

**WHETHER LIVE-IN RELATIONSHIPS NEED TO BE**  
**REGULATED-**  
**A STUDY, FROM A FEMINIST PERSPECTIVE**

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## **I. INTRODUCTION**

The institution of marriage in India is a sacred or contractual relationship, which results in the ensuing of various rights to the parties in the marriage, e.g.: conjugal rights, presumption of legitimacy of children, rights of succession, right to maintenance, rights against demand of dowry, against domestic violence, against adultery, against bigamy, etc.

A "*live-in*" relationship may be defined as an arrangement of living under which the couples who are unmarried live together to conduct a long-going relationship, similarly as in a marriage.

The concept of live-in relationships is not new to the Indian society. The major difference from earlier times and the present with regard to live-in relationships is that now people have begun accepting this status in front of the society, which earlier used to be hidden due to social or other fears. This concept has arisen as some people choose to avoid the circumstances or responsibilities/liabilities that ensue as a result of marriage, but still would like to enjoy the benefits of cohabitation (as a couple). The liabilities and status that become guaranteed by law as a consequence of a marriage are mostly avoided when people opt for a live-in relationship. Live-in relations provide individual freedom, but due to the insecurity it carries with itself, there needs to be a law to curtail its ill effects/disadvantages. The concept of live-in relationship is not new in India and has been recognized and accepted in certain parts of Gujarat way back in 1991. "Maitri Karar" (Friendship Agreements) were entered into between a married Hindu man and his "other Woman" in order to give a sense of security to the said woman and were also found to be registered with the District Collectorate.

The position of live-in relationship is not obvious and there is no proper definition of it. The ambit of live-in relationship is unclear. There is no specific legislation in India on this subject; the laws are in form of court verdicts pronounced by the renowned judges of the Supreme Court and High Court. The legislation does not give clear cut ruling regarding the rights of women. The courts do show willingness in recognizing their rights. Judiciary has accorded **legality** to the concept of live-in relationships and has protected the rights of the parties and the children of live-in couples. There is no law which makes a live-in relationship illegal. But on the other hand, there is also no specific legislation granting legality to it and setting out the rights and obligations under it.

## **MERGING TWO INSTITUTIONS**

'Relationship in the nature of marriage', is the expression which judiciary has taken up for validating the live in relationship concept, one thing which foremost comes into our mind that, people opt live in relationship to avoid the legal responsibility, but judiciary is forcing them to bind with in a parameters of obligations that are attached to marriage. If judiciary is having such orthodox view relating to live in relationship, then is there any point to talk about such concept, which has already taken a shape of 'indirect marriage' in which they have to bind by the legal obligation.

Pooling of financial and domestic arrangements, sexual relationship, entrusting the responsibility, bearing children, socialization in public and intention and conduct of the parties are some of the other criteria which has been declared by court to consider the relation between the party, if couple living in live in relationship fulfills these conditions, then court will bind them to follow the law, which means court will consider such relationship as a legal marriage.

While talking about certain benefits of live in relationship due to which people opt for live in relationship is as follows, there are no complications compared to the kinds you have in a marriage. You can be in the relationship for as long as you want, and this way you keep it fresh and happy. The bondage of being there with each other for the rest of your life might get heavy on your heart and the slightest provocation or disturbance can bring in that fear. This fear is not there in live in relationships.

Social scientists have already identified grave social problems like drug abuse, young age pregnancy of adolescent girls, violence and juvenile delinquencies and many felt. Some people consider it as walk in and walk out relation, so no strings attached to such relation. On the other hand, the section advocating freedom for choosing live-in relationship has hailed it as a pragmatic move. The recent observation, as they see, should be welcomed because it lays emphasis on individual freedom. It opens frontiers to understand the personality traits of their partner well. Since there are no legal complications in a live-in relationship, walking out of a live-in relationship would be easier than walking out of a marriage. Metro life that throws floodgates of challenges also supports this kind of an arrangement. The individuals should be free to live as they think best, subject only to the limitation that their actions and choices should not cause harm to others.

The point no legal obligation is of main concern regarding this research, as court by applying orthodox views are merging those two concept into one, they are trying to cover the live in relationship by the ambit of marriage institution, so that problem will be resolved.

It is a very personal and subjective matter which might or might not work for everyone, but it should be left upon the person entering into such relation, if they are entering into such relation with their consent, and by knowing the fact that no legal cause will arise after such relationship, then let them suffer and let them decide what they want to do, court should not bind them or force them or we should say court should not fix the parameters to change the concept of such relationship and stop coining new name for this kind of relationship.

We strictly **need the law** which will govern such relationship in a manner that will not let any of the party to such relation suffer, even children born out of such relationship should not suffer to any extent, that means remedial measures are require in the strict sense, **but do we really need to change the concept of live in relationship**, which court these days are trying to do.

People who choose to marry are fully aware of the legal obligation, unlike the people who opt for live in relationship, even they are aware but they do not want to follow the obligation that comes with the marriage, so they are aware that they (both men and women) don't want to follow the obligation. But at the other hand we need to protect the women who might not be independent, and who will completely fall after such relationship, that is the reason we are of the view that law should be made in this regard, in spite of changing the characters of live in relationship, which would not solve this problem, rather it will complicate the matter.

Pros and cons are always there, on one hand we can say that if any party to such relationship suffer any harm, it will be there duty to come along such problem, as they have chosen this relationship instead of knowing the facts that, no obligation will arise out of such relationship, but on the other hand, what about the women who will not be able to manage herself or what about the children born out of such relationship, so there is a need of separate law exclusively for this kind of relationship which will cover all the possible aspect of this relationship, instead of encroaching the principle of these relation or merging with the other institution such as nature of marriage.

A fierce debate across the country is going relating to this kind of relationship, some of the writer says that it should be regulated according to the nature of marriage so that no one will be facing any kind of harm, some of them are of the views that a separate legislations should be made

to regulate this kind of relationship so that every area, every conflicts will be resolved as per the rules and regulations.

For our concern, it's all about recognition by law, not merging those two concepts, live in relationships should be govern by separate legislations so that conflicts will be resolved, in spite of giving benefits under domestic violence act and dowry prohibition act, we are of the concern that these benefits even if society does not want to give the benefits, all should be left to the legislation, instead of merging two institution.

In the case of *S. Khushboo vs. Kanniammal & Anr.*, the Supreme Court held that living together is a right to life. Live in relationship may be immoral in the eyes of the conservative Indian society but it is not illegal in the eyes of law. In this case, all the charges against Kushboo, the south Indian actress who endorsed pre-marital sex and live in relationship were dropped. The Court held that how it can be illegal if two adults live together, in their words living together cannot be illegal.

So the facts are clear, that it is not illegal to live together, but what matters is the rights and obligation, which should be given or not, that should only be revolved after providing separate legislation for this concept.

## II. STATEMENT OF THE PROBLEM

Since the last decade has seen an increase in live-in relationships, especially in the Indian society, it has led to the rise of multiple issues/problems. There have been situations where the female live-in partner has sued for maintenance, for conjugal rights, against domestic violence, for rights to succession, in relation to the male partner. Also there have been several cases wherein allegations of rape were put against the male partner, simply because the relationship ended and did not result in marriage.

Although the Courts have recognised a few rights of the female partners in these relationships, e.g.: right of protection against domestic violence, etc., yet when these relationships end or the couple or either of the partner (particularly male partner) decide to end this relationship, it is the female partner whose situation becomes extremely vulnerable, especially where she was or had become financially dependent on her male partner. Even in the cases where the courts have recognised live-in relationships and granted a few rights to the partners (female), there are certain requisites which are to be present for a relationship to be recognised as a live-in relationship, and if a particular case does not possess such requisites, it would not be considered as a live-in relationship, and no rights would be available, again to the detriment of the female partner in the relationship.

Therefore, the main problem herein, is the lack of availability of rights to the female partners in a live-in relationship as against the male partner as well as the doubts created by the judgments of various courts regarding the status of live-in relationships and the rights resulting from them.

### III. LITERATURE REVIEW

- **Primary Data**- such data as has been collected through Questionnaires during the research process through questionnaires and analysed in the following pages.
- **Secondary Data**-
  - Malimath Committee Report on Gender Crimes of 2003
  - Recommendations of The National Commission for Women, to the Ministry of Women & Child Development, in 2008.
  - Various Judicial Pronouncements, such as-
    - (i). Badri Prasad v. Deputy Director of Consolidation- AIR1978 SC 1557
    - (ii). Payal Katara v. Superintendent, Nari Niketan, Kadri Vihar-2001 (3) AWC 1778
    - (iii). Lata Singh v. State of U.P.-AIR 2004 SC
    - (iv). S. Khushboo v. Kanniammal & Another- AIR 2010 SC
    - (v). Alok Kumar v. State of Delhi- Delhi High Court 2010
    - (vi). D. Velusamy v. D. Patchaiammal- AIR 2010 SC
    - (vii). Abhijeet B. Auti v. State of Maharashtra & Others- Bombay HC 2008
    - (viii). Koppiseti S. Subramaniam v. State of Andhra Pradesh- AIR 2009 SC
    - (ix). Varsha Kapoor v. UOI & Others- Delhi HC 2010
    - (x). Bharat Matha & Others v. R. Vijaya Renganathan & Others- AIR 2010 SC
    - (xi). Indra Sarma v. State of Karnataka- SC 2013
  - Various Articles found online at the following (as accessed on 25<sup>th</sup> September, 2014):
    - (i). Anonymous, "*Status of Live-in relationships in India*" at [www.helpline.law.com/family-law/SLRI/status-of-live-in-relationships-in-India.html](http://www.helpline.law.com/family-law/SLRI/status-of-live-in-relationships-in-India.html).
    - (ii). The Administrator of the site, "*Live-in Relationship: Legal Status*" at [www.gangothri.org/node/33](http://www.gangothri.org/node/33).
    - (iii). Bhinder, Manbir, "*Live-IN Relationships- In a Marriage Centric India*" at [www.legalservicesindia.com/article/print.php?drt\\_id=1618](http://www.legalservicesindia.com/article/print.php?drt_id=1618).
    - (iv). Solanki Sharma Parul, "*LIVE-IN RELATIONSHIP : A COMPARATIVE APPROACH*", available at [file:///C:/Users/SamsungRV409/Desktop/Livein/6\\_Parul\\_Solanki\\_Sharma\\_2544\\_Research\\_Communication\\_VSRDIJTNTNTR\\_August\\_2013.pdf](file:///C:/Users/SamsungRV409/Desktop/Livein/6_Parul_Solanki_Sharma_2544_Research_Communication_VSRDIJTNTNTR_August_2013.pdf)
    - (v). Goyal Swathy, "*Live-in relationships*", available at <http://www.legalservicesindia.com/article/article/live-in-relationships-211-1.html>



#### IV. RESEARCH OBJECTIVES/QUESTIONS

The major rationale behind the study is to see whether there is a need to grant legal status or rights to the parties to a live-in relationship, or is it simply enough for the task to be left to the courts. Since the parties themselves chose to be in a relationship that does not grant any statutory protection, is it fair to put obligations upon a partner simply because the other partner is not satisfied or happy due to the separation, and is therefore, suing for various rights, which in the first place, they both chose to avoid.

Yet the Courts in India have accepted the right to “live-in” as a part of Right to Life guaranteed under Article 21 of the Constitution. Granting this concept a constitutional protection has therefore, led the courts to also protect the rights of the parties (particularly female partner) to such a relationship. But even while doing this task the Courts have left out a large number of female live-in partners from the scope of protection guaranteed by them. Therefore, it becomes essential to study what constitutes “live-in” relationship in the eyes of the Courts, which rights are and are Not guaranteed to such partners and whether there has arisen a need to regulate such relationships.

##### Objectives:

- (1) To study the definition of “live-in relationships” as accepted by the Indian Courts and those accepted in various countries world over.
- (2) To study the various specific rights that have been guaranteed by the courts in India to the parties to a live-in relationship and those guaranteed in foreign countries.
- (3) To study whether a need has arisen to regulate live-in relationships, so as to protect the female partners from harassment and exploitation, particularly in India.

#### V. HYPOTHESIS

**Whether there is a need to regulate the concept/institution of “live-in” relationships in the present scenario, wherein the Apex Court has accepted that “right to live-in” as a part of Right to Life and also when the female partners in such relations are seeking rights as against their male counterparts, relating to maintenance, succession, etc.?**

## VI. RESEARCH DESIGN

The research into this issue would be both *empirical*, using *primary* data as well as *doctrinal*, using *secondary* sources of data. The research would mainly be *qualitative*, but to be supported by *quantitative* data.

## VII. RESEARCH TECHNIQUE

The data for empirical research was collected through questionnaires and sampling method. The area of the research was also expanded outside of GNLU. For the purpose of sampling, Random method was adopted.

The data for the doctrinal research was mostly collected through internet information databases, since there is little data available on this issue in books. However, regarding the basic issues concerning a legal marriage, books were referred to.

### Universe

It was stated in the proposal that for empirical research the universe shall be limited to the undergraduate students of GNLU, both male as well as female, above the age of 18 years. But the researchers were able to collect data from outside of GNLU as well, and therefore, the universe of the research was expanded. Now the research included males and females within and outside of GNLU, above the age of 18 years.

### Method for data collection

The data for the research was collected, for *empirical* method through sampling using one questionnaire for all the participants.-**Primary Data**

And for *doctrinal* method, the data was collected through various cases, articles, Indian as well as Foreign judgments and statutes regarding the status of live-in relationships, and the rights resulting therefrom.-**Secondary Data**

### Limitations of the study

(i) Since the researcher is not known to any persons who are in a live-in relationship, therefore, the universe for the study is limited to GNLU students as well as people outside of GNLU, above the age of 18 years, who are not presently in a Live-in relationship.

(ii) There are several rights and obligations that arise from a legal marriage. But the research is limited to only those rights which have been sought for in various cases and are provided by the Courts in India as well.

## VIII. DATA ANALYSIS

### ANALYSIS OF INTERNATIONAL & FOREIGN JURISDICTIONS

With the Supreme Court declaring that the right to live together is a part of the right to life, it is necessary to look at the legal rights and obligations for live-in couples around the world. While heterosexual couples who are in a live-in relationship are called "co-habitant", same sex couples are legally defined as "civil partners". But the law on cohabitation rights is largely evolving and many participants are still unaware of their rights and duties to each other.

#### •Scotland-

Family Law (Scotland) Act, 2006, for the first time identified, and in the process by default, legalised live-in relationships of over 150000 cohabiting couples in the country. Section 25(2) of the Act states that a court of law can consider a person as a co-habitant of another by checking on three factors; the length of the period during which they lived together, the nature of the relationship during that period and the nature and extent of any financial arrangements in the event of breakdown of such relation, section 28 of the Act empowers a partner to apply in court for financial support. This law applies in the case of separation of the partners and not death of either partner. If a partner dies, the survivor can move the court for financial support within six months from the estate of the deceased.

#### • Phillipines-

In Phillipines, the rights to property whether it is moveable and immoveable property, is governed by co-ownership rules. Article 147, of the Family Code in the Phillipines "provides that when a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership."<sup>1</sup>

#### • China-

In China, those who opt for live-in relationship are supposed to enter into a contract in order to safeguard the rights of children born out of such relationships.

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<sup>1</sup> Solanki Sharma Parul, "LIVE-IN RELATIONSHIP : A COMPARATIVE APPROACH", available at file:///C:/Users/SamsungRV409/Desktop/Livein/6\_Parul\_Solanki\_Sharma\_2544\_Research\_Communication\_VSRDIJ\_TNTR\_August\_2013.pdf

**•France-**

Live-in relationships in France are governed by the Civil Solidarity Pact of 'pacte civil de solidarite' or PaCS, passed by the French National Assembly in October 1999. Cohabitation is defined as a "de facto stable and continuous relationship" between two persons of different sexes or of the same sex living together as couple. The pact defines the relationship as a contract, and the couples involved as "contractants". The contract binds "two adults of different sexes or of the same sex, in order to organise their common life." For a valid contract to exist, the contractants "may not be bound" by another pact, "by marriage, sibling or lineage."

**•United-Kingdom-**

Live-in relationships in the United Kingdom are largely covered by the Civil Partnership Act, 2004. Though a man and woman living together in a stable sexual relationship are often referred to as "common law spouses", the expression is not wholly correct in law in England and Wales. The Government feels that live-in partners owe each other more than that to be worthy of the term. As per a 2010 note from the Home Affairs Section to the House of Commons, unmarried couples have no guaranteed rights to ownership of each other's property on breakdown of relationship. If a cohabiting couple separates, the Courts have no power to override the strict legal ownership of property and divide it as they may do on divorce. Unmarried partners have no automatic inheritance over their partner's assets on death. Cohabiting couples are treated as unconnected individuals for taxation-purposes. The couple living together does not enjoy the status of married couple. They do not enjoy legal sanction guaranteed to married couple. They are free to maintain each other separately. There is no obligation or liabilities on each other to maintain unless a partner specifically mention the name of other partner in the will; partners do not have inheritance right over each other's property. But, the laws seek to protect the rights of children born out such relationships. The onus of bringing up their children lies on both parents despite the fact whether they are married or cohabiting.

**•Canada-**

Living together in Canada is legally recognised as "common law marriage". In many cases common law couples have the same rights as married couples under the federal law of the country. A common law relationship gets legal sanctity if the couple has been living in a conjugal relationship for atleast 12 continuous months, or the couple are parents of a child by birth or adoption, or one of the persons has custody and control of the child and the child is wholly dependent on that person for-support.

**•Ireland-**

As there has been greater demand for right to maintenance by separated live-in couples in Ireland, there is impetus towards greater recognition to live-in relationship. Though living together is legally recognised in Ireland, news reports says the public is up in arms against a new legislation to introduce legal rights for "separated" live-in couples to demand maintenance or share their property with their dependent partners. The scheme will apply to both opposite sex and same sex unmarried couples who have been living together for three years, or two years in the case of a cohabiting couple with children. The Government, with this legislation, intends to provide legal and financial protection for the vulnerable and financially dependent cohabitants in the event of death or the break up of a relationship.

**•Australia-**

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

**•United-States-**

Cohabitation was illegal in the United States prior in 1970, but went on to gain status as a common law, subject to certain requirements. The American legal history was then a witness to several consensual sex legislations, which paved the way for living together contracts and their cousins, the "prenuptial agreements". The country later institutionalized cohabitation by giving cohabiters essentially the same rights and obligations as married couples, a situation similar to Sweden and Denmark. Those living together are not recognized as legal parents.<sup>2</sup> United States provides the same right to live-in relationship as enjoyed by married couple. Nevertheless, they can enter into agreement called "Cohabitation Agreement" which states clearly and firmly what are their rights and liabilities.

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<sup>2</sup> Goyal Swathy, "*Live-in* relationships", available at <http://www.legalservicesindia.com/article/article/live-in-relationships-211-1.html>

## INDIAN SCENARIO - SUPREME COURT JUDGMENTS

The ambit of live-in relationship is unclear. There is no specific legislation in India on this subject; the laws are in form of court verdicts pronounced by the renowned judges of the Supreme Court and High Court. The legislation does not give clear cut ruling regarding the rights of women. The court does show willingness in recognizing their rights. The law like Protection of Domestic Violence Act, 2005 states that a woman has economic rights. The child/children born out of such relationship has/have the same rights as that of child/children born out of valid marriage. So far as India is concerned it does not recognize such relationships. The position of live-in relationship is not obvious and there is no proper definition of it.

In India, the legal progress of the laws, the respect to it and unprecedented increase in the number of such relationships are running unparallel to each other. The law needs to be speeded up and implemented. In the year 2008, The National Commission for Women recommended to the Ministry of Women & Child Development- *to include live-in female partners for the right of maintenance under Sec. 125 of the Criminal Procedure Code*. The Malimath Committee's 2003 Report also recommended maintenance for woman live-in partners who have been cohabiting for a long duration. It was in the year 1978 that the Supreme Court granted legal validity to a 50(fifty) year live-in relationship of a couple in the case of ***Badri Prasad v. Deputy Director of Consolidation***.<sup>3</sup>

The Maharashtra Government in October 2008 approved a proposal suggesting that a woman involved in a live-in relationship for a 'reasonable period' should get the status of wife. Whether a period is 'reasonable period' or not is determined by the facts and circumstances of each case.

In ***Lata Singh v State of UP & Anr***,<sup>4</sup> the Apex Court held that live-in relationship was permissible only between unmarried major persons of heterogeneous sex. If a spouse is married, the man could be guilty of adultery punishable under section 497 of the IPC. The Supreme Court in the case ***S. Khushboo v. Kanniammal & Another***,<sup>5</sup> opined that a man and woman living together without marriage cannot be construed as an offence. "When two adult people want to live together what is the offence. Does it amount to an offence? Living together is not an offence. It cannot be an offence," a three judge bench of Chief Justice K G Balakrishnan, Deepak Verma and B S Chuhan

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<sup>3</sup> AIR 1978 SC 1557

<sup>4</sup> AIR 2006 SC 2522.

<sup>5</sup> SC 2010

observed. The court said even Lord Krishna and Radha lived together according to mythology. It was also stated that *living together is a Right To Life*.

The Supreme Court in ***Bhaasthamatha & Ors. v. R. Vijaya Renganathan & Ors.***<sup>6</sup> has held that the child born out of a live-in relation may be allowed to succeed inheritance in the property of parents, but does not have any claim in the Hindu ancestral Coparcenary property. Also in the case of ***Kopiseti S. Subramaniam v. State of Andhra Pradesh***,<sup>7</sup> the Supreme Court granted protection against demand of dowry to a live-in female partner and stated that “the nomenclature dowry has no magical charm. It refers to a demand of money in relation to a *marital relationship*.” The Court rejected the contention of the defendant that since he was not married to the complainant, Sec. 498 A did not apply to them and provided protection to the women in live-in relationships, from harassment for dowry.

In ***Tulsa & ors. v Durghatiya & Ors.***<sup>8</sup> the Apex Court observed that a man and a woman who are involved in live-in relationship for a *long period*, will be treated as a married couple and their child would be called legitimate. In ***Madan Mohan Singh and others v. Rajni Kant***,<sup>9</sup> the Supreme Court held-“if a man and woman are living together for a long time as husband and wife, though never married, there would be a presumption of marriage and their children could not be called illegitimate.”

Female live-in partners have economic rights under Protection of Women from Domestic Violence Act, 2005 subject to the following conditions as laid by the Honorable Supreme Court of India in case of ***D. Velusamy v D. Patchaiamma***<sup>10</sup>:-

- (a) The couple must hold themselves out to society as being akin to spouses.
- (b) They must be of legal age to marry.
- (c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.
- (d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.

Also it was asked by the SC from the parliament to enact a law concerning these relationships.

The Supreme Court in ***Indra Sarma v. V.K.V. Sarma***,<sup>11</sup> culled out some guidelines for testing under what circumstances, a live-in relationship will fall within the expression “in the nature of

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<sup>6</sup> SC 2010

<sup>7</sup> SC 2009

<sup>8</sup>

<sup>9</sup> SC 2010

<sup>10</sup> (2010) 10 SCC 46

marriage" under Sec. 2 (f) of the Protection Against Domestic Violence Act, which may be listed as follows:-

- (i). Reasonable Duration of period of relationship
- (ii). Shared Household
- (iii). Pooling of resources & Financial Arrangements
- (iv). Domestic Arrangement
- (v). Sexual Relationship
- (vi). Children
- (vii). Socialization in public
- (viii). Intent & Conduct of parties

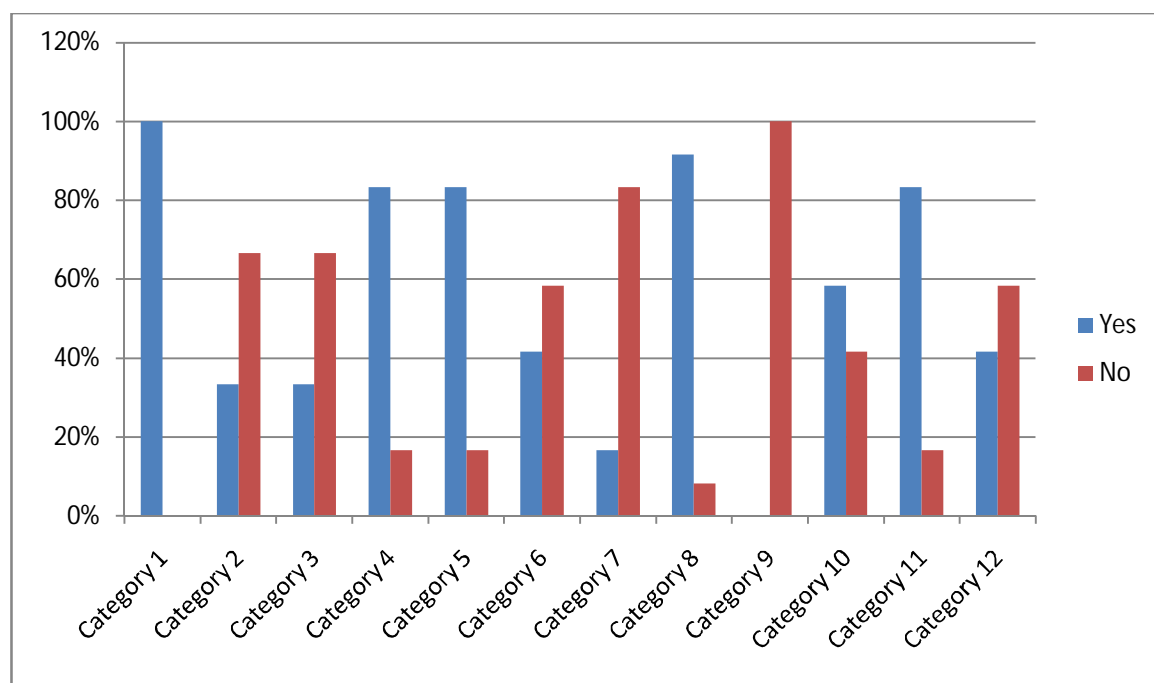
The sole purpose of enacting legislations is to make sure that the people's welfare is secured. Jeremy Bentham looked upon 'law' as an instrument for securing the "greatest good of the greatest number". As and when changes take place in the society, it must be supplemented by the law, only then the change shall make clear impact on the society.

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<sup>11</sup> Decided on 26 Nov. 2013, (Criminal Appeal No. 2009 of 2013)



## ANALYSIS OF QUESTIONNAIRES



Category 1- Are you aware of the concept of live-in relationships?

Category 2 - Have you, yourself, ever thought of opting for a live-in relationship instead of a {legal} marriage?

Category 3 - Is there any law/legislation governing live-in relationships?

Category 4 - Do any legal rights arise from live-in relationships?

Category 5 - Should any legal rights ensue from live-in relationships, like that ensue from marriage?

Category 6 - One important characteristic of a relationship to be in the nature of marriage, as held by courts, is "*reasonable period of time*" in cohabitation. Should this period of time be fixed, for the availability of legal rights to the partners?

Category 7 - If the period of time is fixed then, do you think that it would limit the scope of right of those partners who have not been living together for that fixed period?

Category 8 - Rights of maintenance, [under Sec. 125 of Cr.P.C.] is available to a “divorced wife”, but since live in partners are not married; this right may not be available to the female partner. Should this be also made available?

Category 9 - What should be the status of children after separation of such partners?  
 A-State should take responsibility  
 B-Parents should be held responsible

Category 10 - In several jurisdictions worldwide live-in relationships require **Registration**, for legal rights to ensue. Registration requires the persons to be of legal capacity to marry. Do you think that Registration of live-in relationships should be made *mandatory* in India as well, keeping in mind the abuse of this concept?

Category 11 - A Legally married couple is entitled to severed social welfare benefits, like income tax deduction housing etc. Should a couple in live in relationship is also entitled to such benefits?

Category 12 - If all these rights are made available to the female partners, would not this be an unreasonable encroachment upon the male partner’s rights, as they both had decided to go for a live in relationship instead of marriage, so as to avoid legal obligations?

| PEOPLE/<br>QUESTIONS | Categ<br>1 | Categ<br>2 | Categ<br>3 | Categ<br>4 | Categ<br>5 | Categ<br>6 | Categ<br>7 | Categ<br>8 | Categ<br>9 | Categ<br>10 | Categ<br>11 | Categ<br>12 |
|----------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|-------------|-------------|
| 1                    | A          | A          | A          | A          | A          | A          | A          | A          | A          | A           | A           | A           |
| 2                    | B          | A          | B          | B          | B          | B          | B          | B          | A          | A           | A           | B           |
| 3                    | B          | A          | B          | B          | B          | B          | B          | A          | A          | B           | A           | B           |
| 4                    | A          | A          | A          | A          | A          | B          | B          | A          | A          | A           | A           | A           |
| 5                    | A          | A          | A          | A          | A          | B          | B          | A          | A          | A           | A           | A           |
| 6                    | B          | B          | B          | B          | A          | B          | A          | A          | B          | A           | B           | A           |
| 7                    | A          | A          | A          | A          | B          | A          | A          | A          | A          | A           | A           | B           |
| 8                    | A          | A          | B          | A          | A          | A          | A          | A          | A          | A           | A           | A           |
| 9                    | B          | B          | B          | B          | B          | B          | B          | B          | B          | B           | B           | B           |
| 10                   | A          | A          | B          | B          | A          | A          | A          | B          | A          | B           | A           | B           |
| 11                   | B          | B          | B          | B          | B          | B          | B          | B          | A          | A           | B           | B           |
| 12                   | A          | A          | A          | A          | B          | B          | B          | B          | B          | B           | B           | A           |

### **Theoretical Analysis of Data Collected through Questionnaires-**

Every participant in the study was aware of the concept of live-in relationships, as in that such a concept existed in the place of marriage and is gaining prevalence in the society.

As regarding the **definition** of live-in relationships and the societal perspective regarding it there were various views as discussed herein. A live-in relation is construed as one wherein two adult persons of opposite sex voluntarily agree to live together without getting married. It is a western concept towards which the Indian society should be more receptive. India being a conservative society for the most, usually people do not support this concept, but the younger generation is much more aware of this issue and the idea is gaining support. It is considered as a mutual arrangement between two consenting adults to live in a relationship which is similar to marriage but without any legal recognition as far as Indian law/legislation is concerned. The concept has yet to gain acceptance amongst the Indian Society. It simply means no legal responsibilities towards one's partner. According to some, this practice is not new to the Indian society but due to media creating panic, this has led to hampering of the Indian marriage system, i.e. the institution of marriage. Also the people in metro cities are more accepting towards this, as compared to those in the rural areas. Live-in relationship has been stated to be as-"thing happening in the dark." That is, keeping things hidden from the society.

There were several options provided as to decide what were the **reasons** due to which people opt for live-in relationships instead of marriage, out of which the most significant as chosen by the participants are: to avoid legal obligations, to enjoy benefits of living together, to stay clear of the responsibilities of married life and Lack of Commitment.

Regarding the question that whether the participants would themselves ever opt for a live-in relationship, the answer was in the negative for almost 85% of the participants, although more than 50% of the participants agreed that such relations should be legislated upon. Those who answered in the positive provided the reasons that such a relation would allow them to live freely without any relationship bondage and taking live-in relation as an option before deciding to get married to the person was a good step. However, those who answered in the negative stated their reasons as that due to their own traditional mind set and considering the institution of marriage as sacred they would not opt for live-in relation. Also it was stated that such relationships are immoral, anti-social and harmful to the institution of Family as well.

Around 75% of the participants stated that there is no law/legislation governing live-in relationships. But still the same percentage stated that legal rights are available to people in live-in

relationships and also agreed that legal rights ensuing from marriage should also be made to ensue from live-in relationships.

As regards the **characteristics** of a live-in relationship to be in the nature of marriage, the following were considered the most significant by more than 50% of the participants: hold themselves as spouses to the society, legal age to marry, cohabit voluntarily, Long duration of relationship, shared household and intent and conduct of parties. However, this 'long' duration was not specifically decided upon and questioned. Also the pooling of resources and financial arrangements as well as children were not considered as a significant characteristic.

To the question that whether a period of time should be fixed so as to grant rights to persons in a live-in relation, the answer was in the negative by more than 50% of the participants. And it was also agreed that if such period be fixed then it would limit the scope of those persons who have not been living together for that particular fixed period of time.

Regarding the issue of providing the right to maintenance (under Sec. 125 of CrPC) to live-in partners, all the participants answered in the positive.

Upon the question that whether legitimacy as well as inheritance should be granted to the children of such partners, more than 50% of the participants agreed that legitimacy should be granted to such children and also not only should such children inherit from their parent's property but the coparcenary property as well. Also it was stated by All the participants that in case of separation of such live-in partners after bearing children, the responsibility of such children should be that of the Parents and not the State's.

More than 50 % of the participants stated that there should be Registration of live-in relationships in India, mandatorily, as that would ensure that the persons entering into such relation are atleast of legal capacity to marry.

As regards the question of what all rights should ensue from a live-in relationship, the most agreed upon rights were: the right to maintenance and right to custody of children. Also the right to cohabitation as well demand of dowry were accepted but not by the majority of the participants. Also it was stated that if parties ask for these rights then they should decide to go for a legally valid marriage which itself ensues all these rights.

To the question of providing Benefits of social welfare schemes (made for families and married couples) to live-in couples 90% of the participants agreed that such benefits should Not be made available to such partners as that would leave no difference between marriage and live-in relations & that people would then prefer to go for live-in relationships instead of marriage.

In the answer to the question that whether providing the right to maintenance, right against dowry and domestic violence, etc. to the female partner, would encroach upon the male partner's rights, majority of the participants answered in the negative stating that these rights should be provided so as to protect the females from exploitation. And also, that since this concept is growing in the Indian society as well, it is the duty of the Parliament to legislate and regulate it and decide upon the rights and liabilities of the parties. It was also stated that providing these rights would be legitimate as even the Constitution of India under Art. 15 (3) provides for special treatment to women (and children).

## **IX. SUGGESTIONS**

In light of the research conducted we suggest the following:-

- There should be a law passed by the Parliament, concerning “live-in relationships”, which should specifically deal with the following aspects concerning the parties involved in such a relationship:
  - ~ Definition & Characteristics of a live-in relationship
  - ~ Rights of Maintenance of the Parties
  - ~ Issues of Legitimacy as well as Inheritance by children
  - ~ Rights of custody of children
  - ~ Protection from dowry demand & against domestic violence
- Also, so as to be properly implemented, such law should also provide for Mandatory registration of live-in relationships, so that the parties have a genuine proof of the existence of such a relation and to ask remedy under the law.
- Furthermore, as has been stated by participants in the study, the people should be made aware of their ill-effects/consequences as well. They should be made aware that at present there is no law protecting their rights in case of a live-in relationship. It is only the judicial precedents under which they can seek protection or remedies.

## **X. CONCLUSION**

In conclusion, firstly, dealing with the views of the Apex Court of India, it can be stated that although the concept of “live-in” relationships as such does not guarantee any legal rights but as soon as that relationship falls under the category of being “in the nature of marriage” it begets several rights to the parties as well as their offspring, similar to those that are provided in the case of marriage.

Secondly, dealing with the outcome of the empirical research, it can be stated that although almost 90% of the participants themselves did Not want to opt for live-in relationship, still, majority of them agreed that in case of a relationship in the nature of marriage the rights of the parties should be ensured through a law/legislation. Therefore, it can be seen that although most of the persons did not want to opt for it, but still they deemed it appropriate as well as essential to ensure the rights of others, i.e. those who actually entered into such relationships.

Thridly, from the study of laws regulating live-in relationships in foreign jurisdictions, it is clear that the rights of the parties should be protected. All across the globe there have been made laws protecting the rights of both the parties to such relationships. Even in those cases, where there are actually no legal obligations of the parties towards each other, the parties have been made responsible and liable for their children and the rights of the children have most certainly been protected.

Therefore it can be stated that although the Indian society is not that open to live-in relationships but still such relations exist. And the individuals involved in such relationships should not be denied the protection of law simply because there is no specific legislation regarding it. Certainly, the rights here are majorly concerning the female partner, but even the Constitution itself under Article 15 (3) provides the State with the power to make laws that provide special treatment to women. But what is being asked here is not even special treatment but equal and justified protection of laws to the persons living in judicially acceptable relationship.