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Live in Relationship: A Curse to Marriage Institution

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ABSTRACT

In this article author tries to explain how live in relationship is impacting on the social institution called marriage. Author further tries to explain the existing and the future of live in relationship and analysis the concept of marriage in Indian society. The article also explains the maintenance and the inheritance rights of a person who is in live in relationship. The main objective of this paper is to bring out the negative impact of live in relationship in the Indian culture where marriage is considered to be the sacrament.

I. INTRODUCTION

Live-in relationship or in other words Cohabitation is a concept where two people (not exactly of opposite sex) live together who are not bonded by any legal agreements or laws and wants to live together to satisfy their needs. The idea of Live-in relationship came from western countries. The purpose of two opposite genders or same genders going for a live-in relationship is to have a better understanding about each other before tying a knot, or travel for some distance as they have identical line of thinking, or they might want to reduce their financial expenses fulfilling their mutual desires etc. The practice of live-in relationship is not an uncommon act in western or the so called developed countries.

As per the Indian culture, two people, a male and a female are bonded together physically, mentally, emotionally and legally to travel in their lives till they are alive sharing love, affection, emotions, sorrows, happiness, and so forth. All these bindings between these couples are phenomenally known as marriage. Marriage is one of the oldest institutions in the society but yet modern. Marriage concerns human relationships at every stages and has survived all odds since time immemorial.

Today's young generation of India wish to experiment by living in relationship rather than getting married. Though, Live-in relationships in India are not illegal, they are always considered as improper or immoral. Anyways, the numbers of live-in relationships are growing day by day in India as it has become a fascinating culture. The actual purpose of doing this practice is sometimes forgotten or ignored and hence leads to many uncertain things.

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Live-in relationship is a debatable topic as it is connected with different kind of issues that has impact on the society to a greater extent. Many religions in India like Hinduism, Sikhism, Islam, etc. don't agree with these phenomena as it is not preached by religious masters/gurus or not mentioned as follow able act in Indian cultural records. According to these religions, a man and a woman living together before marriage is a violation of tradition and culture. Despite, Live-in relationships are still chosen by modern youth and of course even by some middle-aged people as well.

So, let us see what makes them prefer Live-in relationships so attractive.

II. FREE FROM SOCIAL BONDS

Unlike marriage, live-in relationship is not bonded with any legal agreements or any social bonds. There will not be any barricades to attend invitations coming from either of the couple, means to say, if a woman gets any invitations from her relatives like birthday parties, get-together occasions, wedding invitations etc. man doesn't have any compulsions that he must attend them if feels not respected or not interested and vice versa for woman. The problems of social bonds are less in Live-in relationship when compared to marriage, as the duo won't care about the society and society doesn't care about them. Today, youth prefers to be like this, not attending relative gatherings and be more participative in other activities.

III. FREEDOM

The most likely point for any individual is freedom. This can be enjoyed by the couple without any restrictions. The couple can live as per their will and wish, and accept duties and responsibilities as per their convenience. If they feel that they can make a better coffee together then they can, otherwise they can go to coffee shop and have a coffee with their own expenses. Whereas in marriage, this much freedom won't be there as the couple have certain commitments to save money or lessen their expenses to meet their future needs.

IV. FINANCIAL RELAXATION

This is the most crucial thing that makes big difference in marriage and live-in relationships. Generally, married couples show more attention to their earnings and expenses and try to balance their family needs and act accordingly as per the earning potential of the couple. But in live-in relationships, both the parties earn and spend as per their needs and wants, it is up to them whether to share their earnings or not. There won't raise any financial conflicts between the live-in couple as they are aware of their earnings and spending, but is not the case with married couples.

V. LESS RESPONSIBLE:

Responsibility is a primary essential thing for a married couple that makes their family living standards. Married couple has to be more responsible about their family happenings such as taking care of the health of their family members such as children, parents and relatives, kith and kin etc whereas the couple in live-in relationship have no such limitations on being so responsible as the duo have equal space in the room. They can take it as they feel if responsible otherwise just leave it.

VI. NO DIVORCE, JUST CHANGE OF PARTNER:

If a partner is not happy or bored of living with him/her then he/she can quit from live-in relationship and choose another partner without any feelings and legal procedures as they define themselves before entering into the landscape that their journey would be a temporary drive. Whilst in a marriage, you cannot quit from the knotted relation if not interested to stay anymore. You need to go for legal proceedings to get divorced with the acceptance of both the parties in the presence of the court.

VII. CAN ENJOY MARRIED COUPLE'S BLISS:

Live-in couple can get a sneak peek into what your married life look like. Couple can know about each other's opinions and views on religion, sex, philosophies, politics, financials etc. It sometimes happens in married couples life that one feels how didn't I noticed this strange behaviour of my life partner before marriage? Though noticed nothing can be altered as compromises and adjustments are a part of married life unlike live-in relationship.

Ultimately, what matters is how both the parties are looking at live-in relationship, whether to understand each other before getting wedded or just to taste the married couples euphoria. The impact of live-in relationship on Indian culture is wide and immeasurable as the youth is getting fascinated to this culture ignoring the Indian traditions and customs.

A relationship largely depends on how you and your partner think about the relationship. If both you and your partner are really serious about the relationship, and everyday each one of you take decisions keeping in mind about the welfare of yourself and your partner, and both of you are ready to make necessary sacrifices for each other, then it is definitely a great sign. Your partner will be there for you when everyone else has left you and you really need someone's help. But if the relationship is those "just for fun" types, then lots of negative effects pop out. The worse situation is, if one of the partners "tells" that he/she is of type 1, but actually is of type 2.

I don't think that live in relationship should be encouraged. There are several reasons for this. Some of them are stated below:-

(i) If u love someone and trust him/her, then why do you afraid of giving it a name?

Marriage is a sacred institution where society celebrates the union of two souls, but live-in-relationship none of family members are involved and are uncertain about their children's future.

(ii) Taking the example of western country does not prove that it is good & should be practised. Do everything the western people do is right, so we should follow them blindly?

(iii) India is always known for its moral values and ethics. When the western people are attracting towards India because the love & warmth they found in Indian families (note family can be created only when a person get married), is it reasonable to follow live-in-relationship, just to show you modern and trendy?

(iv) Some say that it helps in the growth of an Individual-what it means that marriage does not let grow? The fact is that there are plenty of examples where people in the marriage are quite successful. The truth is that growth does not depend on the type of relationship-but on how you handle the difficulties.

(v) Moreover, live-in-relationships are totally insecure; they give joy of four days and lifelong stigma of "uncivilised behaviour". We are humans not animals so should show a civilised behaviour.

(vi) There are number of cases from small and metro cities where the boy fled after learning the girl's pregnancy, leaving her alone in the hand of society. Some killed the girl for not aborting the baby, so you can imagine what is consequences and future of live-in-relationship.

VIII. LIVE-IN RELATIONSHIPS ARE AGAINST INDIAN CULTURE:

Live – in relationship is a common trend in the western culture and is now a budding trend in India as well. But the question arises that does our Indian culture and its roots have accepted this culture. Lot of live in relations are not registered and if there is any kind of abuse conducted on the women, then they do not have the courage to fight against it and ultimately succumb to it. If somehow the live – in relation does not work, it gets all the more difficult to find a groom or bride and especially in case of women because of the rejection.

Every culture is different and it's not necessary that we should adopt all cultures from the west. Every country has its boundaries and respect for women which should not be crossed. Marriage is considered to be a sacred relation and with live-in relation we are mocking the

whole meaning of the term marriage. Though live-in relationships are a rising trend in urban India, our society is yet to accept it open-heartedly. It is still seen as 'taboo', especially by the elderly people. Often such couples are seen as social deviants, which mean that they are berated, criticised and often harassed for their individual choice. A society that divides couples in the name of caste, class and religion, cannot be expected to see a live-in relationship sans a harsh judgemental perspective.

The very advantage of being in a live-in relationship is its biggest disadvantage as well, which is lack of commitment. Anything from a small fight, disagreement, or a misplaced question can see either of the partners walking out of the relationship. Whereas, when a couple is married they will make every possible effort to save their relationship and seek solutions to problems and misunderstanding before choosing to split up. It is true that in a live-in relationship where there is no financial, social and legal binding, so the door out is always open for the couples.

Biologically, socially and emotionally women are at the worst receiving end if a live-in relationship fails to work out. In our society, where patriarchal norms rule in the social dictats, women are the ones who bear the worst burns of stepping out of conventions. It becomes difficult for them to find a good and understanding spouse after being in a live-in relationship with someone else. Also, women loose time with their biological clocks ticking away when a marriage or its initiation is delayed.

The children who are born in a live-in relationship are considerably affected by it. First of all, they may develop a lack of respect for rules and norms. And they also harbour an edge of mistrust in their hearts, especially if their parents separate. Secondly, after separation the father of the child holds no explicit legal ground to claim any custodial rights. It mostly depends upon the mother of the child to decide on the father's claims.

Live-in relationships often lack the depth of a marriage. The easy way out of a live-in relation makes people so comfortable in this setup that they end up delaying marriage as an option. Also, living together makes people used to their idea of enjoying personal and financial freedom; so many couples find it difficult to bear the responsibilities that a marriage brings along with it. Trust also becomes a questionable factor for those in a live-in relationship or who have come out of one.

Live in relationship is against the very grain of Indian culture. It's improper to ape the western cultures. The government too should set its priorities in order rather than be in the rat race with developed countries. India is growing, developing and becoming a modern nation. We can see that the Indian government is legalising many things which shouldn't be legalised and is

illegalising many things which should be legalised.

Living in a relationship, being a homosexual is just an ordinary thing for Indians now. Indians have adopted western culture and are very happy with it. But, still there are people who know their culture, their rituals, morals and values and are responsible citizens. Nowadays youngsters, teenagers, college goers think that carrying an expensive cell phone, having a cigar in their hand and a small shot of vodka in another hand is what life is all about and by doing these things they consider themselves as most happening people. Is it true? Deep inside I guess they also know that it is not true.

Live in relationship, if it reduces the chances of divorces as believed by people, then it will increase the chances of unwanted pregnancies also. If it will give both the partners equal rights, space in a relationship then it will increase the chances of suspiciousness.

IX. WHAT IS THE FUTURE OF LIVE IN RELATIONSHIPS?

When a girl becomes 18, she will move out of her house and start living with her boyfriend without caring about the respect and position of her parents in the society. Then what are parents for, don't they have the right to think about their daughters, is it only her life? Are parents just for nurturing their kids (to a certain age), fulfilling their wishes and finally expecting nothing out of them? Then what is the guarantee that there will be lesser number of fights between the couples. There will be break ups for sure and the relationship will result in adversely affecting the mental status or physical health of both, as it is very difficult to come out of a relationship soon.

Our society has a heritage of its own. It need not be influenced by western culture. Marriage has been and is a successful phenomenon. Live-in relationships are like BAND-AID thing. This is to say they are temporary and not good in long run, whereas marriages which are based on love, trust and commitment last a lifetime.

It's shocking to know that live-in relationship in India is more prevalent among youngsters than you thought. These relationships have been in existence for decades, but the focus has moved to them only recently. A live-in relationship leaves nothing to explore further about each other. Unrealistic expectations could cause ill-will and distance between the couple. Live-in relationship is not permanent; couple spends time together, enjoy and then move on. While in marriages, they vow to stay together for life long. Physical intimacy can be real fun at times but if you don't stay or marry the same partner then getting physical may cause guilt or depressing, especially in a girl.

Live in relationships lack the depth and stability of marriage. Trust often becomes questionable. And if a child is born from the live-in relationship, it is the most affected one. There will be legal issues related to custody and custodian if the couple moves out from the relationship. This will breed disrespect and hatred in the child for the partners when he/she grows up.

Marriage is a sacred contractual relationship in India. Marriage, has its legal consequences, entitles both the persons to cohabit; the children born out of a legal wedlock have legitimacy as legal heir; the wife is entitled to maintenance during and after the dissolution of marriage. In *Alok Kumar vs. State of Delhi*, the Delhi High Court has held that live in relation is walk in and walk out relationship and no strings are attached to it. This kind of relationship does not create any legal bond between the partners. It further held that in case of live in relationships, the partners cannot complain of infidelity or immorality.

The Hindu Marriage Act 1955 does not recognise 'live-in-relationship', nor does the Criminal Procedure Code 1973. The Protection of Women from Domestic Violence Act 2005 (PWDVA) on the other hand for the purpose of providing protection and maintenance to women says that an aggrieved live-in partner may be granted alimony under the Act.

Uncommitted relationships can cause an enormous amount of insecurity in people. With marriage, there was some sense of commitment. That commitment pulled you back if you went off the way. It put you back on track a little bit. Uncommitted relationships can cause an enormous amount of insecurity in people. This is what has happened in the West. Relationships have become so painful because they are constantly uncertain. People may do something because it seems fashionable right now, but most people do not have the stability of mind to handle such uncertainty. Desperately trying to hold on to somebody all the time just destroys a human being in so many ways. When he is constantly uncertain, a human being's capability to live comes down dramatically.

The oldest institution on earth concerning human relationships is marriage that has survived all odds all over the world. Despite doubts raised by people who suffer failure in marriage, strangely it is something that most aspire to reach at some point in their life. Those who fail once, wish to try it the second or even third time. Major reason that marriage is still relevant and will remain so in future is because children need security of home and must be raised by both parents for best results. Home is something to come back to, after a gruelling day. Home is where children thrive. For the sake of future generation it has to be preserved with all its sanctity but with flexible approach. Equally important reason to save it is because at the sunset of life it provides for companionship once children leave you to make their own homes.

All parents feel their children should live comfortable lives, they provide them with best possible resources, education and then wish to see them 'get settled'; in more simple terms see them get married, have a family and live happily ever after.

The institution of marriage is a very old concept. If we were to go back in time; we would not only find matrimony but even polygamy; a practice that thankfully is no more a part of our culture. It is hard to deny a fact that in a country like ours, family plays a huge role and marriage seemingly is the stepping stone or rather the foundation of nurturing this concept. The reason why marriage has been and still is a very popular institution is because it provides an individual with companionship, security and stability in life. Marriage, as argued lends a sense of responsibility in life; even though the person may or may not be ready to take this responsibility. But the traditional arguments and beliefs have not been able to restrain the current fast paced generation from finding a convenient solution.

Marriage is the foundation of the family unit. In this society and time, the family is the closest knit, self-perpetuating, self-protecting unit. It is necessary economically and otherwise to the society the way it is set up in present time. So one can be fairly sure that he who destroys marriage destroys the civilization.

Marriage is sheltered by the law and the society respects the relationship. While in Live in relationship, partners cannot get this benefit and they don't have their clearly defined obligations and rights. It is not fragile like live-in and cannot dissolve at any point. Married people give devotion and fidelity to their partners and they can share all their secrets with each other and also share their savings to buy possessions for the family. Live in relationships cannot match the legal rights, social recognition and emotional support that provided by a marriage.

In Marriage, Husband and wife are compliant to each other and they prepare to die for each other so the depth of love is supreme. If parents are cohabiting, then children's emotional development is poorer compared to married ones. This is literally due to the high risk of parent's break up. If they break up, the situation becomes complex with respect to their responsibility and custody of children.

The status of the female partner remains vulnerable in a live in relationship given the fact she is exploited emotionally and physically during the relationship. Moreover the psychological impact on children born out of this relationship would be very bad leading to mental diseases and criminal tendencies. All this would give rise to an unstable society. Marriage (also called matrimony or wedlock) is a socially or ritually recognized union or legal contract between spouses that establishes rights and obligations between them, between them and their children,

and between them and their in-laws. The definition of marriage varies according to different cultures, but it is principally an institution in which interpersonal relationships, usually intimate and sexual, are acknowledged. In some cultures, marriage is recommended or considered to be compulsory before pursuing any sexual activity. When defined broadly, marriage is considered a cultural universal.

The institution of marriage is an oldest social institution and provides a foundation on which whole super structure of civilization and prosperity is built. Different personal laws have given different meanings to the concept of marriage ranging from sacramental to contractual union. As far as position in India is concerned, India is still looked by the world as a country where marriage occupies a sacramental position both philosophically and practically. But with the change in the modern setup the traditional concept of marriage has changed and now-a-days a change is visible in our society from arranged marriages to love marriages and now to live-in-relationships as well as gay marriages. Despite all these developments and even granting a level of legal legitimacy to the live-in relationship or gay relationships, it is still largely perceived to be an immoral relationship in our society. In the absence of legislation to deal particularly on live-in relationship as well as gay relationships in India, the partners in these types of relationships often face hardships. At last, the judiciary is looked upon as the last resort to deal with such issues.

Marriage as an institution is very old and popular in most parts of the world. Marriage is very well accepted and supported by the society as it involves many religious rituals which strengthen the family system. It leads to sustain a longer relationship unless and until it is annulled either by the husband or the wife. The institution of a marriage is an oldest social institution and provides a foundation on which whole super structure of civilization and prosperity is built. It is an unconditional sacrament in which husband and wife are submissive to each other. Marriage is defined as the legal status, condition, or relation of one man and one woman united in law for life, or until divorced, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex. But in the present millennium, the meaning of this relationship has changed drastically. Marriage (besides blood relationships) is not the only relationship that exists between men and women. Such other relationships between men and women can be beautiful, complex and difficult. What view society forms about a particular relationship is generally reflected in its laws. Law has been playing vital role in social change. Society is constituted of individuals. Law and society try to regulate the conduct of an individual. The institution of marriage being foundation of the society, interest of the society is well protected by keeping

the foundation of institution of marriage strong. Since the matter relating to marriage falls within the purview of personal law, each religion in India is having its own law relating to marriage along with other family matters. As we are observing changing living patterns in the society, law has to respond properly keeping in view the societal and constitutional values in its mind. India has strong cultural roots that focus purely on morality and social ethics. But things are changing now. The definition of marriage given under different personal laws does not carry that much influence in the eyes of young generation, as a new concept called live-in-relationship has been introduced in the society by them. Though Indian society has not accepted such relationship, but the problem pertaining to certain aspects like the status of the children born out of such relationship, share in property, violence against women who are into such relationship, stands unanswered. Our Apex court's decisions pertaining to maintenance, share in property to children born out of such relationship, are in par with the decision given in case of marriage. The matter is also true in case of homosexual marriages as the 21st century is also witnessing homosexuality, which is making strides towards equal recognition of their families. All these changes are having serious ramification on the institution of marriage and try to change the customary concept of marriage. Hence, it would be abomination to hold such relationship in par with marriage and every effort should be made to see that recognition of such unions should not cause unnecessary upheaval in the set societal norms.

X. CONCEPT OF MARRIAGE UNDER DIFFERENT PERSONAL LAWS:-

(A) MARRIAGE UNDER HINDU LAW:-

According to the tenets of Hinduism, marriage is sacred relationship, a sacrament and a divine covenant meant for procreation and continuation of family lineage. Vedic era was considered as golden era of the Hindu society. Hindus described marriage as the most important of all Samskaras and the only Samskara for a woman. Every Hindu was enjoined to marry, to enter the Grishastha ashrama. According to Vedas marriage is a union of bones with bones, flesh with flesh and skin with skin, the husband and wife become as if they were one person.

The purpose of marriage was to enable a man by becoming a householder, to perform sacrifices to the gods and to procreate sons. Apasthamba Dharamsutra indicated that main purposes of marriage were the wife enabled a man to perform religious rites and was mother of son or sons who were supposed to save a man from hell. Marriage meant unity of personality as in Rigveda it is enshrined, "Be thou the mother of heroic children, devoted to the gods, be thou queen in thy father-in-law's household, may all gods unite the heart of us into one".

The term of marriage used by Hindus is Vivaaha, which literally means carrying away the

bride. But Hindu marriage could be consecrated in broadly eight forms. The first four namely Brahma, Daiva, Arsa and Prajapatya which were Dharmya (proper or Approved) and Asura, Gandharva, Rakshasa and Paisacha were called Adharmya (improper or unapproved). A marriage was legally completed only when the proper rites like homa (offering in the sacred fire); Panigrahana (taking the hand of the bride) and Saptapadi (the bride and groom taking seven steps together) were performed.

Marriage is not undertaken by a Hindu utterly for worldly purposes (artha and kama) but mainly for the fulfilment of the religious duties with the association of wife who is therefore called Dharmapatni. According to ancient texts and Shastras, a Hindu marriage is a Samskara giving rise to certain religious duties and obligations like making of offerings to the Devas, oblations to Pitrus etc. For the performance of those religious duties, the participation of wife is essential. The continuance of lineage (santati) through the son is also a religious duty as he brings salvation and save the ancestors from hell. Manu explained that, “let mutual fidelity continue till death,” which depicted the eternal character of Hindu marriage. Manusmriti deepened the concept of eternity in Hindu marriage by the verses as, “husband and wife are united to each other not merely in this life to come” and “a true wife must preserve her chastity as much after as before her husband’s death”.

The Hindu concept of marriage which at one time considered as Indissoluble, Permanent and Eternal union with the growth of civilization, now is understood as voluntary union for life of one man and woman to the exclusion of all others. The eternal factor of sacramentality and indissolubility of Hindu marriage has vanished with later legislative developments by granting the right of divorce.

(B) MARRIAGE UNDER MOHAMMEDAN LAW:-

In case of Muslim marriages, religion and law are indissolubly bound and it cannot be said that a Muslim marriage is not a religious rite. According to the traditions of the Prophet, marriage is considered to be a religious duty (Sunnat), and it is obligatory on those who are physically fit. The Muslim jurists regard the institution of marriage as partaking the nature of both ibadat (devotional acts) and muamlat (dealing among men or worldly) affairs. As a matter of fact it is only the form of marriage i.e., in Muslim law marriage is contractual and non-ceremonial which requires ijab (proposal), qubul (acceptance), competency of parties (parties must not be maharin) i.e. within prohibited degree and legally incompetent like minor in age or unsoundness of mind, consent of wali i.e. guardian, presence of witnesses shahadat except for shias, majlis-e-wahid (ijab and qubul should be made in one sitting), moreover the words of

marriage contract must be clear and unambiguous. The purpose of marriage is for protection of society and in order that human beings may guard themselves from foulness and unchastity. Marriage among Mohammadans is not sacrament but purely civil contract in which consent of parties plays an important role and indissolubility is not the rule and nature. So, though Muslim marriage is a religious duty (sunnat) but it differs from the original Hindu concept of marriage which describes marriage as an indissoluble union continuing even after death i.e. eternal in nature. The fundamental concept of individual liberty and responsibility, which is feature of Muslim jurisprudence, is mingled in the concept of marriage (free volition of the parties to marriage) as well as in its dissolution, though its dissolution have become one sided engine of oppression in the hands of the husband.

(C) MARRIAGE UNDER CHRISTIAN LAW:-

With the advent of Christianity, all over the World, marriage came to be regarded as sacrament with its indissoluble character. The Christians believe that marriage is made in heaven and no man could put them as under. There is no escape from the holy tie, only death is the escape route to marriage. This is proclaimed by Holy Scriptures that god was the author of the law of sacramentality and indissolubility of marriage. It was he who constantly supervised and ordained the stability of marital tie, its utility and firmness. Marriage is such an institution that if man and woman choose wrongly as parties to marriage, they should take their cross on their back gladly as a duty owned to god. Marriage has to be sanctified by religious ceremonies performed by clergy and church was supreme ecclesiastical authority in matrimonial matters as early in seventh century in England and other parts of the world.

To sum up, Christian concept of marriage had been that marriage being obligatory for every human being, was a sacrament, had been ordained by god and was indissoluble solemn union entered into by the parties with their full and free volition for life so as to prevent fornication (a moral sin) and with a view to provide safeguard against depopulation. But according to later Canon law, marriage could be contracted by consent alone without any physical act or ecclesiastical ceremony, provided the consent was notified in words of the present tense (pre verba de prasenti). But with reformation in Christian world, it divided into Catholics and Protestants. Protestants with lofty ideals of liberty, equality and pursuit of happiness gave further impetus to accept the marriage as contract and considered it as dissoluble union. As in other human affairs, so in marriage people had the opportunity to rectify their errors. According to Protestants, freedom implied to correct their errors of choosing his or her life partners, by getting their marriage dissolved which had failed in substance. Protestants propounded the notion of contractuality and dissolubility of marriage while Catholics continued to hold the

notion that marriages are made in heaven. With the background and plane of English law, in India too in the later part of 19th century divorce was introduced by statutes The Native Convert's Marriage Dissolution Act of 1866 and Indian Divorce Act, 1869.

XI. LIVE-IN-RELATION AND MARRIAGE: INHERENT CONTRADICTIONS:-

Live-in relation i.e. cohabitation is an arrangement whereby two people decide to live together on a long-term or permanent basis in an emotionally and/or sexually intimate relationship. The term is most frequently applied to couples who are not married. The legal definition of live in relationship is "an arrangement of living under which the couple which is unmarried lives together to conduct a long-going relationship similarly as in marriage". It is an informal arrangement between intended parties although some countries allow registration of such arrangements between the couples. This form of relationship does not thrust the typical responsibilities of a married life on the individuals living together. The foundation of live in relationship is individual freedom. People generally choose to enter into such consensual arrangements either to test compatibility before marriage or if they are unable to legally marry or simply because it does not involve the hassles of a formal marriage. It may also be that couples in live-in relationship see no benefit or value offered by the institution of marriage or that their financial situation prevents them from being married on account of marriage expenses. Whatever be the reason it is quite clear that even in a traditional society, where the institution of marriage is considered to be sacred, an increasing number of couples choose a live-in relationship, sometimes even as a permanent arrangement over marriage. In such situations, various social, economic and legal issues have arisen and continue to do so.

Persons may find themselves in live-in relationships either "by choice" or "by circumstance". Relationships by choice are those where the partners live together. It may exist even where one or both of the partners are already legally married to another person and yet engage in such a relationship as a matter of preference. Relationship in this category is wholly voluntary. There are live-in partners who are consciously choosing to live as live-in. They do not want a status of formal marriage, they are happy to continue to live as live-in partners only.

On the other hand, relationship "by circumstance" occur where one or both partners are under the mistaken assumption that a valid marriage exists between them or where parties thought they had validly divorced from persons married or cannot afford to be married again due to economic reasons. This may occur in case where the man or woman was led to believe that the man was unmarried, divorced or widowed and married him. If the man and woman followed all rituals of the marriage but already had a wife or husband living at such time from whom, he

or she had not divorced as yet, this marriage will not be recognized in law. The relationship that subsisted thus becomes in the nature of a live-in. Live-in-relationship is non-marital relationship prevailing in West with the name of common law marriages, informal marriages or marriage by habit, deemed marriages etc. It is a form of interpersonal status which is legally recognized in some jurisdictions as a marriage even though no legally recognized marriage ceremony is performed or civil marriage contract is entered into or the marriage registered in a civil registry. These deemed marriages are legally binding in some countries but have no legal consequences in others.

XII. LEGAL FACET OF LIVE-IN RELATION: A JUDICIAL ANALYSIS:-

The practice of men and women living together without being in a relationship of formal marriage has been in practice for a long time. It was not at all considered “immoral” for men to have live-in relationships with women outside their marriage. Concubines (avarudh stris) were kept by married men. In feudal society sexual relationship between man and woman outside marriage was totally tabooed and regarded with disgust and horror. Following Independence, as society matured, bigamy was outlawed and women became more aware of their rights. This practice is now illegal though this has not prevented people from violating this law. The last few decades have however seen the advent of a new form of ‘live-ins’, where men and women cohabit together without entering into formal marriage even though there is no legal hurdle preventing them from doing so. The traditional Indian society however disapproved of such living in arrangements, for several reasons. First, society revered the institution of marriage. Secondly if a woman was financially dependent on the man, the instability of such a relationship created a subservient status for the woman. Till recently and even now in small towns and cities, there is much social criticism and stigma attached to such relationships, forcing them to remain largely secretive.

No law at present deal with the concept of live-in-relationships and their legality in India. None of the statutes dealing with succession or marriage such as the Hindu Marriage Act, 1955, the Special Marriage Act, 1954 or the Indian Succession Act, 1925 recognise live-in relationship directly. Under section 17 of the Hindu Marriage Act, children born out of such relationships are considered to be legitimate and have been granted the right to succession. In India the judicial attitude is somewhat in favour of holding such relationship at par with marriage and granting all such rights that are available to married couples. These are some of the legal aspects peculiar to Indian conditions:

XIII. LEGALITY OF MARRIAGE AND LIVE-IN RELATIONSHIP:-

At present in India, persons entering into marriage are recognised and governed either by their personal laws or by civil law such as the Special Marriage Act, 1954 while marriage between Hindus is considered being a samakara (Sacrament), whereas under Muslim, Christian, Jewish and Parsi laws marriages are contracts. Marriage solemnized and /or registered under the provisions of the Special Marriage Act, 1954 are a civil contract. In case of Hindus certain ceremonies are required to be performed to solemnise a marriage as provided under section 7 of the Hindu Marriage Act, 1955. As the Hindu social system stands today, socio- religious norms are clear that a married daughter changes her surname and gotra after marriage and acquires the gotra and surname of the family of her marriage whereas females in live- in partners have no means of recognition as such. The concept of live-in relationship, the freedoms and liberty it offers to partners and most importantly the fact that an increasing number of urban couples in India are choosing to live-in rather than marry is a new development that has turned the traditional Indian marriage on its head.

In other countries like the United Kingdom and the United States of America, live-in partners may register themselves in a “domestic register” or formally enter into a “cohabitation contract”, after which they receive legal recognition as domestic partners. However in India the law is yet to provide for such recognition. As a result women in live-in relationships are not recognised by their partner’s surname, for any legal or financial matters including opening a bank account, submission of income tax return, applying for loans, etc. They retain their identity as an individual and are not recognised as a domestic partner. Consequently live in couples can separate informally without any formal divorce or the intervention of a court. However, the law does have a concept called “presumption of marriage” which could be used to recognise such relationships. If a man and woman are living under the same roof and cohabiting for a number of years, there will be presumption under section 114 of the Indian Evidence Act that they live as husband and wife and the children born to them will not be illegitimate and also when a man and woman live together for a long spell there would be a presumption in favour of their having been married, unless rebutted by convincing evidence.

XIV. MAINTENANCE RIGHTS OF LIVE-IN PARTNERS:-

There are uniform provisions for maintenance available to all married persons of any religion under Section 125 of the Code of Criminal Procedure, 1973. The need to include live in female partners for the right of maintenance under Section 125 of Criminal Procedure Code, 1973 was

supported by the judgment in *Abhijit Bhikaseth Auti v. State Of Maharashtra and Others*.² In this case, the Supreme Court observed that it is not necessary for woman to strictly establish the marriage to claim maintenance under sec. 125 of Cr.P.C. A woman living in relationship may also claim maintenance under Sec.125 Cr.P.C. In the case of *Chanmuniya v. Virendra Kumar Singh Kushwaha*,³ the Supreme Court observed that “in those cases where a man, who lived with a woman for a long time and even though they may not have undergone legal necessities of a valid marriage, should be made liable to pay the woman maintenance if he deserts her. The man should not be allowed to benefit from the legal loopholes by enjoying the advantages of a de facto marriage without undertaking the duties and obligations.” Court also wanted to interpret the meaning of “wife” broadly under Section 125 of Cr.Pc. for claim of maintenance, so that even women in live-in relationship can claim maintenance. The Maharashtra Government in October 2008 approved a proposal suggesting a woman involved in such a relationship for a 'reasonable period' should get status of a wife. The Malimath committee had also suggested that the word 'wife' under Cr.P.C. be amended to include a 'woman living with the man like his wife' which means the woman would also be entitled to alimony. The Malimath Committee and the Law Commission of India also suggested that if a woman has been in a live-in relationship for considerably long time, she ought to enjoy the legal status as given to wife. However, recently it was observed that a divorced wife is treated as a wife in the context of Section 125 of CrPC but the live in partners cannot get divorced, and hence cannot claim maintenance under Section 125 of CrPC.

XV. INHERITANCE RIGHTS OF LIVE-IN PARTNERS:-

Hindu law gives the widow of a male Hindu the status of a class I heir under section 8 of the Hindu Succession Act, 1956 giving her right to one share with absolute ownership over her deceased husband's property, if he dies intestate under section 10 of the Hindu Succession Act, 1956. Likewise, under section 15(a) of the same Act of 1956, a husband would have the right to inherit a share of his wife's property upon her death. In Muslim law, a widow having children is entitled to 1/8th of her deceased husband's property and 1/4th of it, if they are childless. A husband would similarly inherit 3/4th of his wife's property in case of the former and half otherwise, upon his wife's death. But partners in a live-in relationship do not enjoy an automatic right of inheritance to the property of their partner. The Hindu Succession Act, 1956 does not specify succession rights to even a mistress living with a male Hindu.

² AIR 2009 (NOC) 808 (Bombay).

³ SLP (Civil) No. 15071/2009 MANU/SC/0807/2010

XVI. RIGHTS OF CHILDREN BORN OUT OF LIVE-IN RELATION:-

The child born through a Live-in relationship enjoys the same rights of succession and inheritance as are enjoyed by a child through a married couple under the Hindu Marriage Act. Notwithstanding that marriage is null and void under section 11, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act. Thus in order to keep up the spirits of law in the righteous direction and to subside the social evils wherein illegitimate child was denied his rights the Hindu Marriage Act has granted legitimacy to children born through marriages which are not valid. Hence such definition brings within itself the ambit of live-in relationships and children born through such relations.

While still the other laws have not guaranteed such legality to children born through such relationships and therefore the status is dwindling for legal status of children which results in extensive misuse of the provisions and still escape liability. Hence the legality of a child is doubtful in other laws and has to be proved beyond reasonable doubt. A child born out of a live-in relationship is not entitled to claim inheritance in Hindu ancestral coparcenary property (in the case of an undivided joint Hindu family) and can only claim a share in the parents self-acquired property.

Marriage is a culturally sanctioned union between two or more people that establishes certain rights and obligations between the spouses and their children, and between them and their in-laws and with the whole World. The definition of marriage varies according to different cultures, but it is principally an institution in which interpersonal relationships, usually intimate and sexual, are acknowledged. When defined broadly, marriage is considered a cultural universal. Marriage is an institution which can join together people's lives in a variety of emotional and economic ways. Cohabitation is not a pre-requisite of marriage. To consider live-in relationship and homosexuality legality would be as anathema by those who view institution of marriage as relevant and absolutely essential to hold together the social fabric today.

Our country is known for its rich culture and heritage. Every effort should be made to stabilize the institution of marriage so that our future generation can stabilize their lives and wind it with morality. It is for the youth to build a strong nation and maintain the rich decorum of our culture and heritage. And if live in relationship and homosexual marriages are legalized, then the very

definition of marriage put forth in our personal laws needs to be amended or there may be no requirement to define marriage at all. It is to the legislature and the courts to look into the matter seriously and protect the institution of marriage and in the long run the institution of family which is the very basis of sound legal system.

No relationship enjoys the social and legal recognition as a marriage does. Since a marriage is protected by law, couples expect loyalty and fidelity from each other. There is a lot of emotional investment in the relationship. Though marriages also have their ups and downs, when it comes to commitment and security, no relationship can match a marriage. There is no denying that live in relationships are proving to be extremely popular, particularly among educated urban classes, for whom living in is a declaration of independence, as a way of keeping away from the restrictions and inequalities of institutionalised marriages. But a live-in relationship can never replace marriage. It can never offer the kind of security and emotional fulfilment that a marriage does.

It is hard to deny a fact that in a country like ours, family plays a huge role and marriage seemingly is the stepping stone or rather the foundation of nurturing this concept. The reason why marriage has been a popular institution is because it provides an individual with companionship, security and stability in life. Marriage, lends a sense of responsibility in life. The Institution of Marriage is a bond that lasts a lifetime.

- **M** is for *Mutual*, a special love shared by two
- **A** is for *Assurance*, that we both will always be true
- **R** is for *Respect*, shown towards each other each day
- **R** is for *Reliability*, to be there what come may
- **I** is for *Integrity*, two people now sharing one life
- **A** is for *Affection*, between the husband and wife
- **G** is for *Genuine*, a trustworthy life-long friend
- **E** is for *Enduring*, a vow to love without end.
