

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 3 | Issue 4

2020

© 2020 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at editor.ijlmh@gmail.com.

Live-In Relationship: The Legality of Unconventional Relationship in India

DEVANSHI LOHIA¹ AND RISHIKA GOYAL²

ABSTRACT

Marriage is a social institution and one of the important parts of Indian culture and tradition. Now, it is slowly opening its door for western culture which is totally different from Indian culture. One of the most critical incidents amongst it is the concept of live-in relationship that was not very clear in India until Hon'ble Supreme Court took a lead to fill the gap that was created in absence of any specific legislation. The idea behind cohabitation or conducting a live-in relationship is to test the compatibility of the partner, establish financial security before marrying, a way for polygamists to avoid breaking the law and couple consider their relation as being a personal and private matter which is not controlled by religious, political or patriarchal institution. This article attempts to highlight the present Indian Scenario related to live -in relationship which includes judicial and societal response towards it. It also deals with the international perspective of live in relationship by comparing its status in India with that of different countries in the world.

Keywords: *Marriage, Live-in relationship, India, International, Succession rights, Legal status, Judiciary, Society.*

I. INTRODUCTION

Customarily, Marriage is essentially the cornerstone of a social base from which essential legal rights and responsibilities arise. In Indian culture, marriage is one of the largest and most dynamic systems of human relations. It is called a marriage between man and woman in a rite defined by social tradition and law with specific responsibilities for the economic, sexual and childcare. According to Hindu law, marriage is considered to be a holy union wherein people perform their religious rights and duties. More than a contract it is considered to be what is known as sanskar or sacrament³.

India is opening its doors to the Western culture of society and there has been a drastic change in how the people of our country see relationships in the last few years. In India, there is an increasing tendency to enter into live in relationship. They are slowly and steadily opening

¹ Author is a student at Amity University, Kolkata, India.

² Author is a student at Amity University, Kolkata, India.

³ The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).

their minds to the possibility of premarital sex and live-in relationships. Live in relationships is defined as a relationship wherein a couple that is unmarried lives together on a long-term basis which resembles a marriage. The couple lives together, portray to the world that they are a couple but there is no solemnization of marriage and there are no legal rights and duties attached to it like in the case of marriage. Live in relationships are not governed by any law in India. Though cohabitation or living in relationships is not considered illegal, many people in Indian society view it as socially and morally incorrect. Despite of that, there has been an increase in the number of people living in live-in relationship because of several reasons. Nowadays, various relationships are breaking and the instances of separations have likewise expanded because of the baffle of the idea of the wedded couple. Subsequently, the youths are pulling in towards this new pattern of live-in relationship where they get the chance of living with their partners in an informal arrangement with no legitimate marriage. People also prefer to live in a live-in relationship to test their compatibility before they enter into legally wedded marriage. In living together respectively for quite a while, the couples become more acquainted with the positive and negative characteristics of one another and they can without much of a stretch decide whether the two of them can carry on with a wedded life or not⁴. This also saves them from the long court procedures and family drama when they decide to separate their ways. If the live in relationships continues for a long period then people agree to enter into a lawful wedding. This additionally decreases the odds of separation after marriage. Since, the majority of the Indian families follow the customary antiquated Indian culture; they are against this sort of relationship.

Despite the fact that there are thousands of couples who chose to live-in marriages, society often applies a stigma to such marriages. The majority sees live-in relationships as a dilution of values, and most importantly tradition. On the other hand, marriage is still most worshipped, despite the troubling rise in the number of divorces and relationship problems. Subsequently, it tends to be said that this pattern of live-in relationship generally exists in metro urban cities of India and it has not still reached to the limits of the rural communities of India. In such conditions, numerous legal and social issues have emerged which have become the subject of discussion.

(A) Research Method

1. Objective of Research

- To understand the meaning of live-in relationship in India.

⁴ Gagandeep Kaur, *Legal Status Of Live Relationship In India*, Volume 6 Issue 1(2), *JMRA* 217,217-218(2019).

- To analyse the status of live-in relationship and children born out of such relationship in India.
- To analyse role of the judiciary in granting legal status to live-in relationship in India.
- To analyse the already existing provisions in the laws of the country that provide protection to women in live-in relationships
- To suggest measures and recommendations so that the non-marital couple could be statutorily benefitted and to remove loopholes surrounding this issue.
- To analyse the societal approach towards the concept of live-in relationship in India.
- To examine and compare the status of live-in relationship in France, Scotland, USA, UK and Canada with India.

2. Research Hypothesis –

Live-in relationship is considered legal in the eyes of law, but India being a country full of culture and heritage, many people still consider it as a sin. There is no legal statute in India protecting and governing the concept of live-in relationship. However, judicial pronouncements has taken a lead to fill the gap that was created in absence of specific legislation. Still, the present laws are inadequate to deal with the emerging issues on the concept and hence there is a need of a specific law dealing with live-in relationship.

3. Research Questions –

- What is the legal status of live-in relationship and succession rights of children born out of such a relationship?
- What is the approach of the society towards live-in relationship in India?
- What is the status of live-in relationship in other countries?
- Why is there a need of a specific legislation on live-in relationship in India?

4. Scope of Research –

This paper looks forward to mainly study the concept of live-in relationships in the Indian scenario. The researchers have studied the problem of live-in relationship in India in the absence of any specific legislation governing the same. The research will cover the judicial pronouncements, societal approach and the status of children born out of such a relationship. The researchers have also provided some recommendations and suggestions to bring a change in the legal system of the country with the changing needs of the society.

5. Research Methodology –

The researchers have followed the doctrinal research method and have collected data from various secondary sources like articles and journals in writing the research paper. Further, the reference to all landmark's cases related to live-in relationship were dealt into. The researchers also conducted empirical research with a sample size of 46 participants and asked the participants some questions on live-in relationships as a survey for their study, the result of the same has been analysed in this paper.

(B) Chapterization –

The first chapter is the introductory part and provides the objective of the research which is to understand the meaning and scope of live in relationship in India.

The second chapter analyses the response of Indian judiciary to “live- in relationship” and status of child born under the same. It also deals with provisions interpreted by the courts under existing laws for covering the ambit of live-in relationships

The third chapter deals with the societal approach towards live in relationship and understands the status of social acceptance of the same in the Indian society.

The fourth chapter deals with the international aspect of live in relationship by comparing and examining the laws regarding live in relationship in India to the laws in other countries like US, UK, France, Canada, Scotland.

Under the fifth chapter the researchers have expressed her views as to why a call to separate law on this subject should be there so as to remove all the clouds of difficulties and protect the social values without infringing the individual liberties with the change of society

The next part of the research deals with the suggestions provided by the researchers and the last part is the conclusion.

(C) MEANING AND SCOPE

In simple terms, live in relationship can be known as a living arrangement. It can be defined as “an arrangement of living under which the couples which are unmarried live together on basis of sexual intimate relationship and/ or emotional for a long time period or it can be permanent in nature”⁵. In this kind of relationship, an unmarried couple lives together under the same roof and it resembles a marriage, but they do not get legally married. In a live-in relationship, the

⁵Shahistapathan, *Emerging concept of live in relationship*, Legal Service India (Aug 05, 2020, 10:30 AM), <http://www.legalservicesindia.com/article/1013/Emerging-Concept-of-Live-in-Relationships.html>.

couple do not have responsibilities that is applicable for couples bound in a marriage. The concept of this kind of relationship is based on the roots of individual freedom.

Today, cohabitation is a common pattern among people within the people living in the Western world. There are a number of reasons behind living together rather than binding oneself in marriage. These may include –

1. To test the compatibility of each other or;
2. To establish financial security before marrying
3. Effort to avoid divorce

Now the question arises is what is the legal definition live in relationship? The legal definition of live- in- relationship is “an arrangement of living under which couples which are unmarried live together to conduct a long going relationship similarly as in marriage.”

Still, the concept of live in relationship is very vague and unclear, there is no specific legislation in India to deal with the same, and the laws are in the form of court verdicts.

II. THE DEVELOPMENT OF THE PURVIEW OF LIVE IN RELATIONSHIPS: AN ANALYSIS OF JUDICIAL OPINIONS OVER THE YEARS

With changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today.”

— Honourable Justice A.K Ganguly in *Revanasiddappa v. Mallikarjun*⁶

The legal status of live in relationship lacks a definition. The status of the couples and the children born out of such a relationship exudes a blurred shadow. No law on the subject has been formulated but the Indian judiciary has taken a lead to fill the gap that was created in absence of any specific statute relating to live-in relationship.

In the case *Andrahennedige Dinohamy v Wijetunge Liyanapatabendige Blahamy*⁷ prior to independence, presumption for couples living together without getting legally married had begun. The Privy Council laid down the general proposition , “Where a man and a woman are proved to have lived together as a man and wife, the law will presume, unless the contrary be clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage.” The same principle was reiterated in the case of *Mohabhat Ali v. Mohammad Ibrahim Khan*⁸ wherein the court held the marriage to be legitimate as both the

⁶ (2011) 2 UJ 1342.

⁷ A.I.R. 1927 PC 185.

⁸ A.I.R. 1929 PC 135.

partners have lived together as spouse.

After independence, the first case in which the Supreme Court of India recognized the 50 years live in relationship as a valid marriage can be reviewed in *Badri Prasad v. Dy. Director of Consolidation*⁹. The Court however added that, “the presumption was rebuttable, but a heavy burden lies on the person who seeks to deprive the relationship of legal origin to prove that no marriage took place”.

The Allahabad High Court in 2001 again recognized the concept of live-in relationship in *Payal Sharma v. Nari Niketan*¹⁰. Payal Sharma had approached the Court when she was forced to live in Nari Niketan at Agra, following her arrest, along with Ramendra Singh, with whom she had a live-in relationship. Payal Sharma produced evidence stating the fact that she was 21 years old. On the basis of this evidence, the Bench consisting of Justice M. Katju and Justice R.B. Misra directed the authorities to set her free and observed that, “In our opinion, a man and a woman, even without getting married, can live together if they wish to. This may be regarded as immoral by society, but it is not illegal in the eyes of law.

A further sanction to live in relationships was given in the landmark case of *S. Khushboo v. Kanniamma*¹¹. The case of the prosecution was that the south Indian actress endorsed pre-marital relationship that will adversely affect the moral fabric of society. The Court, while quashing the charges framed on Khushboo, commented that there is no law that prohibits pre-marital relationships. A three-judge Bench consisting of Chief Justice K.G. Balakrishnan, Justice Deepak Verma and Justice B.S. Chauhan observed, that there is no law that prohibit pre-marital relationship. The Court further held that a living relationship comes within the ambit of right to life under Article 21 of the Constitution of India. The Court further held that live-in relationships are permissible and the act of two major living together is a right to life and cannot be considered as illegal or immoral.

In later part of 2010, the Delhi High Court also decided the status of live-in relationship in *Alok Kumar v. State*¹². The complainant who had child of her own was in a live-in relationship with the petitioner, who had not even divorced his previous wife and had a child. Justice S.N. Dhingra tagged the nature of such relationship is a walk-in and walk-out relationship and there are no strings attached to this relationship, neither this relationship creates any legal bond between the parties, which otherwise is created in marriage. Thus, people cannot later complain

⁹ A.I.R. 1978 S.C. 1557.

¹⁰ A.I.R. 2001 All 254.

¹¹ A.I.R. 2010 S.C. 3196.

¹² 2010 SCC Online Del 2645.

of infidelity or immorality if they choose to have “live-in relationships”.

The prerequisites for a live-in relationship to be considered as valid was laid down by the Supreme Court in *Velusamy vs. D. Patchaiammal*¹³ It provides that the couple must be of legal age to marry or qualified to enter into a legal marriage. It also stated that the couple must have cohabited by their own choice and portrayed themselves to the world that they are spouses for a significant time. The Court held that not all relationships will amount to marriage and get benefit under Domestic Violence Act. Simply spending a week together and one-night stand would not make it a household relationship. It additionally held that if a man has a “keep” whom he maintains financially and uses mainly for sexual reasons or potentially as a slave then it would not come under the purview of marriage in the court of law. Therefore, to get such benefit under DVA 2005 one has to be prove the same by documentary evidence produced before the Court.

In *Chanmuniya v. Chanmuniya Kumar Singh Kushwaha*¹⁴, the High Court declared that appellant wife is not entitled to claim maintenance under Section 125 CrPC on the ground that only legally married woman can claim maintenance. The Supreme Court struck the judgment delivered by the High Court and held that women in live-in relationships are equally entitled to all the claims and reliefs which are available to a legally wedded wife and awarded maintenance to the wife saying that provisions of Section 125 CrPC must be considered in the light of Section 26 of the PWDVA, 2005.

The Court in the *Indra Sarma v V.K.V Sarma*¹⁵ held that “when the woman is aware of the fact that the man with whom she is in a live-in relationship and who already has a legally wedded wife and two children, is not entitled to various reliefs available to a legally wedded wife .But the Supreme felt a need to extend Section 2(f) which defines “domestic relationships” in PWDVA, 2005 so as to include within its ambit the victims of illegal relationships and also include children who are born out of such relationships and have no source of income .Further, the Supreme Court listed a number of criteria’s which should be kept in mind by the Court to determine whether live-in relationship would come under the purview of “relationship in the nature of marriage” in the Domestic Violence Act. The grounds which were stated were neither strictly binding, nor restrictive. The guidelines are as follows¹⁶:

¹³ A.I.R. 2011 S.C. 279.

¹⁴ (2011) 1 SCC 141.

¹⁵ A.I.R. 2014 S.C. 309.

¹⁶ Amit Anand Choudhary, *Couples Living Together will be presumed Married: Supreme Court Rules*, TOI, Aug 15, 2020.

1. Duration of period of relationship

Section 2(f) of the DV Act has utilized the articulation "at any point of time", which implies a reasonable time frame to keep up and proceed with a relationship which may shift from case to case, contingent on the reality circumstance.

2. Shared household

The expression has been defined Under Section 2(s) of the DV Act and, henceforth need no further elaboration.

3. Pooling of Resources and Financial Arrangements

Supporting one another, or any of them, monetarily, sharing ledgers, getting unflinching properties in joint names or in the name of women, long haul interests in business, shares in isolated and joint names, in order to have a long-standing relationship, might be a controlling variable.

4. Domestic Arrangements

Entrusting the duty, particularly on the women to run the home, do the family unit exercises like cleaning, concocting, keeping up or up keeping the house, and so on means that a relationship in the idea of marriage.

5. Sexual Relationship

Marriage like relationship alludes to sexual relationship, not just for joy, but for passionate and close connection, for procreation of children, in order to give enthusiastic help, friendship and furthermore material love, caring and so on.

6. Children

Having kids is a solid sign of a relationship in the idea of marriage. Gatherings, along these lines, expect to have a long-standing relationship. Sharing the obligation regarding raising and supporting them is likewise a solid sign.

7. Socialization Out in the Open

Holding out to the general population and associating with companions, relations and others, as though they are a couple is a solid situation to hold the relationship is in the idea of marriage. Lately in a case *Nandakumar v. State of Kerala & Ors*¹⁷ on 20.04.2018, the Supreme Court struck the judgment delivered by the High Court and allowed the appeal stating that freedom

¹⁷ A.I.R. 2018 S.C. 2254

of choice would be of Tushar (daughter) with whom she wants to live with and it cannot be said that marriage between the parties is null and void. The Bench added that even if the boy and girl have not attained the age of marriage, they can live together under the concept what is known as live in relationship

III. LEGAL STATUS OF CHILDREN BORN OUT OF LIVE-IN RELATIONSHIP

Now, the question arises about the right of child born out of live-in relationship. It was first time in the case *S.P.S. Balasubramanyam v. Suruttayan*¹⁸, the Supreme Court held that if a man and woman have cohabited under same roof for a long period of time, it will be presumed under Section 114 of the Evidence Act that they live as husband and wife and the children born to them will not be illegitimate and the Court further interpreted the status of the child to an extent that it shows conformity from Article 39(f) of the Constitution of India which state that “*the State shall, in particular, direct its policies towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation*”¹⁹.

The Supreme Court in *Tulsa v. Durghatiya*²⁰, reiterated the rule that there would be a presumption of marriage when there has been long cohabitation and the child born out of such relationship will no longer be considered as an illegitimate child. For the child to be legitimate, the parents must have cohabited for a long period of time for the society to recognise them as couple and they shouldn't be in a “walk-in and walk-out” relationship.

The Supreme Court in the case of *Bharata Matha v. R. Vijaya Renganathan*²¹ dealt with the legitimacy and succession of property rights of child born out of a live-in relationship and held that such a child may be allowed inherit the property of the parents, if any, but doesn't have any right against Hindu ancestral coparcenary property.

The Supreme Court on 31-3-2011, in the case of *Revanasiddappa v. Mallikarjun*²² held that, birth of a child out of such relationship has to be viewed independently irrespective of the relationship between parents. It was that stated that a child born out of such relationship should be entitled to all the rights and privileges that is available to a child who is born out of valid marriages.

Therefore, the child born out of a live-in relationship is legitimate children and has the right to

¹⁸ A.I.R. 1994 S.C. 133.

¹⁹ INDIA CONST. art. 39(f).

²⁰ A.I.R. 2008 S.C. 1193.

²¹ A.I.R. 2010 S.C. 2685

²² (2011) 2 UJ 1342

inherit property of the parents.

IV. PROVISIONS INTERPRETED BY THE COURTS UNDER EXISTING LAWS FOR COVERING THE AMBIT OF LIVE-IN RELATIONSHIPS

The law which specifically deals with live in relationship is still absent. Yet, the Court has granted few rights by interpreting and amending the existing legislations so that there is no injustice and misuse of such relationship. Various legislations are discussed below²³–

(A) Domestic Violence Act, 2005

The most interesting reform that the legislature has acknowledged and brought about in is the Protection of Women from Domestic Violence Act, 2005 to include females who are not legally married but rather are living with the male individual which is in a nature of marriage. Though live-in relationship is not defined under this Act but the Court have interpreted Section 2 (f) of the said Act which state “couple lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family”²⁴.

The Court by virtue of aforementioned provision has interpreted the expression “relationship in nature of marriage” and have included live-in partner, being in a relationship in the nature of marriage and sharing the household to be covered within this definition. Thus, they have some basic right to protect themselves against the abuse of relationship and giving them right to all remedies which is available to a legally wedded wife under this Act.

(B) Criminal Procedure Code, 1973

In 2003 the Malimath Committee report on “Reforms in the Criminal Justice System submitted several recommendations under the head “offences against women”²⁵. One of its recommendations was to amend the word “wife” in Section 125 of the Code of Criminal Procedure to include a woman who is living in with a man for a “reasonable period”. Later, in October 2008, the Maharashtra Government accepted the proposal of amendment to the Code of Criminal Procedure as applicable to the State of Maharashtra. To this alteration, section 125 CrPC was previously incorporated in order to avoid vagrancy and destitution for a wife/minor child/old age parents, but the same has now been extended to partners of a live-in relationship

²³ Amartya Bag, *SUCCESSION RIGHTS IN CASE OF LIVING IN RELATIONSHIP: AN ANALYSIS IN THE INDIAN CONTEXT*, SSRN.

²⁴ The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

²⁵ Committee on Reforms of Criminal Justice System, (Mar 2003) https://www.mha.gov.in/sites/default/files/criminal_justice_system_2.pdf.

by judicial interpretation²⁶. Basically, it expresses that if a female who has been in a live-in relationship for reasonably period of time, she has the right to legitimate privileges as that of a legally wedded wife and can claim maintenance under Section 125 CrPc.

(C) The Indian Evidence Act, 1872

Section 114 of the Indian Evidence Act states that the Court may presume the existence of any fact which it thinks is likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. Therefore, if a man and woman have cohabitated under same roof for a long period of time, then there would be an assumption of marriage under Section 114 of the Evidence Act²⁷.

V. SOCIAL ANALYSIS AND IMPACT OF LIVE IN RELATIONSHIPS IN INDIAN SOCIETY

Within the Indian Culture, the idea of marriage is so profoundly engrossed that if two individuals of opposite sex participate in sexual activity without being married, it is considered a sin, and then those couples have to face societal crunch and pressure. Marriage in India is not only a link between a man and woman, but also a link between families, and thus a great deal of caution is taken when two people get married, but when two people of opposite sex live together in a relationship, society not only questions their integrity, but also begins to question their family upbringing, and therefore parents often do not encourage staying in live in relationships. Metropolitan cities like Bombay, Bangalore, Delhi and a few others are accepting the concept of live in relationships as an authentic form of relationship but the circumstances are not same all over the country. Individuals in many parts India do not have a positive viewpoint towards live in a relationship. Numerous individuals in India accept that live in relationships are only an approach to satisfy the sexual wants and henceforth it is equivalent to prostitution, anyway this sort of attitude needs social moulding and individuals need to comprehend that couples don't go for live in relationship since they need to satisfy their sexual wants. However, the significant purpose for selecting live in relationship is that before marriage both the couple need to see whether they are compatible with one another. Freedom and liberty are the foundation of democracy, and these two values must be upheld in every democratic society. Fortunately, the new generations are much more open-minded and broad-minded when it comes to living in relationships, and have made it clear that the restriction of society must not harm individual freedom, and it must be left to the individual to decide what

²⁶ Ajay Bhardwaj v. Jyotsna, 2016 SCC Online PNH N707.

²⁷ *Supra* note 16.

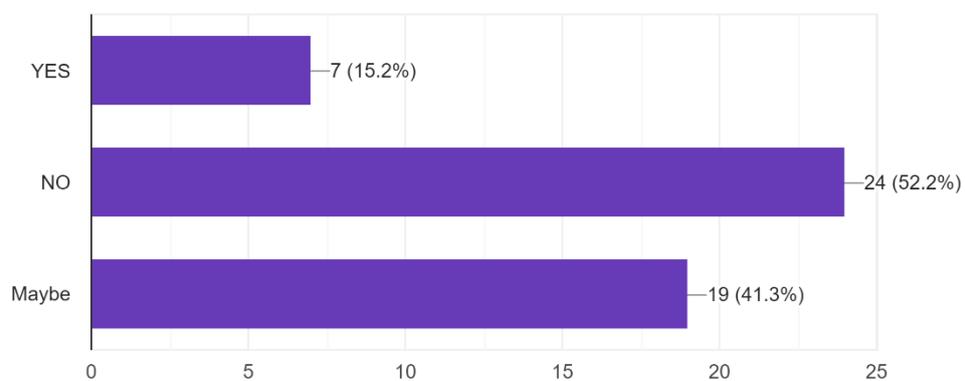
is better for himself/herself²⁸. The idea of living together without marriage is taken from the Western world and would thus introduce logical thought and make people more open-minded and allow them to think widely. In a way, living in relationships is beneficial to society, particularly to the Indian Society as it reduces the scope of divorce in the future.

(A) SOCIAL ANALYSIS –

The authors of this paper conducted a research and asked five similar questions in regard to the concept of live in relationships to check the level of familiarity and encouragement towards such a relationship in India. Below are the questions as well as the responses –

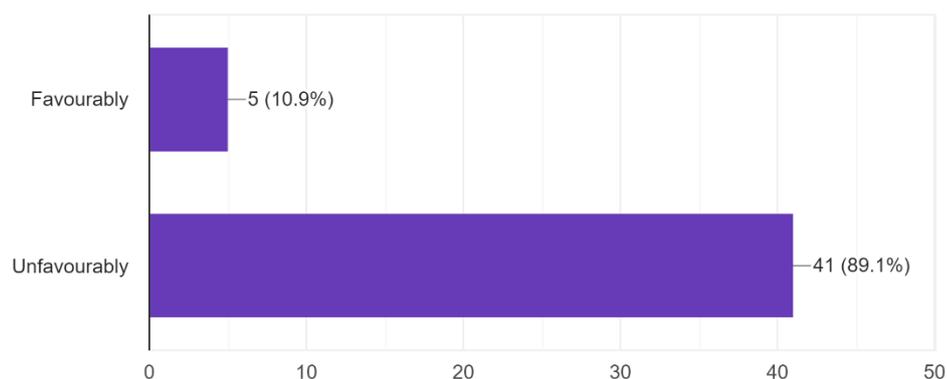
Do you think Indian society is ready to accept Live-In Relationship?

46 responses



How would your parents react if you decide to live in with your partner?

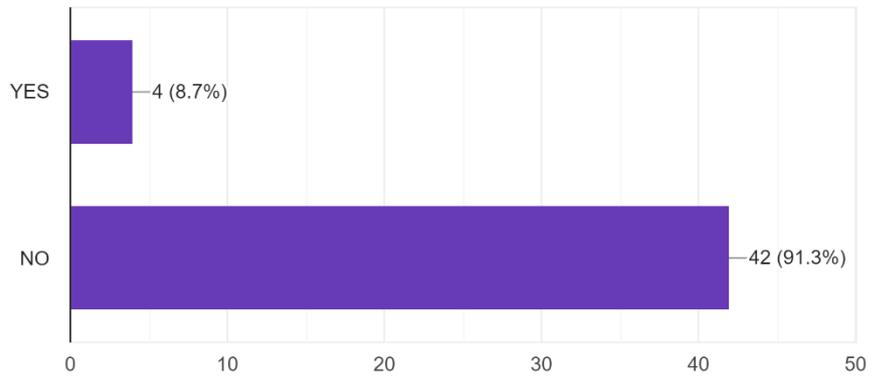
46 responses



²⁸ Dr.Rabbiraj. C, *Socio-Legal Dimensions of Live-In-Relationships in India*, Volume 19, Issue 7, Ver. VI. IOSR-JHSS. 25, 25-28 (2014).

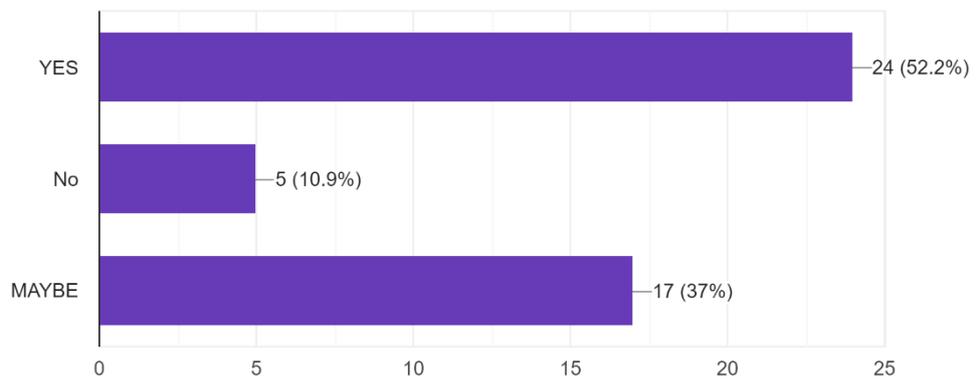
Does living in deteriorate the sanctity of marriage?

46 responses



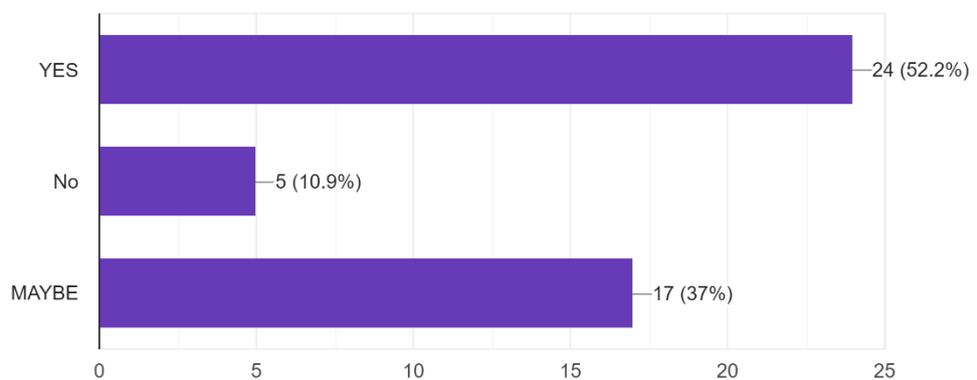
Would you prefer to live in with your partner before marriage?

46 responses



Would you prefer to live in with your partner before marriage?

46 responses



From the above survey, we can say that the Indian culture is split over whether or not to continue living in a live in relationship. One part of the society argues that marriage is a sacrament and is thus important for the legalization of the sexual relationship between a man and a woman and say that living in a relationship undermines the social structure of society and therefore causes uncertainty and therefore should not be recognized. The opposite side favours the concept of live in relationships and promote that we live in 21st Century and henceforth youths ought to be given the opportunity to pick their partners and along these lines they ought to choose whether they are sufficiently good to go into a foundation like marriage.

The parents tend to live in denial and recoil at the thought of living-in because for them, it means sex for fun rather than procreation, which is implied by marriage. When asked whether the parents would be in favour of their children living in live in relationships, most of them disagree to idea of the same. They see marriage as a sacred ritual, established as it has been since time immemorial. Living in with someone in the Indian society have consistently been considered as the shrugging of taking up of an obligation. Many parents adapt to the mentality of past ages and dislike the very idea of a live-in connection which they mark as being western impacted and a destroyer of our way of life and social qualities.

In the recent times, globalization and the interruption of the western culture in the Indian culture has driven the younger generation to have an expansive supposition and judiciously make sense of what they need. It must be recognized that interpersonal bonds and marriage cannot be pressured by society to create a socially acceptable unison unless and until the couple wishes it to be. The freedom to choose what one wants is the fundamental essence of a democratic country like India, without the cringe of a moral and ethical question.

VI. STATUS OF LIVE IN RELATIONSHIPS IN DIFFERENT COUNTRIES

The Supreme Court while pronouncing various judgements have held that live-in relationships are not illegal in the eyes of law and comes under the ambit of Right to Life under Article 21 of the Constitution of India. Hence, it is necessary to look at the legal status of live-in relationships in different nations around the world. Many nations in the world have recognized live in relationships and have arrangement and laws for the same. In some countries, it is considered illegal under Sharia laws but on the other hand in developed countries like USA, UK, Australia and many more consider it to be legal. Heterosexual couples who are in a live-in relationship are known as “co-habitant”, same sex couples are called as “civil partners”.

(A) UNITED KINGDOMS:

Live in Relations in the United Kingdom are primarily protected by the Civil Partnership Act,

2004. Although a man and a woman living together in a stable marital partnership are sometimes referred to as "common law partners," the term is not necessarily true in law in England and Wales. The Government assumes that living-in couples owe more than that to each other to be deserving of the word. According to a note from the Home Affairs Section to the House of Commons in 2010, unmarried couples have no guaranteed rights to ownership of each other's property on breakdown of relationship. In case a couple cohabitating decides to separate from each other, property cannot be divided between them²⁹.

(B) UNITED STATES:

Live-in –relationships or cohabitation was illegal before the year 1970 in USA but it held the status of a common law subject of it fulfilled certain requirements. After some time, there were several sex legislation and it gave way for contracts to live together known as prenuptial agreements. Later the country made it legal for a couple to live together and gave them the same rights and obligations as that of a married couple. Cohabitors are not given the status of legal parents.

(C) SCOTLAND:

Cohabitation/Live-in-relationships is governed by the Family law Act, 2006 which legalised cohabitation in the country. This law came into force when there were 15000 cohabiting in the country. Certain conditions are laid down in Section 25(2) of the Act which the courts have to consider before identifying the couple co-habiting – (i) length of the period during which they were staying together, (ii) the nature of relationship in that period, and (iii) nature of any financial arrangements³⁰.

(D) AUSTRALIA:

The Family Law of Australia states that a “de facto relationship” can exist between two people of different or of the same sex and a person can be in a de facto relationship even if legally married to another person or in a de facto relationship with someone else.

(E) CANADA:

Cohabitation/live-in relationships are also considered legal in Canada. They are also known as common law marriage. Section 54 of the Family Law Act 2006 RSO 1990 governs live-in relationship and states that people who cohabit or wish to cohabit and who are not married can

²⁹Abhishek Kumar Singh, *Live-In Relationships: Impact On Marriage Institution*, Academia (Aug 10, 2020, 05:15PM), https://www.academia.edu/7341823/LIVE_IN_RELATIONSHIPS_IMPACT_ON_MARRIAGE_INSTITUTION

³⁰ *Ibid.*

enter into an agreement which will deal with all their rights and obligations in respect of their cohabitation, at the time when they cease to cohabit and their death. It was also deal with their property, right to education of their children but not the custody of their children and their support obligations³¹.

(F) FRANCE:

Live-in relationships in France are governed by the Civil Solidarity Pact of ‘*pacte civil de solidarite*’ or PaCS. It is a legally binding type of common relationship between two grown-ups for sorting out their joint life. It brings rights and duties, yet less than marriage. The couple who have registered under PaCS are no longer considered single in terms of their marital status³².

VII. A SEPARATE CODIFIED LAW ON LIVE IN RELATIONSHIPS – NEED OF THE HOUR

As already mentioned, there is no particular law which governs live in relationships and its legality in India. There is no legal definition of living-in-relationship, and thus the legal status of such connections is also unverified. Indian law does not grant any rights or obligations to living-in-relationship parties. However, the Indian Judiciary through several judgements has treated live in relationships as a legitimate form of relationship and clarified its status on several aspects.

Although this is a new concept, and the Indian social context is completely different from that of developed and other developing countries, the existence of Live in relationships has definitely made a mark in modern Indian public life, and the changes are widely visible, *India still does not have a separate legislation dealing with it. It is the duty of the judiciary to ensure that the law is adapted according to the changing social scenario. Although the courts have tried, through various judgments and case laws, to obtain a clear picture of the status of living-in-relationships, it remains unclear on various grounds and there is an urgent need for different sets of rules and regulations and codifications in relation to living-in-relationships, the child born out of it and in cases of termination of such relationships.*

In the opinion of the author, there needs to be a separate law dealing with this current issue in order to protect the interests of living spouses, children born from such relationships and all those persons who are likely to be impacted by such relationships. Live-in partners should also

³¹ *Ibid.*

³² **Chakshu Thakral, Live In Relationship as a new form of Family, WisdomcruX (Aug 12, 2020, 02:30 PM),** <https://www.wisdomcruX.lawtimesjournal.in/index.php/2018/07/18/live-in-relationship-as-a-new-form-of-family/>

be aware of the legal consequences arising from such living arrangements.

VIII. SUGGESTIONS AND CONCLUSION

(A) SUGGESTIONS

With the above research, the researchers suggest that the following steps should be taken to give live-in relationship a clear status and remove all ambiguities present along with protecting individual rights.

- The Parliament should try and enact a separate statute for live-in relationship rather than trying to bring it within the purview of the existing laws as such ineffective approach would complicate the judicial mechanism.
- Children born out of such relationships must be given a right in the ancestral property in addition to self - acquired property.
- People who commit bigamy should not be allowed to enter into a live-in relationship and should be penalized for the same.
- The term ‘wife’ contained in section 125 of Crpc should be amended as to include a woman having “relationship in the nature of marriage”
- In India we can adopt the model of registration of non -marital live-in relationships as provided in France
- The Domestic Violence Act, 2005 should extend to all categories of women whether they are in domestic relationship or any other extra-marital or adulterous relationship irrespective of the moral-status of their relationship

(B) CONCLUSION

Live-in relationship is still considered a taboo in the Indian society. Through various judgement the courts have proclaimed that living together is not an offence and children born out of such relationship can no longer be called illegitimate. There are several debates going on in the public forum, there are various recommendations and opinions from various authorities and Commissions to bring a change in the existing law or bring a new law in force but there has been no amendments in patent law as well. The “live-in-relationship” is no longer a new concept in the Indian society. According to survey conducted above, it can be witnessed that there has been an increase in the number of population favouring the same. However, there is need to formulate and make laws clear, all the confusions and loopholes regarding live-in relationship should be removed and it should be given the status as marriage hold in the society.

The rights and obligations of the couple cohabiting should be determined and the children born out of such a relationship must have a secured future as we find that it is protected in laws of different countries around the world. There have been efforts made by the Indian courts to improvise the condition of women borne out of live-in relationship to bring them under the purview of Domestic Violence Act, 2005. Hence, the judiciary's effort to bring live-in relationship out of the closet and safeguard the interest of such couples and children is a welcome step to the gradual social changes.
