children become illegitimate. The different aspects can be as shown below for both marriage and live-in:

-----	Marriage	Live-in relationship
Legal and social recognition	Recognised	Not Recognised
Freedom	Committed and responsible to each other.	Complete freedom, have only own responsibility
Easy to break up	Couples seek separation as per law. So give sense of security.	No Legal hassle, can walk out any time, so no security for longer relationship.
Economic stability	Couples support each other financially	Both are financially independent
Children’s future	Children’s future is secure	Children suffer as not protected by law
Parents and society’s support	Parents and society supports this concept	Society and parents do not support Live-in relationship

Currently, young adults wish to have a stable and satisfying marriage; but the only thing holding them back is their capability to attain them. Live-in relationships does not only cost the couple but also the children born out of it. According to the traditional view, live in rewards the couple in a lesser way than what a strong and committed marriage does. According to some, couples in a Live-in relationship are found to be more unfaithful to each other than married couples.

But despite all these views, the trends in the society are changing. There has been a transition in marriage institution from a traditional arranged marriage system to a more open and radical love marriage system and now, live in relationship which was earlier prevailing in another form called “Matiray Karar”. Earlier society was totally against Love-marriages, but now these are being accepted and now another form of relationship, Live-in relationship is being followed by the couples. It is all changing with times as in most of the profession

people work together and spend most of their time together which makes them prone to Live-in relationship, where each one is having freedom of relations and are also financially independent. Even it is considered as right to life, not as an offence by law and the laws in India have started to recognize live in relationships. The Law Commission along with the Malimath Committee (2003) have been instrumental in suggesting that a woman should benefit from the laws given to a wife if she is residing in a live-in for a quite reasonable period of time. It is all a change with the passage of the time but the old traditions never die, some couples who opt to be in a Live-in relationship for a longer period, culminate their Live-in relationship into marriage.

As Love marriages are being accepted by the society now, the time will come when live-in relationships will also be acceptable to the society.

TO ANALYSE THE LEGAL STATUS & RIGHTS OF WOMEN IN LIVE-IN RELATIONSHIPS.

In the present times, many changes have occurred in the institution of marriage. No other forms of the marriage was acceptable to the society other than arranged marriages. As time passes, there has been shift in the perception of the society. The other form of marriage like love marriage became acceptable to the society. This was all effect of western culture. Now again one more arrangement to live like husband and wife, which is called Live-in relationship, is becoming popular among the new generation. This change is affecting the social structure of the society. Many legal issues are taking place due to this new trend.

Society is changing and law plays a crucial role in changing the social norm. An individual's conduct are regulated by law and society. As mentioned above there is change in the perception of the society about living patterns and law is also responding to the changed trends in the society and delivering the judgments in view of the changed scenario.

And what is Live-in relationship? In a very basic sense, it means when two individuals cohabit together with no intent to have a permanent relationship. The emergence of this type of relationship is due to modernization and city culture, mainly in big metros. Most of the Live-in couples share professions such as modelling, media and entertainment. Live-in relationships is not that familiar with India due to the stigma and taboo attached to it, where arranged marriage is considered the norm. This type of relationship did exist in India in the

form of 'Maitraya Karars' in Gujrat. India is seeing a gradual shift from arranged marriages to love marriages, and finally to live-in relationships.

But the main issues that crop up is whether the societal set up will readily accept this type of a relationship and what will be the repercussions of accepting such type of a relationship. Should existing Law relating to marriage be amended or new laws are to be framed to regulate relationships like these? The judiciary has not been that consistent when it comes to recognising such relationships. But when protection of interests of women is taken into consideration, the judiciary has been sensitive and instrumental in delivering justice to the affected women.

Presently there is no single law to deal directly with regards to live-in in India. The Hindu Marriage Act,

1955, grants a legal status to children born out of a 'voidable' or a 'void' marriage. (PWFDVA) The Act¹⁹ does provide security to the women who face atrocities in a 'relationship in the character of marriage'. An "aggrieved person" covered under this act is "any woman who is living or lived with a man and who is subjected to any atrocities in terms of violence by the man." Using the idea of "relations in the nature of marriage", the scope of recognizing a live-in relationship has widened by this Act. It does recognize such relationships along with protecting the interests of women in these relationships.

Judiciary in India does not have a strong stance on accepting or rejecting the idea of live-in but it does ensure to provide justice in every case to the aggrieved. The judiciary's main concern is that justice is delivered and determining the cases keeping in view social and constitutional aspects. The High Court of Allahabad in *Payal Katara v. Superintendent Nari Niketan Kandri Vihar*²⁰, opined that a woman who is 21 years old, being a major has every right to movement and choice and she can reside with any individual without getting married if she wishes to. It was opined by the Apex Court in another case that a mutual cohabitation between two individuals for a considerable amount of time will be taken to be at par with marriage and the child as a product of such a relation will be a legitimate child. The Supreme Court was also of the view that for some to claim maintenance from Sec. 125 Cr.P.C., marriage is not a pre-requisite to claim maintenance. The partner in a live-in was

¹⁹ The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

²⁰ *Payal Katara v. Superintendent Nari Niketan Kandri Vihar*, A.I.R. 2001 All 254 (India).

attributed the status of a wife in the case of *Chellamma v Tillamma*²¹. The bench held that it is not illegal for a couple to cohabit without being married. Even the children born out of this kind of a relationship will be legitimate. To the contrary, the Delhi High Court in the case of *Alok Kumar vs. State of Delhi*²², held that the character of a live-in relationship is more of a walk-in walk-out relationship where there are no strings attached and an individual does not get the right to complain for the infidelity of their partner.

But Courts do not have the power to amend or legislate the law. In the Protection of Women from Domestic Violence Act, 2005 (PWFDA), Parliament has recognized a novel trend emerging in India known as live-in but has opted to replace the term 'live-in relationship' with the expression 'relationship in the nature of marriage'. Sadly, the expression in the character of marriage has not been listed in the Act (PWFDA, 2005).

As we can observe that only relationships of longer period are given advantage of PWFDA Act 2005 by judiciary. And also it has given decisions keeping in view the new emerging trends like Live-in relationships. But judiciary can only give its judgment and cannot amend the laws. Legislature has the power to amend the law and frame new rules according to changes in the society. But legislature seems to be in dilemma to decide in favor of Live-in relationship or against it. Legislature has not given security to women live-in partners directly but has used expression 'relationship in the nature of marriage', under the domestic violence act 2005 to give the security to aggrieved party in such relations. The former Law minister H.R. Bhardwaj while replying a question in Rajya Sabha said, "The rights of women in live-in relationships were ensured by the Domestic Violence Act. On the off chance that it is satisfactory by society, at that point the Parliament can make laws. Laws are made in consideration with social patterns.

Live in relationship isn't predominant in the general public. Laws are set on the expectations of society. As and when society is readied (to acknowledge live-in relationships), the (domestic violence) law can be extended or we can make another". Another parliamentarian stated, "Live-in relationships conflict with Indian conventions. Short of what one percent of the individuals are in such relationships. In the event that a law is enacted, it may be abused." But still there is a need to have one act, which would deal with this type of new trend in

²¹ *Chellamma v Tillamma*, A.I.R. 2009 SC 112 (India).

²² *Alok Kumar vs. State of Delhi*, CrI.M.C.No. 299/2009 (India).

society. Legislature should take note of changing scenario of the society and frame new rules to deal with such type of cases.

TO EXAMINE THE INDIAN LEGISLATIVE PROVISIONS RELATING TO MARRIAGE WITH SPECIAL REFERENCE TO MAINTENANCE OF WOMEN IN LIVE-IN RELATIONSHIPS.

In our country, the concept of marriage is taken to be a sacred relationship and as a consequence, entitles the individuals to live together; giving a legitimate name to the offspring born. After the marriage is terminated, the wife is entitled to compensation from the partner. To by-pass such obligations emerging out of marriage, this novel concept has evolved providing a relationship that does not include commitment and responsibility unlike that in a marriage. In this concept, two individuals cohabit under the same roof without a legal marriage. Freedom is a fundamental feature of such a relationship. This has become an alternative to conventional marriage in the urban areas where freedom is given priority and where the young population doesn't want to associate themselves with the obligations of a married life.

India doesn't provide for a statute recognizing live-in relationships or a law that states the obligations of the parties and status of the child born out of such a relationship. No legislation including the Hindu Marriage Act, 1955 recognizes this type of a relationship. Due to the negation of a particular legislation on the legality of such relationships, the Courts have given verdict in cases where it was held that two individuals residing together as a couple will be considered as legally married. The Protection of Women from Domestic Violence Act, 2005 does work in protecting the interests of women, providing them with palimony and maintenance. Section 2(f)²³ describes a domestic relationship to be one in which two individuals cohabit, or at any point cohabited together under the same roof, where the relation is drawn through marriage, consanguinity, or through some relationship that is in the character of marriage.

²³ Hindu Marriage Act, 1955, No. 13, Acts of Parliament, 1955 (India).

The first time the Apex Court gave recognition to the status of live in as that of a legitimate marriage was in the case of *Badri Prasad vs. Deputy Director of Consolidation*,²⁴ where a fifty year old live in relationship was held to be legally valid.

In the case of *Payal Katara v. Superintendent Nari Niketan Kandri Vihar*²⁵ the Allahabad High Court held that “a woman who has reached the age of 21 is a major and has the choice to go anywhere and live with anyone without getting married”.

The Apex Court, further widening the scope of live-in relationships, in the case of *Lata Singh v State of UP & Anr.*²⁶, stated that a live-in would only be permissible between two adults of heterogeneous sex and if a person resorts to a live-in after his marriage, then it would amount to adultery under Section 497 of the IPC.

In the case of *D. Velusamy v. D. Patchaiammal*²⁷ the Apex Court opined that there needs to be fulfilment of some criteria for a relationship to be equated as that of nature of marriage. Living together for weeks or a mere one night stand does not equate to be a relationship that is domestic in character. It was further noted that a “keep” living with a man for mainly purposes pertaining to sex and/or as a servant, would not counted a relationship falling under the scope of a relationship in the character of marriage. There has to be compliance of certain conditions for the eligibility of palimony. The individuals must hold themselves to be a couple living together equivalent to a married couple; they must have reached the age of maturity for marriage; there must be legal qualification of the parties to enter into a marriage; the cohabitation must be voluntary in character.

The Apex Court in the case of *Koppiseti Subbharao Subramaniam vs. State of Andhra Pradesh*²⁸, was of the view that the word “dowry” holds no magical charms. It is simply money demanded from one party in lieu of getting married. The plea of demanding dowry was rejected since it only applies to married women, and not unmarried women under Section 498A of the Indian Penal Code.

²⁴ *Badri Prasad vs. Deputy Director of Consolidation*, 1978 A.I.R. 1557 (India).

²⁵ *Payal Katara v. Superintendent Nari Niketan Kandri Vihar*, A.I.R. 2001 All 254 (India).

²⁶ *Lata Singh v State of UP*, A.I.R. 2006 SC 2522 (India).

²⁷ *D. Velusamy v. D. Patchaiammal*, A.I.R. 2011 SC 479 (India).

²⁸ *Koppiseti Subbharao Subramaniam vs. State of Andhra Pradesh*, CrI. Appl. No. 867/2009 (India).

²⁹ *Indra Sarma vs. V.K.V.Sarma*, A.I.R. 2014 SC 309 (India).

The Apex Court, in Indra Sarma case²⁹ delivered on 26th November 2013 says: “Live-in or marriage like relationship is not a sin or a criminal act, however socially unsuitable in this nation. Long-standing relationship as a concubine, however not a relationship in the character of a marriage, obviously, may on occasion, merits security since that lady probably won't be financially independent, yet we are worried about the possibility that that DV Act doesn't deal with such relationships which may maybe require an amendment of the definition of Section 2(f) of the DV Act, which is restrictive and thorough.” The Court ordered the Union Legislature to enact a law for the security of parties in such relationships, even though these relationships do not fall under the scope of marriage.

Further, in the judgement *A. Dinohamy v. W.L. Balahamy*³⁰, it was viewed that if two individuals are living together by their own will as legally wedded partners, the law will suppose, in the consequence of their living together as such of a valid marriage, and not in a state of concubinage. It was observed by the Court that-

“The parties lived together for twenty years in the same house, having eight kids. The husband during his life perceived, by loving arrangements, his better half, and kids, The proof of the Registrar of the District shows that for a long course of years the parties were perceived as hitched residents, and even the family functions and services, for example, specifically, the gathering of the relations and different visitors in the family house by Don Andris and Balahamy as host and hostess- - every such capacity were directed on the footing alone that they were man and spouse. No proof at all is managed of revocation of this connection by husband or spouse or anyone.”

The Court in the case of *Gokal Chand v. Parvin Kumari*³¹, was of the opinion that the cohabitation of two individuals as a legally wed couple, may draw the presumption of marriage, but this presumption can be rebutted by the circumstances which then to make the presumption weak, and hence, cannot be ignored by the Court.

³⁰ *A. Dinohamy v. W.L. Balahamy*, A.I.R. 1927 PC 185 (India).

³¹ *Gokal Chand v. Parvin Kumari*, A.I.R. 1952 SC 231 (India).

Justice Amitava Roy and Justice MY Eqbal of the Apex Court held in the case of Dhannulal and Ors. Vs. Ganeshram and Ors.³², that:

“Law presumes for marriage and against concubine, when a man and lady have lived together continuously for quite a while. In any case, the assumption can be countered by leading blameless evidence. A substantial weight lies on a gathering, who tries to deny the relationship of legitimate origin.”

Live-in relationships are still regarded as a taboo in the societal framework. It is considered improper and immoral by the major chunk of the society. The Courts have been quite instrumental in deciding the rights and liabilities of the parties and the child arising out of a live-in, even after the absence of a particular law. There stands no particular legislation that deals with live-in relationships, even though The Hindu Marriage Act, 1955 grants each child born from a void, voidable or legal marriage a legitimate status. Again, the presumption for a live-in to be legitimate is questionable.

The Court in the case of S.P.S. Balasubramanyam Vs. Suruttayan Andali Padayachi & Ors.³³, talked about the presumption of Section 114 of the Evidence Act, considering a couple living under the same roof, and hence the child will be a legitimate child. Similarly, the Apex Court in the case of Bharata Matha & Ors. Vs. R. Vijaya Renganathan & Ors.³⁴, held that a child born from such a relationship will have every right to inherit the property of the parents, but hold no claim according to the provisions of the Hindu ancestral coparcenary property.

The Supreme Court of India shaped the notion of live-in relationships by considering it immoral, but not illegal. The need of the hour now is to formulate a legislation that will bring some clarity to the concept. The Courts have been welcoming and optimistic in this approach. Even when the judiciary has accorded a legal security to the child being born out of such a bond and safeguarding the interests of parties, but there is need to have a regulation specific to this new phenomena and clarify the right of the individuals concerned living and born out of a Live-in relationship.

³² Dhannulal Vs. Ganeshram, A.I.R. 2015 SC 2382 (India).

³³ S.P.S. Balasubramanyam Vs. Suruttayan Andali Padayachi, A.I.R. 1992 SC 756 (India).

³⁴ Bharata Matha Vs. R. Vijaya Renganathan, A.I.R. 2010 SC 2685 (India).

TO ANALYSE INDIAN JUDICIAL RESPONSE/ACTIVISM RELATING TO MAINTENANCE OF WOMEN IN LIVE-IN RELATIONSHIP

The institution of marriage is ruled by some specific laws of the country and society still does not approve any other forms of marriage. This relationship remains to be a taboo for the society and is considered against the norms of the society. A considerable amount of population sees no harm in getting into Live in relationships in metro cities. Live-in relationships are often taken as immoral and something against the traditions of the society. Marriage has a social stamp of approval which the live-in relationship fails to secure. Neither is the status of the couples nor is the definition of a live-in relationship clear. India fails to provide for a separate legislation on these relationships. Due to the absence of laws, the judiciary has been instrumental in giving some clarity about the subject.

In *Lata Singh v. State of U.P. and Anr*³⁵, the findings of the Court were that when two individuals mutually decide to reside together, it does not add up to any offence, except if adultery is not committed. Even if it is considered as something immoral, an adult woman can live with anyone. In the present case, the woman who was the petitioner married a man from a distinct caste and were cohabiting. The brothers of the petitioner applied a complaint charging her spouse under the Sections 366 and 368 of the IPC. The Court quashed the petition and further opined that the accused committed no offence.

Further, the Apex Court in recognizing live-in relationships held³⁶ in another case held that, there need to be fulfilment of certain criteria for a relationship in the character of marriage under the PWDVA Act, 2005. The mere spending of some days together does not equate it with a domestic relationship.

The judiciary made it clear that for the eligibility of “palimony”, certain conditions need to be complied with namely³⁷:

- The individuals must hold themselves to be a couple living together equivalent to a married couple;

³⁵ *Lata Singh v. State of Uttar Pradesh*, A.I.R. 2006 SC 2522 (India).

³⁶ *D. Velusamy v. D. Patchaiammal*, A.I.R. 2011 SC 479 (India).

³⁷ *Ibid*

- they must have reached the age of maturity for marriage; □ The cohabitation must be voluntary in character.

But the Supreme Court further laid down that it not for the Court to legislate. The Court has the mere power to interpret the already existing legislation.

As mentioned above, despite there being no particular legislation to define live-in relationship, the judiciary has given verdict interpreting the existing law. For example the Protection of Women from Domestic Violence Act, 2005, protects females in such a relationship, where the relationship is in the character of marriage, in which the woman acts like a wife but is not legally a wife.

In 2008 Maharashtra Government was supportive of live-in relationships by accepting the conditions laid down by the Malimath Report and the Law Commission which opted for a woman to benefit from the status of a wife who has been residing in a live-in for a long time.

Though there is no certain legislation to protect the right of the women in live in relationship yet judiciary has given security through some of its judgements. As these relationships have not been acceptable to the society and law so there is a need to frame new legislation to fill the vacuum and deficiency in the law, because this deficiency is depriving the women from the benefit of alimony. A bench of Justices K S Radhakrishnan and P C Ghose, while bringing clarity that such relationships – and particularly the ones that are polygamous-would fall outside the definition of relationships under the character of marriage, saying that an increase in the amount of such relationships called for concern from lawmakers. "Such relationship, it might be noted, may suffer for quite a while, and can bring about an example of reliance and vulnerability, and expanding number of such relationships calls for satisfactory and compelling security, particularly to the lady and kids resulting from that live-in-relationship. Lawmaking body, obviously, can't advance pre-marital sex, however, now and again, such relationships are seriously close to home and individuals may express their assessment, for and against," the Court held.

So it can be understood that there is a need for proper legislation. Apex Court has framed certain guide lines to provide some insight in to live in relationship which can help to pass appropriate order but these parameters are not exhaustive. The Apex Court has ordered the

Union Legislature to frame a comprehensive law to safeguard the interests of the parties involved in such relationships.

MAINTENANCE OF WOMEN IN LIVE-IN RELATIONSHIP

Marriage, is a union that is accepted by the society between two individuals that gives a legal sanction and establishes legal obligations. Marital laws are framed in various regions so that the disputes arising out of marriage can be resolved. After divorce the question of maintenance comes up for consideration. Other than the remedies provided by the personal laws, Section 125 of the Code of Criminal Procedure, 1973³⁸ also furnishes for maintenance

³⁸ 125. "Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has reached majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unfit to keep up oneself, a Magistrate of the top of the line, endless supply of such youngster, father or mother, at such monthly rate not exceeding 500 rupees in the entire, as such Magistrate might suspect fit, and to pay the equivalent to such person as the Magistrate may every now and then immediate: Provided that the Magistrate may arrange the dad of a minor female kid alluded to in provision (b) to offer such leeway, until she accomplishes her larger part, if the Magistrate is fulfilled that the spouse of such minor female kid, whenever wedded, isn't possessed of adequate means. Explanation.- For the purposes of this Chapter,-

(a) " minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875); is deemed not to have reached his majority;

(b) " wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance.

(3) In the event that any person so requested comes up short without adequate reason to agree to the request, any such Magistrate may, for each penetrate of the request, issue a warrant for collecting the sum due in the way accommodated demanding fines, and may sentence such person, for the entire or any piece of every month's recompenses staying unpaid after the execution of the warrant, to detainment for a term which may extend to one month or until installment if sooner made: Provided that no warrant will be given for the recuperation of any sum due under this area except if application be made to the Court to require such sum inside a time of one year from the date on which it got due: Provided further that if such person offers to keep up his better half on state of her living with him, and she won't live with him, such. Explanation.- If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No Wife will be qualified for get a remittance from her better half under this segment in the event that she is living in infidelity, or if, with no adequate explanation, she won't live with her significant other, or on the off chance that they are living independently by shared assent

(5) "On evidence that any spouse in whose favor a request has been made under this area is living in infidelity, or that without adequate explanation she will not live with her better half, or that they are living independently by shared assent, the Magistrate will drop the request."

to wife which includes a divorced woman. Section 20 (1) (d) of the Protection of Women from Domestic Violence Act (DV Act), 2005³⁹ also provides for maintenance.

A committee constituted on 24th November, 2000 by the name of The Committee on Reforms of the Criminal Justice System, under the Chairmanship of Justice V. Malimath, former Chief Justice of Karnataka and Kerala High Courts, had made the following recommendation, amongst others, that, “meaning of the word 'wife' in area 125 of the Code be changed to incorporate a woman who residing with the man like his wife for a sensibly long period.”

After numerous suggestions and recommendations, the legislature has failed to make a law which provides maintenance in Live-in relationships. Therefore, maintenance is provided by the judiciary under the scope of Domestic Violence Act, 2005 according to the facts and circumstances of the case. Due to the lacunae created because of the absence of any laws, the Courts have been instrumental in providing clarification regarding this rather untouched topic.⁴⁰ The Court has held that any two individuals living together for a reasonably long period of time will be considered to be legally married.

In *Chanmuniya v. Chamuniya Virendra Kumar Singh Kushwaha and Anr*⁴¹, the Court opined that the definition of a ‘wife’ should not be narrow and restrictive. A woman should also be considered a wife if she is living with a man for a considerable amount of time, not necessarily having a proof of marriage and no pre-requisite for a woman to be maintained under Section 125 of the Cr.P.C, so as to fulfil the real spirit and essence of the beneficial provision of maintenance u/s 125 of Cr.P.C. The purpose behind S. 125 - Maintenance of wives, offspring and elderly is a measure of social justice to prevent vagrancy and destitution.

In *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*,⁴² the wife appeared before the Hon’ble Court to avail maintenance under Section 18 of HAMA⁴³ (The Hindu Adoptions

³⁹ The maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

⁴⁰ Amit Anand Choudhary, Live in relationships now acceptable norm in society, Times of India, (Jul 24, 2015, 3:03 PM), <https://timesofindia.indiatimes.com/.../SC-lays-down...live-in-relationships/.../6786239>

⁴¹ *Chanmuniya v. Chamuniya Virendra Kumar Singh Kushwaha*, (2011) 1 S.C.C. 141 (India).

⁴² *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*, A.I.R. 2008 Delhi 7 (India).

⁴³ “Maintenance of wife. —

and Maintenance Act, 1956) in 1997 and contended that her partner had dumped her by suppressing his earlier marriage. The couple cohabited under the same roof for a period of fourteen years with two daughters. The husband's defense was that since his first marriage was standing, therefore this marriage should be held void.

The Court ordered provisional maintenance of Rs 1,500 per month in her favor. Later, when the case was ultimately decided by the trial Court in 2005, her plea was dismissed on the grounds that she was not a legal Hindu wife as her marriage was void according to Section 18 of HAMA. Later in an appeal, the Delhi High Court stated that a woman does not acquire the legal status of a Hindu wife, she would still be entitled to a lump settlement by way of damages.

In *D.Velusamy vs. D.Patchaiammal*, 2010⁴⁴, the Court opined that every relationship will not equate to a relationship in the character of marriage and reap the benefit of the Domestic Violence Act. Therefore to avail the benefits, there are certain conditions that need to satisfy and has to be proved by evidence. Justices Markandey Katju and T S Thakur held that to obtain maintenance, a woman, if unmarried, has to fulfil the following four requirements:

(1) Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her life time.

(2) A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance—

(a) if he is guilty of desertion, that is to say, of abandoning her without reasonable cause and without her consent or against her wish, or wilfully neglecting her;

(b) if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband;

(c) if he is suffering from a virulent form of leprosy;

(d) if he has any other wife living;

(e) if he keeps a concubine in the same house in which his wife is living or habitually resides with a concubine elsewhere; (f) if he has ceased to be a Hindu by conversion to another religion; (g) if there is any other cause justifying living separately.

(3) A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.

(i) The spouse had been living alone and all the youngsters had been raised by her with no help and help from the husband and there was an away from of departure, the wife was qualified for discrete habitation and support; *Meera Nireshwalia v. Sukumar Nireshwalia*, AIR 1994 Mad 168.

(ii) The neglectful activity of the spouse of ousting the wife from the house where she had been living in arrangement with the buyers of the house and the police caused a profound injury on her adding up to remorselessness, the wife was qualified for live independently and guarantee support; *Meera Nireshwalia v. Sukumar Nireshwalia*, AIR 1994 Mad 168.

(iii) The case for upkeep by a spouse can likewise be continued under statement (g) even on a ground secured by one or different provisions for example proviso (a) to (f) of area 18(2) considerably yet not completely. Simply in light of the fact that the spouse neglects to carefully demonstrate the particular grounds asked by her, she can't be denied help; *Meera Nireshwalia v. Sukumar Nireshwalia*, AIR 1994 Mad 168.”

⁴⁴ *D Velusamy Vs D Patchaiammal*, A.I.R. 2011 SC 479 (India).

- (1) The individuals must hold themselves as being equivalent to spouses socially
- (2) The individuals must have reached the legal age of marriage
- (3) The individuals must be legally qualified to marry.
- (4) The cohabitation must be voluntary in character and they need to reside together for a reasonable period of time.

In some of the cases, the maintenance has been granted and in cases like *Indra Sarma vs. V.K.V.Sarma, 2013*⁴⁵ it was denied also. In the latter case the Court had observed that,

“Live-in or marriage like relationship is neither a wrongdoing nor a sin however socially unsatisfactory in this nation. The choice to wed or not to wed or to have a heterosexual relationship is intensely close to home.”

The Court in this case affirmed that the relationship in the present case is not a “relationship in the character of marriage” and was held entitled to no relief.

In *Badri Prasad vs. Dy. Director of Consolidation, 1978*⁴⁶ the Supreme Court held that ,

“A strong presumption emerges for marry lock where the accomplices have lived together for a long spell as husband and wife. Despite the fact that the presumption is rebuttable, an overwhelming weight lies on him who tries to deny the relationship of legitimate origin. Law inclines for authenticity and frowns upon bastardy.”

The Apex Court in the case of *Tulsa & Ors vs. Durghatiya & Ors, 2008*⁴⁷ was of the opinion that a child born out of a live in relationship must be given a legal status and should also be granted the right to inherit property. Again in this case it was held that,” Where two individuals have cohabited for a considerable long period as husband and wife there would be presumption in favor of valid wedlock.”

⁴⁵ *Indra Sarma v. V.K.V. Sarma, A.I.R. 2014 SC 309 (India).*

⁴⁶ *Badri Prasad vs. Dy. Director of Consolidation, A.I.R. 1978 SC 1557 (India).*

⁴⁷ *Tulsa v. Durghatiya, (2008) 4 S.C.C. 520 (India).*

In the case of *Vimala v. K. Veeraswamy*⁴⁸, maintenance was awarded to second wife under Section 125 of Criminal Procedure Code, 1973 on the basis of the circumstances. Here, appellant asked for maintenance from respondent. The respondent defended that the appellant was not really his legal wife as he had married another woman but he was unable to prove this otherwise. Hence, the appellant was held entitled to maintenance.

A narrower view was taken in *Savitaben Somabhat Bhatiya v. State of Gujarat*⁴⁹. In this case, a woman, claiming to have been legally married as per the to customary rites and rituals, pleaded that her husband had an illicit relationship with a woman named Veenaben. The husband denied the marriage and pleaded that Veenaben whom he had married 22 years ago was his lawful wife. The Gujarat High Court upheld the validity of his marriage with Veenaben. Endorsing this verdict, the Supreme Court held that it is inconsequential that the man was treating Savitaben as his wife. The Court held that however desirable it might be to observe the predicament of a grievous woman, who unwillingly goes into wedlock with a wedded man, there is no extension to include a woman not legitimately wedded within the expression of 'wife'. The Bench held that this inadequacy in law can be altered distinctly by the Legislature. There is no extension for enlarging it by introducing a woman not legally wedded in the expression wife.

Thus, the Apex Court has been very active in determining the legal status of such relationships through its various decisions. Even though, the concept of live-in is taken to be as immoral in the eyes of the society, it is surely not illegal in the purview of law. The Court has held that cohabiting with anyone comes under the right to life and cannot be called illegal. As mentioned earlier some pre conditions has to be determined to get the maintenance in Live in relationship.

Laws are born taking into consideration the changes in society and since there is a substantial increase in the number of such relationships, laws should be made to govern the same. In *Indra Sarma vs V.K.V.Sarma*,⁵⁰ the Court said ,

“Parliament needs to consider over these issues, bring in legitimate legislation or make an appropriate alteration of the Act, so ladies and the

⁴⁸ *Vimala v. K. Veeraswamy*, (1991) 2 S.C.C. 375 (India).

⁴⁹ *Savitaben Somabhat Bhatiya v. State of Gujarat*, A.I.R. 2005 SC 1809 (India).

⁵⁰ *Indra Sarma vs V.K.V.Sarma*, A.I.R. 2014 SC 309 (India).

youngsters, conceived out of such kinds of relationships be secured, however those sorts of relationship probably won't be a relationship in the character of a marriage.”

EMERGING CONTEMPORARY CONCEPTS ACROSS THE WORLD

The institution of marriage has seen a constant evolution since its inception. Pair-bonding began in the Stone Age as a method to organize and regulate the sexual conduct of individuals and for establishing a stable and safe institution for child-rearing. With time, this concept has taken shape into various forms in distinct cultures. The option of living together before marriage is becoming a fad. Cohabiting together, maintaining a sexual relationship without getting married, is also on the rise among people.

People choose to live together so that they get to know each other by spending time and saving the living cost. Quite of them view this as a “trial run” for marriage. But the success of a marriage is not little dependent on two people living together. It is observed that the rates of remaining married are higher for the people who do not reside together prior to their marriage. Cohabitation can also be a factor in the rise of people delaying marriages. Hence, the average age to marry is increasing steadily.

Cohabitation has increased during last many years. The following are some recent trends prevalent for cohabitation:

- The number of individuals opting for marriages are reducing.
- Majority of the couple want to test the bond by cohabiting together before marriage.
- The notion of premarital sex is not a distant concept.

Marriage rates are decreasing and it does pose problems for the stability of the society. The benefit of enjoying the benefits of marriage without tangling themselves in the duties and obligations of marriage seems very attractive and lucrative to the youth.

The patterns specific to marriage and family are becoming varied in the present times. Taking a closer look at this drift, one can observe a shift from a joint family to a nuclear

family, from a nuclear family to a live-in relationship, and what more live-in-relationship to just lovers.⁵¹

Globally, monogamy persists to be the sole acceptable form of marriage, but associated forms have emerged especially in the recent past in America and Europe. This trend has further seeped into the fabric of Indian metro cities as reported by two popular magazines—India Today (2006) and Outlook (2007). Due to this, the familial bonds are losing its strength.

The individuals who are apprehensive of the idea of the emotional and legal burden of a marriage, choose for an easier alternative that comes by the name of “live-in relationship.” Studies find that such relationships are more prevalent in couples that are working. In America, even college students are seen opting for such a relationship. A report suggests that in Sweden, it is a common practice for individuals to stay together before marriage.

In Denmark, not marrying and cohabiting together is a practice known as 'marriage without paper' and in Australia, these couples are known as 'accepted couples'. This pattern has additionally saturated in India through some metropolitan IT habitats like Bangalore, Pune, Hyderabad, Chennai, Mumbai and Delhi. There is a private contract entered by the individuals in the case, rather than having a legal contract of marriage.

The constant need of the contemporary lifestyle has made single parent families common. The main reason behind the development of this trend is the instability in marriage and high divorce rates. Now, many developing and developed nations are accepting this trend. Trends also show the rise in teenage marriages in Western countries and pregnancy at the time of marriage makes itself a by-product.

Contrary to the trend of the lowering of marriage age, the age for marriage in India, Arab countries and some Sub-Saharan countries has been rising gradually. Due to the ease of moving into a live-in relationship, the age of marriage has been increasing in metro cities.

In today's world, people tend to procrastinate the thought of marriage and opt for living single so that they can pursue their careers and education is becoming common. People also

⁵¹ Puja Mondal, Emerging Patterns of Marriage and Family, Your Article Library, www.yourarticlelibrary.com/essay/emerging-patterns-of-marriage-and.../31311

tend to live unmarried throughout their lives. The reason behind this is the financial stability and independence of the youth.

These trends are because of new social changes. Couple staying away from the families for job in the country or out of the country are prone to such relationships. They stay in live in relationship and enjoy personal and financial freedom. This concept has resulted in many practices like delaying the marriage and if not satisfied with the relationship then they can leave any time. As in India there is no law for this, the Supreme Court has given some decisions and some relief to the affected parties. The Maharashtra government had taken a step to legalize live-in-relationship to protect women from cheating and harassment by the male partner which was later aborted.⁵²

CONCLUSION OR ... BEGINNING

Marriage is a sacred social institution in India. However, there are certain individuals who don't abide by the same view and do not mind trying new concept like live-in. Today Live-in relationship is not a taboo in our society to that extent as it was before, and is being accepted and increasingly followed by people. Society is changing and law has played a crucial role in defining change in the society. Society and law are instrumental in regulating one's conduct. As mentioned in the preceding chapters, there is change in the perception of the society about living patterns and law is also responding to the changed trends in the society and delivering the judgments in view of the changed scenario.

Domestic violence has been there in marriage and laws have been enacted to protect women against violence. Live in relationship is also not untouched by this type of violence and cases have been registered by the affected partners. The judiciary has been active in stating the rights of women in live-in relationships. The Protection of Women from Domestic Violence Act, 2005, protects both the wife (that is, in a relationship by marriage) and the partner in live-in (that is, in a relationship in the character of marriage). However, the partner can claim legal benefits only if the couple adheres to the conditions stated by the Apex Court in the case of *D Veluswami vs D Patchaimmal*.^{53,54}

⁵² Anuja Agarwal, Law and Live in Relationships in India, *Economic & Political Weekly*, (Sept 29, 2012).

⁵³ *D Veluswami vs D Patchaimma*, A.I.R. 2011 SC 479 (India).

⁵⁴ Order for maintenance of wives, children and parents

In June 2008, the NCW guided the government to bring women under the ambit of maintenance under Section 125⁵⁴ of the Code of Criminal Procedure. This approach was also supported in the case of *Abhijit Bhikaseth Auti vs State of Maharashtra & Anr.*⁵⁵

Since the SC has declared live-in relationships not to be illegal⁵⁶, people tend to believe that the legal system has started accepting such modern concepts – but in reality, this is not the case. If one gives a hard look to the judgements of the Court in various cases that are mentioned above, they will realise that they are, in fact, in alignment with the societal norms. The strong essence of orthodoxy embedded in our society does not accept or understand the concept of couples living together without marrying each other. The justice system also has no law that directly recognizes this concept.

The world has evolved and changed – it is time for the people to accept changes as well. Though the Supreme Court of India has declared live-in relationships not to be illegal, there is a need to formulate a separate and specific law that only deals with cohabitation. This law should clearly define a live-in relationship and list down all the rights of the individual partners involved. It should be able to provide provisions and protect the future of the children. This growing concept of partners living together urgently needs to be recognized by the world of justice. The Supreme Court has said in its one of the decisions that it can only give decision interpreting the law and cannot amend the laws. Parliament can only amend the laws and make some specific law concerning live in relationship. Though there is absence of any legislation that discusses the nature of such relationships, interpreting the law and safeguarding the rights of the women in the live in relationship and defining what could be the Live in relationship has given some relief to the effected partners. So we can say this is the just beginning and as The Protection of Women from Domestic Violence Act, 2005 has defined it and has given some protection, the time may come when law may be amended and live in relationship may be recognized by law.

Lastly, it is submitted that the concept of live-in relationship which though at nascent stage, is slowly emerging in our country. This kind of relationship, no doubt, is unacceptable to civil society which regards the same as against our cultural and moral values. The government being on a sticky wicket can neither dare to legalise such kind of relationships

⁵⁵ *Abhijit Bhikaseth Auti vs State of Maharashtra*, CrI.M.C.No. 2218 OF 2007 (India)

⁵⁶ *Payal Sharma alias Kamla Sharma Vs. Superintendent Nari Niketan*, A.I.R. 2001 All 254 (India).

fearing wrath from social quarters nor is able to ignore it owing to its inevitable acceptance in modern era. Thus, the government has recognized it in an ostensible manner under the Protection of Women From Domestic Violence Act 2005. Another important consideration of such a live-in relationship is the future of the child after the separation of partners. A legislation must be born to defend the child and its rights, and in a situation where neither of the parent wants the custody of the child, and also the right of inheritance of the child.