

STATUS AND IMPLICATIONS OF INHERITANCE RIGHTS FOR LIVE-IN RELATIONSHIPS AND THEIR CHILDREN IN INDIA

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Abstract

Live-In Relationships: an idea which has long been tabooed and stigmatized in Indian society is not a novel western concept. Even it were practically unheard of a few decades ago, it most certainly is not in today's society. But what would be the legal ramifications for the parties who do enter in such relations. Indian law has always been very ambiguous in this regard. While much has been talked about maintenance rights of such partners, very little light has been shed on their and their children's maintenance rights. Are the words 'kept', 'concubine' really the correct nomenclature as they strip a woman of her dignity. Why is that there still has been no proper legal recognition accorded to such couples and what have the courts over the years opined about them? This paper seeks to answer all this and a proposed alternative to the current scenario.

Introduction

Relations involving a male and female with shared cohabitation and without being subjected to marital nuptials has always been a part of controversy in India. Especially the children born out of such relations have been branded as *bastards* or *illegitimate* and derived of a 'legitimate' need driven right to be able to claim inheritance from their biological parents. Live-in relations have also been associated with such kind of an unexplained stigma in the India society for reasons unknown. But the entire notion of live-in relations has not been elusive to the Indian setup as one has always led to believe. Even recently embellished in an Apex Court judgment where the court commented that even the relation shared by Lord Krishna with Radha was in the nature of a 'live-in' relationship². There are also varied other numerous examples from different corners of India where couples have enjoyed intimate relations with a sexual aspect to it, but without the marital bond. Examples of couples of different sex living together is prevalent in many metropolitan cities of India and increasingly becoming a trend. But it becomes very disheartening to see the stigma associated with such and a serious lacunae of protective legal framework for the same. The researcher in this paper would like to analyze the same especially with reference to the inheritance rights to be shared between partners of relations other than marriage and the property rights of the off springs of such a relation. The existing laws in India would be analyzed. The plethora of judgments by various High Courts and the Hon'ble Apex court would also be scrutinized and tried to be arranged in a chronological manner to analyze the various trends over the passage of time. Then it would need to

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²The Times of India, 'Live-In Relationship, Pre-Marital Sex Not An Offence: SC' (2010)

<<http://timesofindia.indiatimes.com/india/Live-in-relationship-pre-marital-sex-not-an-offence-SC/articleshow/5716545.cms>> accessed 10 June 2016.

be seen whether such laws need a change and what all should be done to protect the fair interests of such affected strata.

Research Methodology

The researcher in this paper tries to question the inheritance rights of relations like live in relations and the off springs out of it. The doctrinal method of research has been adopted whilst writing this paper. Extensive research of various statutes present and conspicuous by absence has been tried by the researcher. Similarly verdicts and reasoning of such judgments have been discussed in the paper. After all this a suggestible conclusion for the maintenance rights has been tried to be sought by the researcher. For the purposes of this paper, only and only the inheritance rights of such deemed 'illegitimate' relations is questioned by the researcher whereas other aspects, though equally significant like right of maintenance, custody etc. have been excluded for scope of this paper. The researcher has consulted both offline and online sources for the same. In the end the researcher has tried to focus on what remedy should be devised so as to adequately address this growing concern in our society.

Live-In Relations: A Beginning

Live in relations are considered to be a taboo by the Indian society and have never been accorded a direct legal recognition as well. That is why none of the statutes concerning with personal law like H.M.A³, H.S.A.⁴, S.M.A.⁵, I.S.A.⁶ etc. have recognized the concept of live in relations directly.

The concept of shared cohabitation other than a lawfully wedded couple has not been that elusive to India culture as one might have been led to believe over the years. *Maytree Karaar* was an idea not much dissimilar to modern day live in relationships and prevalent in state of Gujrat. Herein a man and woman would live together and maintain a relationship without marrying each other. Even though they were not married the male was expected to provide for the financial and other expenses for the females and other rights etc. were also granted. The couple could register themselves with local authorities to try to secure their rights and status. But the government passed a bill in 1982 to prohibit these relationships. Apart from that Gujarat High courts cases also have declared such relations as 'void ab initio'⁷. Similarly the practice of having second wives which was actually familiar to the Indian context was also outlawed. There have been actual cases which have this aspect and at the same time quashed the petitions for their rights as they should have been given because of a man and woman cohabiting together in the nature of marriage and all of these were finally laid to rest with codification of Hindu personal laws and passage of Hindu Marriage Act 1955.

³The Hindu Marriage Act 1955.

⁴Hindu Succession Act 1956.

⁵ The Special Marriage Act 1954.

⁶ The Indian Succession Act 1925

⁷*Minaxi Zaverbhai Jetbva v State of Gujarat* [2000] 4 SCT 335 (Gujarat).

Even though due to legal fiction introduced in the H.M.A., children born out of a legally valid wedlock have been granted legitimacy⁸, this still doesn't give them the right to inheritance in the truest sense. Similarly other legislations like D.V. Act⁹ talk about protection for people in domestic relations, and tried to explain the scope of the term 'domestic relation'¹⁰ as widely as possible. But this still doesn't do much to further the cause of parties involved in such relations. Even though not explicitly backed by legal sanctions, people continue to cohabit together without marital ties and many private corporations etc. are accommodating this much needed change¹¹. But since long there has been a presumption that shared cohabitation for a long time, unless proven otherwise, would be proved to be in the nature of a marital relation¹². Judicial predicaments starting from as early as the late colonial era, gave more prevalence to the existence of a valid marriage between two parties in a shared cohabitation rather than concubine or live in relation¹³. Similarly in another case, the Privy Council held that if a man and woman have been living together for a long time, the presumption would be in favor of a marriage and not in favor of a relation in nature of *concubine*¹⁴. Then came the Indian Supreme Court with starting from 1952 itself, started to pass judgements along similar lines and said that there is rebuttable presumption in favor of characterizing a shared cohabitation relation as that of matrimony but where evidences exist to the contrary, they cannot be ignored¹⁵. Then again in a case the Apex Court held in a case where a man and woman were residing together fifty years and leaned in favor of existence of marriage. There exists a very heavy burden of proof and "*law favors legitimacy whilst frowns upon bastardy*"¹⁶. Thus from the above mentioned general trend of the verdicts whilst pronouncing the judgements has been problematic in two senses. Firstly, there has always been a need or urge felt by the courts that the shared cohabitation relation shared by a couple needs to be in the nature of a marriage and consequentially so called *illegitimacy* has been frowned upon. Secondly, because of the first reason and the '*illegitimacy*'-phobia in the minds of society and judges, there has been virtually no mention at all about terms like *live-in relationship* till the turn of the century. It is from the beginning of 21st century that Indian Courts have at least started to take some sort of cognizance of relations other than marriage. Similarly the Apex Court verdict in *Vidyadhari v Sukharna Bai* ushered in an era of much welcomed changes whereby the Court granted the live-in partner a succession certificate¹⁷. The Apex Court also reiterated and re-recognized the rule that

⁸ The Hindu Marriage Act 1955, s 16.

⁹The Protection Of Women From Domestic Violence Act 2005.

¹⁰ibid s 2(f).

¹¹Daily Mail, 'This Modern Love: How India's Small Towns Are Embracing Live-In Relationships' (2013) <<http://www.dailymail.co.uk/indiahome/indianews/article-2429595/This-modern-love-How-Indias-small-towns-embracing-live-relationships.html>> accessed 10 June 2016.

¹² The Indian Evidence Act 1872, s 114.

¹³*A Dinohamy v WL Balahamy* [1927] AIR 185 (PC).

¹⁴*Mohabbat Ali v Md. Ibrahim Khan*[1929] AIR 135 (PC).

¹⁵*Thakur Gokal Chand v Parvin Kumari* [1952] AIR 231 (SC).

¹⁶*Badri Prasad v Dy. Director of Consolidation & Ors.*[1978] 3 SCC 527 (SC).

¹⁷*Vidyadhari & Ors v Sukharna Bai & Ors.*[2008] 2 SCC 238 (SC).

there would be presumption of marriage if the male and female have share a long matrimony-like household relations.

Analyzing The Legal Aspects Behind A Live-In Relation And The Offsprings

The Hon'ble Supreme Court in a 1996 verdict held that keeping in mind the legal fiction that has been created by the Section 16 in H.M.A, it has to be seen that the legitimacy should be extended to children born out of relations other than legally valid wed locks¹⁸. One of the judges also remarked that the truest intention of the legislator should be brought out and such deemed intention of legislators to give legitimacy to such children should be extended. But the bench limited its own power and said that inheritance rights should only be till the extent of self-acquired property of the parents and not out of the ancestral property, if any, of either of the biological parents.

The onset of this decade i.e. the year 2010 was a remarkable year in the sense that a lot of Supreme Court and High Court judgements were passed this about live-in relationships. Whilst pacing reliance upon an earlier predicament, the Hon'ble Supreme Court has yet again pronounced that a couple could potentially share cohabitation together without marital ties and such a '*live-in*' relation is permissible with consenting adult parties and illegal due to presence of any statute¹⁹. But the debate entered in by the court system isn't usually very supportive of the rights of the parties as in another case the Apex Court declared that there would be a positive rebuttable presumption of marriage between the parties and it can't be guided as "*walk-in – walk-out*" relationship by the parties²⁰ and thus dismissed the property claim. In a subsequent case the Court held that an off spring born out of live in relationships is deemed legitimate due to the legal fiction created by the law but such fictional legitimacy must only be extended as far as succession rights are concerned, till the self-acquired property of the biological parents only and not their ancestral property²¹.

In another case the Hon'ble Apex Court held that if a couple is living with shared cohabitation for a significant time period then any off spring born out of such relationship should not be deemed illegitimate²². In this case the court interpreted their rights in light of Ar. 39(f) of the Constitution and remarked that it was the state's duty to provide for opportunities for children. In more recent times also children conceived out of imperfect relations i.e. other than marriages have been considered to be legitimate²³. The distinguishing factor that furthers the claim would be to check that the parents of such a child should have been sharing a household for a considerable time period and it can't be a '*walk-in walk-out*' relationship. The courts have also using their overreaching powers to benefit society, have tried to support the rights of such partners and children out of such

¹⁸*Smt.Parayankandiyal Eravath Kanapraavan Kalliani Amma v K.Devi*[1996] 4 SCC 76 (SC).

¹⁹*S. Khushboo v Kanniammal & Anr.* [2010]5 SCC 600 (SC).

²⁰*Madan Mohan Singh & Ors. v Rajni Kant & Anr.* [2010] 9 SCC 209 (SC).

²¹*Bharatha Matha & Anr. v R. Vijaya Renganathan & Ors*[2010] 11 SCC 483 (SC).

²²*S.P.S. Balasubramanyam v Suruttayan* [1994] 1 SCC 460 (SC).

²³*Tulsa & Ors.vDurgatiya & Ors.* [2008] 4 SCC 520(SC).

relations²⁴. There have also been progressive judgments by the judiciary which have claimed that live-in relation is neither a sin nor a crime and has to always remember the differentiation between the law and morality and is simply a matter of personal liberty enshrined within Article 21²⁵.

The Hon'ble Apex Court in *Revansidapa v Malikarjun*²⁶ held that keeping in mind the current socio-legal circumstances that the legal fiction created per amendment to H.M.A. in section 16(3) must be given a wider holistic meaning so as to encompass illegitimate children's inheritance rights to include coparcenary property as well. The Delhi High Court also further decided that 'live-in' relations are "walk-in – walk-out" relations. If the parties so desire that there should be no long term commitment issues involved in it, then the whole aspect of marital relations presumption should not be brought in. It is a self-renewing contract on a daily basis to cohabit together. Even though there doesn't exist any legal bond for the same, the partners in a live in relation would be entitled for various protections envisaged by laws for married couples like those D.V. act or maintenance rights etc.²⁷ One of the most important verdicts that has come out in the recent times regarding regulating the mess that the legal framework regarding live in relations is, would be the passage of verdict like that of *Velusamy*. The Apex court in this case has laid down the following guidelines that should be met whilst characterizing a relation like live-in relations.

- The couple portrays itself to be married in front of the society.
- They must have attained the age of majority.
- They must not have been barred due to any other qualification required to marry and must not be married already.
- They must have voluntarily cohabited together for a significant time period in a 'shared household'.

But those relations where merely some days or weekends or one night stands would not classify the relation as domestic relationship. Further a woman who has been "kept" and maintained for sexual gratification or as a servant would not be classified as a live in relationship²⁸. Similarly there have been suggestions to expand the ambit of the term 'wife' per CrPC so as to include even those women who have been living for a considerable time period with a man, even though during the subsistence of said man's first marriage.

This report recommends endowment of various rights and remedies to the aggrieved woman in the relationship. A female live in partner would also be entitled to maintenance and alimony depending upon the subsistence of nature and duration of the relationship. Further the same stance was again recommended by 2008 NCW report by the Central government. In 2005 D.V. Act a much welcome series of changes were ushered in to accord a better protection the partners particular the females in

²⁴*Dimple Gupta (Minor) v Rajiv Gupta*[2007] 10 SCC 30 (SC).

²⁵*Payal Sharma v Suptd., Nari Niketan*[2001] AIR 254 (All).

²⁶*Revansiddappa & Anr. v Mallikarjun & Ors.*[2011] 11 SCC 1 (SC).

²⁷*Alok Kumar v State & Anr.*[2010] MANU 2069 (Del).

²⁸The Times of India, 'Keep, Concubine? Senior Lawyer Says SC's Usage Anti-Women' (2010)

<<http://timesofindia.indiatimes.com/india/Keep-concubine-Senior-lawyer-says-SCs-usage-anti-women/articleshow/6793205.cms>> accessed 10 June 2016.

the relationship. Section 2(f) of the D.V. Act defines domestic relationship effectively comes under the nexus of this section. Similarly other provisions of this act allows women to claim protection against any torture or cruelty. These views were embellished in a Bombay High Court judgment²⁹ where the bench was of the opinion that these changes proposed in D.V. Act and CrPC. be implemented better to give effect to women and children's rights. An apex court judgement also sought to promote this very same effect in 2010³⁰. The Hon'ble Division Bench comprising Justice G.S. Singhvi and A.K. Ganguly said that a broad and sweeping meaning should be accorded to the term wife wherever possible and must include such couples where a man and a woman have been sharing cohabitation for a long time period and highly critiqued the opposite meaning as had been provided in an earlier Bharat Mata case. Simply the lack of strict documentary evidence should be no bar while deciding the maintenance and other rights of the aggrieved parties. A just application of laws has been enshrined in the application of principles of justice and equity in preamble to the constitution of India. In 2008, Maharashtra government took a step, even though not wholly favorable but appreciable nonetheless, and proposed that if a woman has been continuously cohabitation for 'considerable time' period then she should be treated as a wife. No statutorily mandated minimum time was prescribed but was to be determined as per facts and circumstances of each case. The suggestions of this report are under final scrutiny and subject to final approval by other states as well.

Even though many aspects of live in relationships have been tried to be addressed by the Judicial system and the government but there still remain many issues that need to be addressed even now. One of them could be the extent of time needed to qualify the condition 'significant period of time' to qualify to be living together. Agreed that a casual "walk in walk out" relation cannot be accepted to come under the category but a statute mandated time period must be fixed here. Similarly what sort of proof would be required to qualify as a domestic partnership – whether mere testimony by eyewitnesses or acquaintances would suffice or actual registration with government needs to be done? This is also linked to the issue that how exactly the parties should convey themselves as married in the eyes of the society. Similarly other crucial issues like that of bigamy, infidelity, desertion etc. are yet to be addressed. Under which laws the succession of the parties be governed and should there be formulation of a new law governing the same? All this gets even more complicated when couples come from different religions and then have an off spring. All this lacunae in law needs to be understood and resolved.

Evolving a legal framework to grant inheritance rights for live-in relations

As adequately discussed above that the legal position in India is really ambiguous and unclear as to such parties' rights and remedies. These loopholes necessitate a strong law and more sound

²⁹*Abhijit Bhikaseth Auti v State Of Maharashtra & Anr.* [2008]MANU 1432 (Bom).

³⁰*Chanmuniya v Virendra Kumar Singh Kushwaha & Anr.* [2011] 1 SCC 141 (SC).

judgements related to the right of palimony³¹. Courts in jurisdictions like the United States where the idea of live in relation has been present for a considerably longer period of time have been jurisprudence on the matter. In a case under state of California, there was a case where a couple mutually decided to stay together and equally split their incomes and assets jointly. The Court held that³²:

- In relations other than marriages, distribution of property is out of the domain of the family laws governing the parties but are subject to judicial scrutiny and discretion.
- In cases where the parties have expressly agreed via terms of a contract as to the terms and conditions to be used for property distribution, the courts should respect the decision of the parties and follow that contract, provided it is not made under distress or duress.
- However where there exists no such no express contract as provided in the above mentioned guideline, the courts should necessarily look at the behavior of the parties so as to ascertain the kind of relation shared by them in the nature of an implied agreement, partnership or other understanding between the parties.

Even after this judgment the position in United States is still not extremely clear but what is the general trend is that the Courts have started to recognize the contractual element of the relations over the statutes concerned. But still there is no unanimous consent and divergence invariably does emerge in different judgements. But two general trends have emerged while formulating a decision so as to check whether – there was an unjust enrichment to one party in behest of another or express contract. In the absence of latter, the former was relied upon. In a decision from Wisconsin, the Court held that where there is no express contract or implied one, compensation could be ascertained on the quantum of unjust enrichment to one party at other's expense³³. But exactly how is one to measure unjust enrichment to one party, how is the consideration going to be varied, should a standard formulation be devised or bestow the courts with huge discretionary powers whilst deciding the quantum. All these questions become even more so complicated in an Indian scenario where household works like looking after the house, cooking, baby sitting etc. are already not recognized as the productive. Where would one draw the line between one 'kept' for sexual and servant like purposes as given in the *Velusamy* case. Undoubtedly the best way to grant inheritance rights would be through means of a will. This was partially accomplished in *Vidyadhari* case wherein the Succession certificate was granted to the live-in partner because the partner was nominated by the deceased *prospitius*. The position in India is still unclear where the courts have invariably almost always have preferred existence of a marriage over live in relationship. All this to an extremely complicated process in proving the facts and circumstances leaving the partner high and dry waiting for their legitimate need driven inheritance rights. There also exists a grave need to broaden the definition of family so as to bring in its purview relations like 'deeply committed couples' as well. Otherwise not only such parties would continue to suffer, there would be in fact a disrespect to their

³¹Noel Myricks, "'Palimony': The Impact Of Marvin v. Marvin' (1980) 29 Family Relations.

³²*Michelle Marvin v Lee Marvin* [1976] 18 Cal.3d 660, 134 Cal. Repr. 815, 557 P.2d 106 (1976).

³³*Sue Ann Watts v James E. Watts*[1987] 137 Wis. 2d 506 (1987).

relationship and intent which is very undesirable. Thus there should be a greater legitimacy given to the concept of 'domestic live-in partners' so as to clearly ascertain their status as well as guarantee their rights in the future. Such registration would not only pander to the inheritance rights, but also social security in old age and a greater acceptance from the society vis-à-vis removing the taboo and stigma associated as well. Benefits like maintenance, custodial rights, provision of family leaves, ability to register as a couple for joint benefits for various amenities would also flow from this. Moreover in the registration form the partners can specifically attribute the amount of property going to the other partner and the children, if any.

Even though this process of nomination sounds as good as its going to get, other avenue of granting them actually the same rights as those enjoyed by a married couple, but without them having to prove or disprove marriage would be the most desirable and equitable solution to this. Thus the best idea would be to introduce a special legislation to that effect. A concept of intestate succession to 'de-facto' partners needs to be discussed³⁴. A committed partner sharing the cohabitation should be allowed to avail of intestate succession automatically without having to struggle under the court system and prove the legitimacy in a period of personal grief and suffering. Such partners and children should get these rights. A five tier test was introduced in furtherance of this as well.

- The parties must have attained the age of majority.
- The parties should not be disqualified to marry each other due to close proximity by blood.
- Neither party must be married to someone else.
- The parties must be sharing a joint cohabitation regardless of the fact, if they had other separate residences or not.
- Lastly and most importantly, they must have shared a relation akin to that of a 'marriage'.

Thus via this multifaceted approach would be used to ascertain whether the parties shared a committed domestic relationship. But this test system is still not foolproof as it would albeit lead to an objective criterion, but a huge lot of subjectivity would still lie in the hands of the judiciary who would then have to check the veracity of each of these claims and would eventually unnecessarily burden not only the judicial system but bring invariable delays for the affected parties as well. But Indian judiciary has also adopted a somewhat similar process in the *Velusamy* case.

A judgement given by the Kerala High Court, the court has given a very well-reasoned judgement and appealed for the rights of people in live-in relations³⁵. The court remarked that H.M.A. and other such provisions have been created for to protect off springs of imperfect weddings. But since the terms marriage is used, the scope of protection is really narrowed down. Therefore all so called illegitimate children albeit not born in a wedlock at all, sill are the result of a relation shared by a couple who was cohabiting together and are in essence like a marital union for all intents and purposes. Thus there should be no discrimination between such children to those who were necessarily born in some sort of wedlock. Similarly another very sound reasoning by the court given

³⁴David L. Chambers, 'What If? The Legal Consequences Of Marriage And The Legal Needs Of Lesbian And Gay Male Couples' (1996) 95 Michigan Law Review.

³⁵*Jane Antony & Ors. v V.M.Siyath & Ors.* [2008] MANU 521 (Ker).

was that all children are in essence born to a mother and father. In today's day and age the identity of both mother and father can be easily determined, so such children should be allowed to claim the parentage of their own parents and the benefits involved out of it, and no children should ever be deemed illegitimate.

In one of the landmark judgements that has recently come out in favor of inheritance rights for live in relations, the Hon'ble Apex Court directed the Parliament to bring more favorable laws and especially amend D.V. Act or enact a unified legislation so as to bring more protection for the partners involved (particularly women) and the children in the nexus and suitably protect them³⁶. The bench further held that the worst sufferers in all this are the off springs born out of such relations. It was further remarked that live in neither a sin nor a crime, then why there isn't a rising acceptance for the rights of such people. If such a relationship is entered into with full consent and cognizance of the repercussions and neither of the parties aren't already married then they are not to be treated as concubines or second wives or servants and should be treated with more respect and dignity by bringing in a more favorable environment for them. However a caveat was also issued by the court especially with respect to the current fact scenario of the case that if there is willful nondisclosure of material facts that either one of the parties is already married or any other fraudulent malpractice is there, then the so afflicted partner should be made available of remedies under D.V. Act under torture. Thus a more wide approach should be followed in terms of the meaning of the definition of the 'domestic relationship per D.V. Act Section 2(f)³⁷.

On one hand where the judiciary has started to take positive notice of the plight of condition of rights being availed by live-in relation partners etc. there have been cases where the courts have declined their claims and said that rights would only be available to the children on a limited basis and not the live-in partner³⁸.

An International Look at the subject

As there is a growing awareness about the rising trend of live in relations there arises a need to look the laws and conditions in other nations where this law is already prevalent. For example in U.S.A. after 1970s there was a growing trend to legalize and provide rights for such cohabitations. American jurisprudence on this subject has been growing and greater acceptance is being accorded to them. In majority of the states the concept of domestic partnership has been applied and used³⁹. U.K. provides for registration of such relations and partnerships via Civil Partnership Act of 2004. They have been accorded rights and protections such as inheritance, maintenance, custodial rights etc.⁴⁰ In Scotland also as per their family laws based upon the nature, duration and kind of

³⁶*Indra Sarma v V.K.V. Sarma*[2013] 15 SCC755 (SC).

³⁷*ibid.*

³⁸*Savitaben Somabhai Bhatiya v State Of Gujarat & Ors.* [2005] 3 SCC 636 (SC); *Rameshwari Devi v State Of Bihar & Ors.* [2000] 2 SCC 431 (SC).

³⁹'Law Section' (*Leginfo.legislature.ca.gov*, 2016)

<http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=297> accessed 10 June 2016.

⁴⁰'Common Law Rights For Cohabiting Couples | Law On The Web' (*LawOnTheWeb.co.uk*, 2016)

<<https://www.lawontheweb.co.uk/personal/living-together>> accessed 10 June 2016.

characteristics of relationship, a relation can be classified as domestic partnership⁴¹. The notion of 'de facto' relationships is recognized in Australia which is basically giving legal status to live in relationships⁴². In many other European countries like France etc. also there is recognition of domestic partnerships dubbed as 'civil solidarity pacts' etc. In Philippines also there is protection given to the legal rights and status of domestic live in partners and their off springs.

Conclusion with Proposed Reforms

After analyzing a plethora of verdicts surrounding this issue, the researcher has been able to cull out various observations. The researcher noticed the tendency of the courts to always equate the status of a live-in partner as that of a wife. Similarly a troubling amount of vocabulary such as the usage of words like 'kept', 'servant', 'a woman' seem to connote not only a very negative image but also a tendency of courts to treat the women in such relationships as akin to the property of the males. Despite this even in as recent cases as 2010, the courts have still refused to grant protection for rights and status to the partners in the relationship. The researcher would like to conclude by making some suggested proposals that should be enacted keeping in mind the dire need of the situation to ameliorate the same. For starters the courts should adopt the practice to abolish usage of derogatory words and disassociate the stigma herein involved to further the claims for protection of such parties. Another important and much needed thing is a special legislation giving rights to such parties. Guidelines in various cases are not only a bit tedious and ambiguous but also leave a large for discretion. Therefore a special legislation wherein factors like the minimum time period required, the quantum of evidence needed etc. are duly specified so that there is no confusion later on. Also as is happening many other jurisdictions, such partners should be given the right to register themselves with the authorities as 'domestic partners' instead of husband and wife and then their separate and special status and rights should be devised. In every case, the courts have advocated to just construe such a partner as a wife which according to the researcher is not a very progressive move. If all these bare minimum changes can be brought into effect, not only there would be a greater acceptance for such relationships but a large amount of struggle and exploitation would also be curbed.

⁴¹ Family Law (Scotland) Act 2006, s 25(2).

⁴²'Defacto Relationships And Family Law - Legal Aid NSW' (*Legalaid.nsw.gov.au*, 2016)

<<http://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/defacto-relationships-and-family-law-factsheet>> accessed 10 June 2016.