



## LEGAL ISSUES OF FEMALES IN LIVE IN RELATIONSHIP; A STUDY WITH SPECIAL REFERENCE TO KERALA.

Suvarna S

Final year LLM student (criminology).

Bharata Mata School of Legal Studies Choondy Aluva.

**Abstract:** The concept of Live-In-Relationships is gaining acceptance in Indian society, allowing couples to cohabit outside marriage. Though not legally recognized as marriage, it carries various complications, responsibilities, and legal implications. The absence of a specific legislation on this subject has led to the formulation of guidelines by the Supreme Court to regulate such relationships. This paper explores the legal issues faced by females in Live-In-Relationships and the rights available to them under the existing legal framework. While the Domestic Violence Act of 2005 provides some protection to women in such relationships, there is a need for further recognition and protection of their rights. The Justice Malimath Committee Report of 2003 recommended amending Section 125 of the Code of Criminal Procedure to include women living with a man "like his wife" for a reasonably long period within the definition of "wife." The objective of this project is to analyze the rights and remedies available to female partners in Live-In-Relationships and identify the existing legal loopholes. By exploring relevant court judgments and legal provisions, this study suggests measures for better safeguarding the rights of aggrieved females in Live-In-Relationships.

**Index Terms -** Live-In-Relations, living together, like his wife.

### CHAPTER I

#### INTRODUCTION TO LEGAL ISSUES OF FEMALES IN LIVE-IN- RELATIONSHIP

##### 1. 1 INTRODUCTION

*“Relation with your loved one is better than a Relation that Starts with a cup of Tea”*

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

The concept of Live-In-Relation 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 society, which earlier used to hide due to social or other fears.

Live-in-relation is an association where two people cohabit outside marriage. The concept is already legalized in many countries.<sup>1</sup> Live in relationship is defined as a domestic cohabitation between an adult couple who are not married. Apparently, it appears like a stress-free companionship without any legal obligations;

<sup>1</sup> Prof. Priya Sepaha, “Live-in-Relationship in India: Laws and Challenges”<sup>1</sup> *LCJLS* 11 (2021).

conversely it has many complications, responsibilities and legal liabilities. Cohabitation agreement is defined as a contract outlining the property and financial agreement between persons who live together.<sup>2</sup>

Recently attempts have been made to bring live-in relationship in the ambit of law. In the absence of a special legislations, rules or customs on live -in relationship, the supreme Court has issued certain guidelines in its judgement for regulating such relationship. Cohabitation between two adults is not considered as illegal under the Indian law. In 2006 in the case of *Lata Singh v. State of U.P.*, it was held by the Supreme Court that a live-in relation between two consenting adults of opposite sex, though perceived as immoral, does not amount to any offence under law.<sup>3</sup>

In case of *Khushboo v. Kanniammal & anr.*

“Please tell us what is the offence and under which section. Living together is a right to life”. The apex Court said apparently referring to article 21 which granted right to life and liberty as a fundamental right. The Court said lord Krishna and Radha lived together according to mythology. The Court said there is no law prohibiting the live-in-relations”.<sup>4</sup>

The ambit of Live-In-Relationship is Unclear. There is no specific legislation in India on this subject; the laws are in the form of Court verdicts pronounced by the renowned Judges of the Supreme Court and Various High Courts. The Legislation does not give clear cut ruling regarding the rights of women in a Live-In-Relationship. However, there are Provision in Domestic Violence Act 2005 to bring women in such a relationship under the ambit of law. <sup>56</sup>

Justice Malimath Committee Report 2003 recommended for the amendment of Section 125 of Code of Criminal Procedure <sup>7</sup> to broaden the definition of “wife” by including a woman who was living with a man “like his wife” for a reasonably long period.<sup>8</sup>

Even though some of the laws recognises live-in-relations. Still there is a need for recognition and the rights of aggrieved females should be protected. The project focus on the rights of females in a live-in -relations and remedies available to the female partner in a live -in- relationship under the existing legal framework and the lacunae there in and enumerates suggestions accordingly.

## 1. 2 REVIEW OF LITERATURE

<sup>2</sup> Bryan A.Garner, Black’s Law Dictionary 296, ( West Publishers USA. 9<sup>th</sup> Edtn)

<sup>3</sup> Choudhary Laxmi Narayan, Mridula Narayan, *et. al.*, “Live-In Relationships in India—Legal and Psychological Implications” 3(1) *Journal of Psychosexual Health* 18-23,19 (2021).

<sup>4</sup> (2010) 5 SCC 600.

<sup>5</sup> The Protection of Women From Domestic Violence, 2005 (Act No. 43 Of 2005).

<sup>6</sup> [Dr. Rabbiraj C., “Socio- Legal Dimensions of Live-In- Relationships in India” 19\(7\) IOSR-JHSS 25- 29, 26 \(2014\).](#)

<sup>7</sup> The Code of Criminal Procedure, 1973 (ACT NO. 2 OF 1974).

<sup>8</sup> Manju Jawal, “Live in relations in India; Legal Moves and Judicial Attitude; some observations” 4 (6) RGNUL LAW REVIEW (2014).

(Choudhary Laxmi Narayan, Mridula Naryan *et.al.*..2021) The article concludes by the observations made by the Hon'ble Supreme Court of India in the case of *TULSA v. UNION OF INDIA* the court grants property rights to the child born of the live-in Relationships and concluded that the children would be treated as legitimate if their parents lived under one roof for a long period and they have rights across the properties but the rights are limited only to the self-acquired properties of the parents as per section 16 (3) of the Hindu Marriage Act, 1955.<sup>9</sup>

(Ms. Anupama Yadhav, Dr. Anand Kumar, 2021) In the article the author says that in India the legislations are vague to deal the issues of a female partner in live in relationship and the rules are vague and vary from case to case The main content of the article examines the official status of live in relationships in India and the author cites some judgements that recognise live in relationship as legal in our countries (eg *Payal sharma v. Nari Niketan*) also the article gives a brief outline about the existing laws which deals with the matter of live-in relationships in India.<sup>10</sup>

(Prof. Dr. Priya Sepaha, 2021) In this article the author gave a brief detail how the existing laws like Domestic Violence Act 2005 deals with the cases of live in relationship and the author mainly focuses on the judgements by the Hon'ble Supreme Court on the matter of live in relationship and the judgements are given in detail under different heads namely Live in relationship not an offence, essential factors to consider a relationship as living together, protection of women from Domestic violence etc and each head she gives a clarification with the help of one or two judgements by the apex court of India. for example under the head essential factor to consider a live in relationship she describes the case of *D pattiammal v. D Veluswamy* and as per the view of Supreme Court the following factors are essential to categorise a relationship as a live in relationship within the ambit of law and the category are age, voluntary cohabitated, a significant period, Also the article gives an outline about the challenges faced by cohabitating couples too, as per the article the main issues are moral and societal acceptance, anti-religion issues, maintenance issue etc<sup>11</sup>.

(Mandeep Kaur, 2019) The article contains a comparative study on the legal frame work on the matters of live-in-relationship in India with that of other countries, the Author compare the legal frame work in India with France, America, Australia, Ireland etc and he concludes the article by saying that as compared to other countries there is a lack of special legislation in India to deal with the problems of cohabitating couple<sup>12</sup>.

(Dr. Rajesh M. Dave, 2019) The article is a short one and many deals with the historical status of live in relationship in India and the case laws in India which recognises the live in relationships, in the article it is maintained that even during the vedic period there were live in relationships and the asura marriage is an example of live in relationship<sup>13</sup>.

---

<sup>9</sup> *Supra note 3* at 20.

<sup>10</sup> Ms. Anupama Yadhav, Dr. Anand Kumar, "Live-in relationship A Study on Legal Action" 9(8) IJCRT 396 - 402 398,399 (2021).

<sup>11</sup> *Supra note 1* at 9.

<sup>12</sup> Mandeep Kaur, "Legal Perspective on Live-in Relationship in Present Scenario" 6(1) IJAR 938-942 .939, 940 (2019).

<sup>13</sup> Dr. Rajesh M. Dave, "Legal status of live in relationship in India" 9(1) IJAR 17-19 (2019)

(Dr. Rabbiraj. C 2014) The article under the head Law and Judiciary on the status of live-in- relationships states that there is no specific legislation in India to deal with the subject and it further describes about the recommendations by Justice Mallimath Committee to amend the definition of wife under section 125 of the Code of Criminal Procedure but the recommendations are still in darkness<sup>14</sup>.

### 1. 3 STATEMENT OF THE PROBLEM

Over the past few years, there is an accelerating tendency in the society especially, especially in Kerala particularly among the youngsters in Kerala. As the number of such relations keep rising, the problems are also on rise. In most of the cases, the victims are females, where they struggle for the recognition of their conjugal rights, for the legitimacy of their children born out of such relations etc, although certain rights are guaranteed to the female partner example rights against domestic violence under the The Protection of Women from

Domestic Violence Act 2005<sup>15</sup>. There are a number of questions to be answered for securing the rights to females at the end of such relationship. Whether live-in- relationships can be considered as a relationship in nature of marriage under the Indian Evidence Act 1872? What legal provisions are generally invoked against the male partner when a female files a complaint? What are the remedies available to the female under the existing legal frame work? Whether there is a need for a special law to regulate live -in- relationship? Even though all these questions are to be answered the main problem is the lacunae in the existing laws regarding the availability of rights to female against the male and the confusion created by the different judgments.

### 1. 4 SIGNIFICANCE OF THE STUDY

The upsurge of live -in-relationship, especially in Kerala society over the last decade has given rise to multiple issues. There were situations where the female live- in partners sued for conjugal rights, against domestic violence etc. The data interpretation part of the project reveals that the judicial decisions are not applicable in every case due to intrigue in disputes. This project contains relevant information collected from a structured empirical study conducted by the researcher by contacting Lawyers, Judicial Officers, Police Officers and General public. The study attempts to call the attention to the insufficiency of the legal system to bolster the Woman in a Live-In Relationship. It further exposts the Rights of women in Live-In Relationship and transformations in required remedies.

---

<sup>14</sup> *Supra* note 6.

<sup>15</sup> *Supra* note 5 s.2(f).

## 1.5 OBJECTIVES OF THE STUDY

1. To understand the concept of Live-In-Relationship as accepted by the Courts in India.
2. To study the attitude of the society towards the concept of living together and also the problems of female partner in Live-In-Relationship by gathering information from general public, police, and lawyers.
3. To have a comparative study about various rights that have been guaranteed by the Courts in India to the female partner in Live -In- Relationships with that of foreign countries.
4. To study whether there is a need to regulate Live-In-Relations, so as to protect the female partner from harassment and exploitation, and to ensure maintenance rights and inheritance in the property, particularly in Kerala.

## 1.6 RESEARCH QUESTIONS

The Courts in India have accepted the rights to “Live -In” as a part of Right to Life guaranteed under Article 21 of Indian Constitution. The major rationale behind the study is to see whether there is a need to grant legal status or rights to the parties in 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 is the first place, they both chose to avoid.

Granting this concept, a constitutional protection has therefore, led the Courts to protect the rights of the female partner in such a relationship. But even while doing this task the Courts have left out a large number of female- partners from the scope of protection guaranteed by them. Therefore, it becomes essential to study,

1. Whether there is a need for specific legislation for regulating Live-In Relationship in Kerala?
2. What are the problems faced by female partners in a Live-In Relationship in the event of a separation or during the relationship?
3. Whether there is a need for registration of Live-In couples for securing the Rights of female partners?

## 1.7 HYPOTHESES

1 Lack of a Special legislation with regard to Live – In Relationship is the main reason for problems faced by female in living together.

2 Non-Registration of Live-In- Relationship is a loophole for males to escape from their responsibilities towards the female partner.

3 The fixation of two years for considering a live -in- relationship to be a valid one is a problem for securing rights of female who break up before the specified period.

## 1. 8 RESEARCH DESIGN

For the completion of the project , the first step adopted by is the formulation of problem, here the problem found out by the researcher is “legal issues faced by female partner in live -in- relationships ( the problem is selected out of the personal interest and curiosity and finalised by the suggestions of supervisor ) , at first for an understanding about the topic, goes through the works of ancestors in the same topic and then the next step was formulation of hypothesis , here the study has three hypothesis and to prove this hypothesis , collected the relevant data with the help of three questionnaires prepared and for the data collection , took a sample of 60 units and the strata sampling method as adopted ( here the samples are sub divided into three categories as general public , general public and legal officers) and after collecting the data , analysed the responses and interpreted it and in the report with the help of charts and tables, reported the finding .Then ,the final step , the report writing started , for the report writing the entire project is divided into four chapters namely Introduction, conceptual frame work , data analysis and interpretation and the last chapter as Findings and suggestions , The introduction chapter consist of the objective of study, statement of problem, hypothesis , methodology and data sources, the limitation of study etc , and the second chapter consist of a theoretical framework on the topic of the study (legal issues faced by female partner in liv -in- relationships) after collecting data from the secondary sources like magazines, newspaper, articles in law journals, the third chapter consist of the data interpretation part and the final chapter named as conclusion and suggestion was made out of the findings concluded after analysing and interpreting the data collected from the respondents to the questionnaire and through the case study ( focused on the judgements by the Hon’ble High Court of Kerala).

## 1.9 DATA SOURCES

The methodology adopted is that of empirical and doctrinal. for arriving at a conclusion , the primary data( qualitative data ) for the study were collected by the means of questionnaire viz, the questionnaire to general public , questionnaire to police officers and questionnaire to legal officials , for which modern means of communication, such as google form is used and the qualitative data are collected through the judgement analysis of cases of live in- relationship (focused on judgement by the Kerala High Court) for the analysis the data are collected using the data basis like SCC online and from the Websites like Indian Kannon. And the secondary sources used in the study are articles published in different law journals, newspapers, websites and other electronic sources.

## 1. 10 UNIVERSE AND SAMPLING

The sample consists of 60 units, the units are chosen from three category in a proportionate manner that is 20 from each category namely general public, police officers and legal officers

### 1.11 METHODS AND INSTRUMENTS OF DATA GATHERING

The topic of the study is legal issues faced by the female partner in live-in relationships and as the focus of the study is the need of a special legislation for regulating live-in-relationship in India for securing the rights and making registration of live-in-relationship in India for assuring rights to the female partners, as the matter is a socio-legal research the opinion of public have a great importance for concluding the research, For the entire study (qualitative data) are collected through sampling method, the study comprises of 60 sample units and the entire sample units is categorized as opinions of general public, police officers and legal officials and a proportional strata method is adopted for collecting data that is 20 from each category, and after collecting the data through the questionnaires with the help of charts such as pie chart and bar graph (used to represent the data in percentage or numerical forms) are analysed and presented before the public and arrived at a conclusion.

### 1.12 STATISTICAL TREATMENT

For data interpretation the researcher uses the charts namely bar chart and pie chart, and they are made with the help of Microsoft Excel

### 1.13 LIMITATIONS OF THE STUDY

Sample size is restricted to sixty people from different field (General Public, Police Man, Law Man) and it does not represent the whole natives of Kerala and as I approached different police stations in Kerala but the responses were received from only 4 of the police stations namely Thrissur west, Pattambi, Chavakkad, Kaipamangalam. Sometimes responses may be influenced by prejudiced mind and personal bias. The data provided by respondent may not be correct and accurate. As the period of study is short time can be limiting factor.

### 1.14 PERIOD OF THE STUDY

The period of study is 6 Months. The first month is used for selecting a topic which is a significant in the contemporary world, then for preparing a research proposal on the topic Legal issues faced by female partners in live in relationships - a special reference to Kerala, and as accepted by the supervisor the real work for the project started from the second month, during the second month, the first three weeks were used for collecting the contents for a theoretical study, the relevant data were collected from the studies conducted by the ancestors on the topic of research the data are collected from Law journals and magazines, then the last

week were used for reading them , the third month and fourth month were used for data collection, even though the data were concluded through the modern means of communication ( via google form) , selecting the right people for study was a time consuming task and as the study need the opinion from different categories among the public , each category needed a special questionnaire and the preparation and arranging the questions in a proper manner and sending them to the respondents were done during this months , the fifth month is used for interpreting the data collected and preparing graph and pie chart for representing the data and the last month is used for report writing as per the instructions of the supervisors such as arranging of the data collected under different chapters.

### 1.15 SCHEME OF CHAPTERS

The First Chapter titled as ‘Introduction to Legal Issue of Female in Live- In Relationship, consist of a brief introduction about the topic, literature review which includes the result of previous studies regarding the topic, the objective of the study, importance of the study, scope of the study, the limitation of the study, period of study, and chaptalization

The Second Chapter titled as ‘Theoretical Framework’ on Legal Issue of Females in Live – In- Relationship” provides a clear cut about the evolution of Live-in- Relations, Problems faced by Female partner in such relationship, existing laws for the protection of aggrieved female partner, Judicial approach of Supreme Court etc.

The Third Chapter titled as‘Data Analysis and Interpretation’ consist of the analysis of data collected from the respondents of questionnaires (information gathered from the police man, general public and Legal officials)

The Fourth Chapter tilted as Findings and Suggestions. It explains the conclusions gathered after the data interpretation of the questions and the suggestions of the researcher based on the conclusions and recommendations for further studies

## CHAPTER II

CONCEPTUAL FRAME WORK ON LEGAL ISSUES OF FEMALE IN LIVE- IN-  
RELATIONSHIP

## 2. 1 EVOLUTION AND PRACTICE OF LIVE-IN RELATIONSHIP IN INDIA.

## 2. 1. 1 Introduction

The concept of live-in-relationship developed in India after getting influenced by the western countries, but similar kinds of such relation existed in different states of India like Gujarat, Rajasthan, and Madhya Pradesh 'Maitri Karar' a system of contract of friendship exists in Gujarat and another custom named as Nata Paratha is prevalent in some parts of Rajasthan, even there are evidence in our holy books for the existence of such kinds of relationship. In this chapter the researcher explains the existence of live-in-relation from the early decades, among different regions and communities in India etc.

Live-in-relations it may be a new term or something come from the western culture to Indian society, but the truth is that is a very old concept even in the Veda's there are examples for such relations. Vedas prescribe eight kinds of marriages and for relying for evidence on live-in-relations we can take the example of Gandharva vivaha and Asura vivaha. In Gandharva vivaha there is no participation of the family or any kind of ceremonies a man and woman who choose to live together will start their live only upon just a word-of-mouth commitment, even though they have the same responsibilities of a married couple.

In Asura type if a boy falls in love with a girl, he will take off the girl whom he loves after paying a lumpsum to her family, this type is common in now a day in some tribal areas of India.<sup>16</sup>

In the holy Bible there was a personality named St. Mary Magdalene who led a lifetime of prostitute and a gaggle of scribes and Pharisees bring and cross her for her acts and they told the Jew as per jurisprudence the punishment for such an act is stoning and commenced throwing stones at her then Jesus quoted this wording "one who is without sin is that the one who should cast the primary stone at her.

The fairy tale of St Mary and Jesus Christ shows that even religions allow mutual consented relationship. (Holy Bible John 7:53-8:11 in the New Revised Standard Version)<sup>17</sup>

Under the Muslim Law there are evidence for Live-In relationship. The holy book of Muslims named Quran legitimise the Muta Marriage in verse 24 both for Sunni and Shariah. "Forbidden to you woman, except what your hand possess. This Allah had written for You, and every one other women besides these are permitted to you, so that you may seek them out with your wealth, seeking chastity and not fornication. So, when you

<sup>16</sup> Hari Ravikumar, "Our vedas Permitted live-in- relationship", daily, APR 24 2015, <https://www.dailyo.in/lifestyle/live-in-relationships-vedas-marriage-rape-prostitution-supreme-court-3361> (last visited on Nov 15, 2022)

<sup>17</sup> St. Mary Magdalene disciple of Jesus available <https://www.britannica.com/biography/Saint-Mary-Magdalene>. (last visited on Nov 15, 2022)

have contracted temporary marriage (istimt'atum) with them, then give them their words. There is no sin on you for whatever you agree to after this. Indeed, Allah is knowing wise.<sup>18</sup>

## 2. 1. 2 Evidence for existence of live-in- relationship among Indians.

### 2. 1. 2. 1 Nataparatha

There is a Mewari saying for Nata paratha

“Asal Marad parne nahi, mathe ni bandhe mod

Parne laave paar ki, jave Ghhosunde daud.”

Which means real man don't get married, nor they tie ornamental studs on their heads they bring their life partner from lands situated abroad, wherein they choose their life partner by taking her hands from a fare in Ghhosunde.

Nata means relationship in which couple can live without performing any rituals.<sup>19</sup> It is a common custom prevalent mainly in the tribal parts of Rajasthan (esp.in Bhel Rajput and Gujjar) it also exists in Madhya Pradesh. Under this custom in order to live together the couple doesn't want to perform rituals or ceremonies under any law (esp. under s 7 of the Hindu Marriage Act 1955. The custom requires the man to pay some fund to her paternal family or with a married woman to her first husband as the case may be. the sum may vary according to the paying capacity of person concerned from few thousand bucks to lakhs.

### 2. 1. 2. 2 Dhuku Marriage

Dhuku marriage is a practice among korwa. munda community in Jharkhand. the girl from any of this community can choose a non- marital relationship with her male partner without any rituals in form of dhuku marriage. The girl in such relation is called as 'Dhukni' and male is called as "dhukua". For a social recognition they must arrange a feast to the entire village which is so expensive so the couples prefer live-in- relation instead of marriage in form of dhuku and continue for so many years <sup>20</sup> the dhukni has no rights for claiming properties of the male partner under any law or she is not treated as a wife in the terms of Criminal procedure code of India 1973.

### 2. 1. 2. 2 Dapa among Garasia tribe in Rajasthan.

<sup>18</sup> Astu khadelwal and Shashwat patwa, “Muta Marriage”1(2) *IJLMH* 1 -10, 1,2 (2018).

<sup>19</sup> Dr. Rachna Choudhary, “Nata Pratha: An Unusual Custom” 2(6) *IJLDAI* 89 – 97, 89 (2019).

<sup>20</sup> Shweta sengar, “Jharkhand's Dhuku Marriage, Where Couples opt for Live-in Relationships Due to Poverty available at <https://www.indiatimes.com/explainers/news/jharkhands-dhuku-marriage-where-couples-opt-for-live-in-relationships-due-to-poverty-552704.html>(last visited on Nov 16, 2022).

The Garasia tribe among Rajasthan allows the youngsters to choose their partners and to be in live-in-relations with them and the practice is named as Dapa. It is said that if a woman in garasia community falls in love with a man she can live with him the only condition is that if the woman is already married the new partner have to pay an amount to her ex-partner. Among the Garasia tribe for choosing their partners there occur an annual festival named 'siyawa-ka- guar mela'. For this community marriage is not necessary to live with but only love.<sup>21</sup>

### 2. 1. 3 Present Status of Live -In Relationship in India.

India is a country where marital relationship between two persons is considered as a sacred one. Among our communities the concept of family consists of Husband, wife and their kids, it is well known that majority follows ritual customs and ceremonies during their marriage. For ages they are continuing these customs. To talk about the mindset of Indians on a Live-in-relations it is crucial to mention Dr. Ram Manohar Lohia, a socialist leader in India quoted

“Between a man and woman, everything is permissible, so long as there is no use of force or breach of commitment”<sup>22</sup>. As per art 21 of Indian Constitution grants to all citizens “right to personal liberty” which means one is free to choose his own way on life even though it is illegal in the eyes of society, but not under law.<sup>23</sup>

In the landmark judgement of *S. Kushboo v. Kanniammal*<sup>24</sup>, the Hon'ble Supreme Court quashed the criminal appeal filed against Kushboo, the South-Indian actress for engaging in pre-marital sex and in the judgement the Supreme Court states that live-in-relations can be within the preview of art 21 of Indian Constitution. (Here in after referred as COI) Supreme Court held as follows

“live-in- relations are permissible and the act of two major living together cannot be considered as illegal or unlawful.”

### 2. 1. 4 Status of cohabitation in Kerala

In the 19<sup>th</sup> century a consensual partnership or relationship were practiced among the brahmin community where eldest male member of the family perfume the ritual marriage in the same community and others have relation with women from other lower community. In this type of relationship some properties were gifted

<sup>21</sup> Mayank Jain parichha, The Anatomy of Love: Mating and Marriage in India's Tribal Culture, Outlook (Jan. 19, 2022, 2:49 PM), [outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures--news-40994](https://outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures--news-40994). (last visited on Nov 18 2022)

<sup>22</sup> Vujay Kumar, Live-in- relationship and its role in social transformation, available at [https://www.academia.edu/11693302/Live in Relationship and its role in social transformation](https://www.academia.edu/11693302/Live_in_Relationship_and_its_role_in_social_transformation) (last visited on Nov 16, 2022)

<sup>23</sup> The Constitution of India 1950.art 21.

<sup>24</sup> (2010) 5 SCC 600.

to the women but legitimacy of children was not given. Marumakkathiyam which existed early in Kerala can be considered as a law made in this regard.<sup>25</sup>

In the recent film “Rang Rasia” rivals the life of Raja Ravi Varma the outline of the story was that the questioning by his own wife regarding the relationship existed among them comes under the preview of marriage or sambhandham.<sup>26</sup>

The Kerala High Court in *John and Anita v. Child Welfare Committee* regarding the adoption of child born out of live-in-relation, the Kerala hon’ble High Court observed that

“That a man and woman who are in relationship should be treated as marriage couple”.<sup>27</sup>

And the report by Radhika C Pillai in Times entertainment times headed why young Keralites prefer a live - in-relations a participant named Anish Nair a research scholar said that he had been in a relation with his colleague for past two years and not like to get married because of their busy studies .and she says that most of the participants in the interview have the same opinion of Anish.

The report points out that most of the youngster’s like to be in live-in- relations due to the large commitments in marriage and the costly affair of divorce.<sup>28</sup>

## 2. 1. 5 Conclusion

A Live-In Relationship is an arrangement when two people involved in a living together under same roofs and share their emotions for a long term or for a certain period. Live-In Relationship is not a new term in India, India being a Secular Nation there are solid evidence in the holy books of Hindus, Christians and Muslims for the existence of Live-In Relations. But the curse in that Even the Judiciary Legalises this kind of relations, in certain areas the relation is defined as a text drive of a vehicle before marriage. But the young generation accepted the concept thinking that it is better to have a Live-In Relation than a divorced Life.

## 2. 2 STATUS OF WOMEN: STUDY WITH SPECIAL REFERENCE TO LIVE-IN RELATIONSHIPS.

### 2. 2. 1 Introduction.

<sup>25</sup> Arun Mohan., *What is sambhandham in kerala*, available at <https://www.quora.com/What-is-Sambandham-in-Kerala>. (last visited on Nov 18 2022)

<sup>26</sup> *Supra* note 6.

<sup>27</sup> Editor, “Live-in relationships increasing in Kerala; ‘Use and throw’ culture affects marital lives: HC” *Mathurbhumi*, Sept 1 2022 available at <https://english.mathrubhumi.com/news/kerala/consumer-culture-influences-marriages-hc-makes-constroversial-remark-against-live-in-relations-1.7837330> (visited on Nov 18 ,2022).

<sup>28</sup> Radhika C Pillai, “Why young Keralites prefer a live-in relationship”, *TIMES OF INDIA*, Jan 28,2014 available at <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/why-young-keralites-prefer-a-live-in-relationship/articleshow/29449484.cms> (last visited on Nov 15,2022).

In India there is no specific legislation for the protection or rights of female live-in-partners, the laws like Criminal procedure Code 1972, Indian Evidence Act 1872, Protection of Women from Domestic Violence Act 2005 etc have some provisions in regard to the matter.

Justice Malimath Committee 2003<sup>29</sup> in its report submitted on 2003 recommended to the Law Commission of India 2003 to include a woman, who has been with a man for a considerable period under the definition of wife under s 125 of Criminal Procedure Code and enable her to claim maintenance in the same status of a married woman.<sup>30</sup>

In 2013 the Honourable Supreme Court of India in *Indira Sarma v. V.K.V. Sarma*<sup>31</sup> made a landmark judgement the bench headed by Justice K.S. Radhakrishnan framed guidelines to consider the cohabitations within the expression 'relation in nature of marriage' under the Protection of Women from Domestic Violence Act 2005.<sup>32</sup>

The bench said: "Parliament has to ponder over these issues, bring in proper legislation or make a proper amendment of the act, so that women and children born out of such kinds of relationship should be protected, though those types of relations might not be a relationship in the nature of marriage."<sup>33</sup>

In 2018 judgement of Supreme Court a live-in-partner is entitled to maintenance in case of estrangement.<sup>34</sup>

In May 2015 Supreme Court, the bench consisting of Justices Vikramajit Sen and AM Sanyal dismissed a petition by a man who claimed that since he was already married before entering into the live-in-relationship, his partner could not claim the status of wife to be legally entitled to maintenance under Hindu Marriage Act.<sup>35</sup> This shows the gap between laws due to the lack of a specific legislation.

As mentioned above, even though there are recommendations of committee for amendments in the existing law or call for a specific legislation by the Indian judiciary, till the date the recommendations are in darkness, no amendments were made to include the woman under live-in-relations under the provision of Criminal Procedure Code. But the apex Court of India had taken a positive view in several cases in order to protect the woman who doesn't have a legal status of wife, while a matter comes to the Court the judges had to depend upon the precedents because of the lack of a specific legislation.

In the case of *Dwarika Prasad Satpathy v. Bidyutprava Dixit and Anr.*<sup>36</sup> it was held that "claim for maintenance cannot be denied where there was evidence to prove the parties living together"<sup>37</sup>.

---

<sup>29</sup> Justice Malimath Committee Report (2003)

<sup>30</sup> Wazida Rahman, "Live-in Relationship and status of women in India", 3(3) *International Journal of Law and Legal Jurisprudence Studies* 207- 212, 209, 211 (2010).

<sup>31</sup> (2013) 15 SCC 755.

<sup>32</sup> *Ibid* at 211.

<sup>33</sup> *Id.*

<sup>34</sup> Saura Patil, *Maintenance to live-in-partners* LAWYERS CLUB INDIA, (June 23 2021) <https://www.lawyersclubindia.com/articles/maintenance-to-live-in-partners-14110.asp> (last visited on Nov 20 2022)

<sup>36</sup>. AIR 1999 SC 3348.

<sup>37</sup> *Supra* note 22.

In India there is no agreement such as cohabitation agreements as in other countries, to prove their relationship they have to bring eye witness before the Court, in medieval India if a man and woman starts a relation, they were allowed to register it before the district collector of the province. But today there is no provision under any laws in our country for such a registration. So, the women are still in struggle due to the inefficiency of law-making body.

### 2. 2. 2 Problems faced by female partner – Issues and challenges

#### ▪ **Dissolution or break up**

In case of Live-in- Relationship the partners are free to split at any time and there are no legal formalities for a separation, but the actual issue arises on the unexpected death of any partner in division of their joint family and it will remain unanswered under law due to lack of legislation and lack of a registered cohabitation agreement.<sup>38</sup>

#### ▪ **Adultery**

In the early age in India the live-in- relation between a married adult woman and a unmarried adult Man was treated as an offence u/s 497 of the Indian penal code.

However in *Joseph Shine v. Union of India* a five bench judge (Bench CJI Deepak Misra J. R.F.NariMan J. D.Y.Chandrachud ,J. Indu Malhotra , J. A. Khan Wilkar) concluded “This is the 21<sup>st</sup> century where equality and liberalism have taken all over the world .adultery not only discriminates between woman and man but also demeans the dignity of woman ,and in a patriarchal society woman is treated as an individual property of her husband and she doesn’t have an individual liberty which treated woman as criminal in the offence of adultery” and the apex Court decriminalizes adultery in the Indian penal code<sup>39</sup>

#### ▪ **Morality**

In India female adult who engage in a sexual intercourse without a marital relationship is considered as a sin to the society.

Supreme Court in *Indira Sarma v. V.K.V.Sarma*<sup>40</sup>, judgment by J.K.S.Radhakrishnan, in para 2 states that “Live in or marriage like relationship is neither a crime or a sin though socially unacceptable in this country. The decision to marry or not marry or have a heterosexual relationship is intensely personal”.<sup>41</sup>

In the case of *Payal Sharma V. Nari Niketan* the Allahabad High Court recognised the concept of live-in-together, the Court observed “in our opinion, a man and woman can live together even if they are not married.

<sup>38</sup> Sushma, *Legal recognition to live-in relationship in India and issues Involved* (2021) (Unpublished LL.M. Thesis, The National University of Advanced Legal Studies).

<sup>39</sup> The Indian Penal Code 1860 (ACT NO. 45 OF 1860).

<sup>40</sup> *Supra note 31*

<sup>41</sup> (2013) 15 SCC 755.

Although society may consider this to be immoral it is not illegal. There is no distinction to be made between law and morality".<sup>42</sup>

#### ▪ Inheritance rights

If a married man and unmarried woman engage in live-in-relations the earlier view was that after the death of her spouse only the legal wedded partner of the deceased (male), had inheritance rights in the property of the deceased, the question was answered by the hon'ble Supreme Court in the landmark judgement of *Vidhyadhari v. Sukhrana Bai and Others*<sup>43</sup>, J. S IRPURKAR granted succession certificate to Vidhyadhari the live-in-partner of Sheetaldeen after the death of sheetaldeen (herein after referred as male partner)

In this case both Vidhyadhari and Sukarna Bai (legally wedded wife of male partner) filed a petition before the Madhya Pradesh High Court seeking the succession of the properties of the deceased. Here Vidhyadhari's claim was on the basis of mentioning her names as nominee in the life insurance policies of the deceased and the High Court granted rights to Vidhyadhari and the decision was revised by Madhya Pradesh HC revised its decision on the basis of lack of substantive evidence to prove the relationship between Vidhyadhari and the deceased and she appealed to the apex Court of India and Court granted the appeal on the ground that children born out of the relationship is a valid evidence to prove the relation and disregarding the fact that the male has a legally wedded wife.<sup>44</sup>

In the case of *Dhanulal v. Ganeshram*<sup>45</sup> SC by a seat comprising of Justice M.Y. Eqbal and Justice Amitava Roy<sup>46</sup> the couple were living together in one house along with their family. But when the male partner died, even though their relationship was accepted by the family members (here in after referred as opposite party) alleged as the legal heirs of the deceased and filed a petition against the female partner, the contention of the opposite party was not entitled for the inheritance as they were not legally married. In the final decision the apex Court of India held that 'the live-in- together couples if living as couples under the same roof with a long-term commitment towards each other were presumed to be legally wedded couples and the property inherited by the female partner was held as valid.<sup>47</sup>

In *Bharatha Mata & Anr Vijaya Renganathan & Ors*, a Division Bench of Supreme Court comprising of J. B.S. Chauhan and Swatanter Kumar quashed the decision of Madras High Court and held that children born-out- of live-in-relation is not entitled to Hindu ancestral property but are entitled to a share in the self-acquired property of his/her parents.<sup>48</sup>

<sup>42</sup> 2001 SCC Online ALL 332.

<sup>43</sup> (civil) no 575 Of 2008 supreme Court of India.

<sup>44</sup> Dhananjay Mahapatra, "SC grants succession to live-in-partner", THE TIMES OF INDIA (Edition India), Jan 24, 2008

<sup>45</sup> (2015) 12 SCC 301

<sup>46</sup> (2015) 12 SCC 301.

<sup>47</sup> Arirtra Sarkar and Harika Tejavath, "Analysis of property rights concerning Live-in- relationship", 1(6) International Journal of Law Management and Humanities;848- 853 (2020).

<sup>48</sup> Civil Appeal No 7108 of 2003.

Under the Hindu Succession Act 1956 (amended 2005) it is well said that A women is entitled with all rights that of a son in her parental property irrespective of her marital status, so whether in a non-marital relation is not a barer for a woman to secure the rights guaranteed to by birth over her parental property, but the right is restricted to ancestral property.<sup>49</sup>

### ▪ **Legitimacy of children**

In India as there is no specific statute to regulate the term live-in – together, the legitimacy of children born out of such relations are still in muddle. In India the legitimacy of a child is determined according to personal laws on which parents are concerned.

Earlier under the HINDU LAW an illegitimate child has never been considered a filluis nullius.<sup>50</sup>In Kerala earlier there existed a custom called dasi system and a son born to the dasi called as Dasiputra was considered as the member of his father’s family and he has the full rights as that of a legitimate child for maintenance.<sup>51</sup> The prior cases regarding the subject matter as discussed by the Supreme Court of India in case of *Tulsa & others v. Durghatiya & others*<sup>52</sup> judgement stated as follows

“One of the key requirements set by the Court for a child born out of a live-in-relationship to be considered as legal is that, parents must have been cohabited under one roof for a long period, presenting themselves to society as husband and wife. To put it another way, it can’t be a walk-in and walk out relations”.

In another case which is termed as the prior case named of live- in relationship *S.P. S. Balasubramanyam v. Sruttayan*<sup>53</sup> held that “if a man and woman live together under one roof for a long time then they will be considered as husband and wife under section 114 of the Indian Evidence Act. Thus, children born out of such a relationship shall be legitimate.

### 2. 2. 3. Women’s right in live-in- relationships – an analysis on existing law

### ▪ **Constitutional provisions**

Indian Constitution Guarantees a man the right to marry or doesn’t marry and it is his/ her personal choice and a matter of personal liberty.<sup>54</sup>

---

<sup>49</sup> Salonisinha, “Property Rights of Women in a Relationship and Laws Thereto”, LEGAL SERVICE INDIA available at <https://www.legalserviceindia.com/legal/article-5247-property-rights-of-women-in-a-live-in-relationship-and-laws-relating-thereto.html>. (last visited on Nov. 182022)

<sup>50</sup> Paras Diwan, Law of Adoption Minority Guardianship and custody 111 (universal law publishing Co. Pvt. Ltd 4<sup>th</sup> Edtn)

<sup>51</sup> *Id* at p 236

<sup>52</sup> Civil Appeal No 648 Of 2002 SC.

<sup>53</sup> AIR 1994 133.

<sup>54</sup> PM BHASHI, The Costitution of India 73 (Lexis Nexis Hariyana ,18<sup>th</sup> edtn)

## ■ Maintenance right

In the year 2003, after the suggestions of Justice Malimath Committee, section 125 was fused in the Criminal procedure code to adjust the meaning of 'wife' and extend it to include women who were in relationship. This guaranteed that her financial needs. But even today if you look into the definition of s 125 there is no wordings to bring a woman in relationship under the ambit of wife.<sup>55</sup> by analysing the explanation for "wife" under s 125 (a) wife includes a woman who has been divorced by or has obtained a divorce from, her husband and has not married.<sup>56</sup> While analysing the definition of wife for claiming maintenance we can say that there is a conflict between Art 21 of the Hon'ble COI and section 125 of the Code of Criminal Procedure 1973. art 21 says that a person has his/her personal liberty then only a married woman can claim maintenance from her husband it is equant to injustice for female partners in a live-in-relations and it will also question their dignity. It is the liberty of a person to enter in a married relation or to be in a live-in-relationship as mentioned. There are only a few cases in this regard.

In *Nanak Chand v. Chandra Kishore Aggarwal and others* SC came to the conclusion that "section 448 of Code of Criminal Procedure provides for a virtual summary remedy for the aggrieved person and has no relationship with the personal laws to which the parties of the case belong."<sup>57</sup>

In *Mr Abhijit Bhikaseth Auti v. State of Maharashtra*<sup>58</sup>. On 16 sept 2008 supreme Court (bench: - justice B.S.OKA, BOMBAY HC) stated that it is not necessary for woman strictly establish the marriage to claim maintenance under section 125 Code of Criminal Procedure Code 1973.

## ■ Recognition Under Indian Evidence Act 1872

Indian Evidence Act 1872, gave statutory recognition to the cohabitations for continuing their relations outside marriage.<sup>59</sup> The Act, permits the judges to drag out conclusions from the crumbs of evidence and circumstances of a case before them unless they can be disproved. The sealed decisions of the Hon'ble Supreme Court (hereinafter referred as SC).

In *Madan Mohan Singh and Ors. v. Rajni Kant and Anr*<sup>60</sup>, the point at issue is that "Whether a Live-in - relation if continued for a prolonged time be termed as a Walk-in-and walk out – Relation and there is presumption of marriage u/s 114 of Indian evidence Act? The Court held that if a man and woman lives under the same roof for a number of years, there will be a presumption under section 114 of the Evidence act, (judgement para 21).<sup>61</sup>

<sup>55</sup> Bare act of Criminal Procedure Code, The Code of Criminal procedure 1973 69 (UNIVERSAL'S New Delhi – Universal law publishing, 24<sup>th</sup> Edtn 2018.)

<sup>56</sup> The Code of Criminal Procedure ,1973, Bare Act with short notes (Universal's law publishing co.pvt. Ltd. New Delhi India -universal law publishing, 24<sup>th</sup> Edtn 2018).

<sup>57</sup> AIR 1970 SC 446.

<sup>58</sup> 3 Cri.LJ, 889, 892(Bom.2009)

<sup>59</sup> Indian Evidence Act 1872 (ACT No. I. OF1872), s.114.

<sup>60</sup> AIR 2010 SC 2933

<sup>61</sup> inb 1989," A Misinterpretation &Un-called construction of section 114 of Evidence Act: Live-In-Relationship",LSIe-journal,<http://www.legalservicesindia.com/article/721/A-Misinterpretation-&Un->

Under section 114 (a)(iii) when oral and other reliable evidences are satisfactorily giving evidence that the pair lived together as husband and wife, merely because family register does not show them as husband and wife is not clinching evidence to deny their relationship of husband and wife. – decision of Allahabad HC in *Lalta v. District iv th upper Distt. J.Basti.*<sup>62</sup>

Under section 107. Marriage register – it is well said that although, where the contents of a marriage register are issue, verbal evidence of those contracts of those contents is not receivable, yet the fact of marriage may be proved by the independent evidence of a person who was present at it.<sup>63</sup>

But when it comes to the case of live-in-relations as there are no agreements of registration or registration is not made mandatory to prove their relations the only solution to admit their relations is to read section 114(admissibility of oral evidence) with section 107 of INDIAN EVIDENCE ACT that is if the Live-In-Relationship couples had communicated the existence of relationship to any of their friends or relatives. That particular person who has knowledge about their relation the existence of relationship may be proved by the independent evidence of that particular person who was there with them / staying with the cohabiting couples.

#### ▪ **Adoption Rights**

As per the opinion of CARA, the notal body for adoption in India, the cohabiting couples are barred from adopting a child on the grounds that a cohabitation without marriage cannot be considered as a stable family in India. They opinioned that “we can’t predict about the future of a relationship” so we have to work for best interest of child”<sup>64</sup> and issued a circular on May 31<sup>st</sup> 2018 barring couples in a live-in-relation from adoption but in sept 2018 the Authority itself rethink and withdraw the circular (circular issued on May 2018) and in an interview granted to “THE HINDU” Mr. R.K. Shrivastava Former secretary Women and Child Development Ministry said “we have decided to withdraw the circular and applications from prospective adoptive parents will be examined on a case-by- case basis.”<sup>65</sup>

#### ▪ **Protections Under Protection of Women from Domestic Violence Act 2005**

‘Relation in nature of marriage’ is included within the definition of domestic relationship has been defined in the Protection of Women from Domestic Violence Act 2005<sup>66</sup>.

While interpreting the terms ‘live-in-relations’ and domestic relationship are used interchangeably by the Indian Judiciary.

In *Indra Sarma v. V.K.V. Sarma* the two- judge bench consist of J K.S. Radhakrishnan and J. Pinaki Chandra Ghose issued certain guidelines and for considering the relation with the ambit of definition of section 2(f)

Called-Construction-Of-Section-114-Of-Evidence-Act:-Live-In-Relationship.html (last visited on Nov.16,2022).

<sup>62</sup> AIR 1999 All 342.

<sup>63</sup> C.D. FIELDS, COMMENTARY ON LAW OF EVIDENCE,348 (DELHI LAW HOUSE).

<sup>64</sup> Jagriti Chandra, “Couples in live-in relations cannot adopt, says CARA”, *THE HINDU*, June 14, 2018.

<sup>65</sup> “GOOD NEWS: “LIVE- in- Couples can now adopt In and From India” the quint (Sept 24 2018) available at <https://www.thequint.com/news/india/adoption-live-in-relationship-children-india>.

<sup>66</sup> The Protection of Women from Domestic Violence ACT, 2005 (No. 43 OF 2005) s. 2(a).

of DV Act and ordered the parliament to enact a new legislation for the protection of victim of live-in-relations.

In its guidelines numbered 1 – Duration of period – section 2(f) of the DV act has used the term “any point of time” which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation.

In guideline number 5- sexual relationship refers to sexual relationship; not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection.<sup>67</sup>

In *Koppiseti Subbaraho v. State of Andhra Pradesh*<sup>68</sup> the supreme Court ruled that the term “dowry” has no magical charm. It alludes to a request of cash in connection to conjugal relationship. The Court has not accepted the contention of the defendant that since he was not legally married to the complainant, section 498A Of PWDA did not make a difference to him in a stage shielding the lady from badgering for dowry in a live-in-relationship.”

Under the provisions of the Protection of Women from Domestic Violence Act 2005, Act the female partner in a live relationship is entitled to maintenance and right of palimony (an alimony paid to a former partner in a non -marital relationship) on her complaint.

## 2. 2. 4 Conclusions.

Live-In-Relations are source of debates since it poses a challenge to our core social structure. However, it is not considered as a crime by the Indian judiciary still there is no specific legislation to connect with this kind of relations till the date. For the protection of women victims there is no specific legislation in regard to the guardianship of children, succession rights, maintenance, the only rights granted to the victims are seeking protection against the claiming of dowry in a conjugal right as per the Protection of women from Domestic violence under Domestic violence Act of 2005.

## 2. 3 STATUS OF LIVE -IN RELATIONSHIP IN OTHER COUNTRIES

- a) France: The French parliament passed a Pacte Civil Solidarite (PACS)<sup>69</sup> in November 1999 that allows two adults to enter in a de- facto relationship after signing in front of a Court clerk. It is a legal document that ties

<sup>67</sup> Astha Saxeant, *Live-in Relationship and Indian Judiciary*, SCC ONLINE BLOG (Jan. 23. 2019) <https://www.scconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>. (last visited on Nov. 18, 2020).

<sup>68</sup> (2009) 12 SCC 331.

<sup>69</sup> Pacte Civil Solidarite ,1999 of France.

two adults, either of same sex or different sex to be benefited from the rights granted to a married couple in case of tax benefits.<sup>70</sup>

- b) Scotland: The Family Law (Scotland) Act 2006 provides cohabitants with limited financial support once the partnership comes to an end due to the death of one among them or a break up, the act provides the right to cohabitating couples to sue against the other at the event of separation.<sup>71</sup> A Court has the power to mandate one partner to pay a sum to the other only if the petition is made within one year of separation.<sup>72</sup>
- c) Ireland: In Ireland the Civil partnership and Certain Rights and Obligations of Cohabitants Act 2010 regulates laws relating to cohabitating couples. Act defines cohabitating couples as two adults who live together as a couple in intimate and committed relationship and who are not related to each other within prohibited relationship or married to each other or civil partners of each other. In the act it is well said to attain the rights of cohabitants they must be in a relationship at least two years in case if they have a child otherwise, they must be cohabitating at least for five years<sup>73</sup>. In the act it is mentioned that if a person wants to bring a claim before a Court out of a cohabitation, they must file it within 2 years of the break up.<sup>74</sup>
- d) Australia: In Australia de-facto relationship is governed by Family Law Act 1975. To resolve the financial matters among the de-facto couples since March 2009 they can apply to the Federal circuit and Family Court of Australia and also the Court will deal with issues relating of children. Also, the Court fix a period of 2 years from the date of separation as time limit for filing an application to settle financial dispute and for making an application before filing they have to satisfy certain conditions before the Court.
- i. They have been in a relation for a term of years
  - ii. There is a child born out of this relation
  - iii. The petitioner had made substantial contributions to the property they own together.
  - iv. Their relationship had been registered in a territory or state within Australia.<sup>75</sup>
- e) Philippine: In Philippines, the Family Code defines the cohabitation<sup>76</sup> and, it is said during the period of the relationship the property acquired by them are considered as joint property by their joint efforts, wages (in the absence it is proved contrary) and have equal rights upon the properties. And in the article, it is also mentioned that one of them can't sell off his / her share of the property without the permission of the other until the relationship comes to an end.<sup>77</sup>

<sup>70</sup> Sonali Abhan, "Judicial Approach to Live- In-Relationship" In India- Its Impact on Other Related Statutes" 19(12) *ISOR* 33- 35 ,33 (2014).

<sup>71</sup> The Family Law (Scotland) Act ,2006 of Scotland, s.28

<sup>72</sup> Aishwarya Pandey, "A Comparative Study of Live-in Relationship in India with Other Countries" 4(1) *IJMLH* 261- 270 ,265, 266 (2021).

<sup>73</sup> Civil partnership and Certain Rights and Obligations of Cohabitants Act 2010 of Ireland, ss.172 ,172(5)

<sup>74</sup> Terry Gorry, "Cohabiting couples in Ireland – Some Legal Essentials", *FAMILY LAW IRELAND* (DEC 22 2018 )available at <http://familylawirelandhq.com/cohabiting-couples-in-ireland-some-legal-essentials/> ( last visited on Nov 20 ,2022).

<sup>75</sup><https://www.fccoa.gov.au/fl/pubs/defacto#:~:text=A%20de%20facto%20relationship%20is,on%20a%20genuine%20domestic%20basis> (last visited on Nov 22, 2022).

<sup>76</sup> The Family Code of Philippines (Executive Order No. 209).art.147.

<sup>77</sup> <https://attorney.org.ph/legal-news/267-what-is-common-law-marriage> (last visited on Nov 22, 2022).

Age group	Female	Male	Others	Total	Percentage %
	(NUMBERS)	(NUMBERS)	(NUMBERS)	(NUMBERS)	
18 - 38	8	8	0	16	80
39 - 58	1	1	0	2	10
59 - 78	0	0	0	0	0
79 - 98	0	0	0	0	0
Above 98	0	0	0	0	0
Not specified	1	1	0	2	10

f) Pakistan: In Pakistan cohabitation is penalized under Women Protection Act 2006<sup>78, 79</sup>

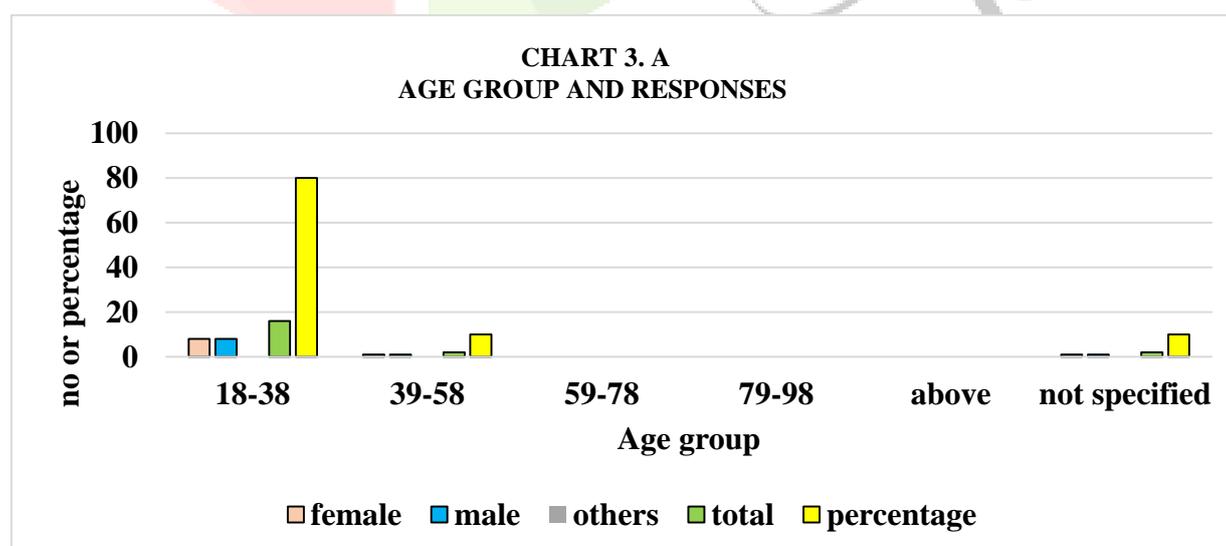
### CHAPTER III

#### DATA ANALYSIS AND INTERPRETATION

The Chapter consists of interpretation of data collected through the 3 sets of questionnaires namely questionnaire to general public (given under 3. 1 **Analysis of Questionnaire to The General Public.**) questionnaire to police officers (given under 3. 2 **Analysis of Questionnaire to The Police Officers** and questionnaire of legal officers (given under 3. 3 **Analysis of Questionnaire to Advocates**).

#### 3. 1 ANALYSIS OF QUESTIONNAIRE TO THE GENERAL PUBLIC. (SAMPLE UNIT IS 20)

TABLE 3 A  
AGE GROUP AND RESPONSES



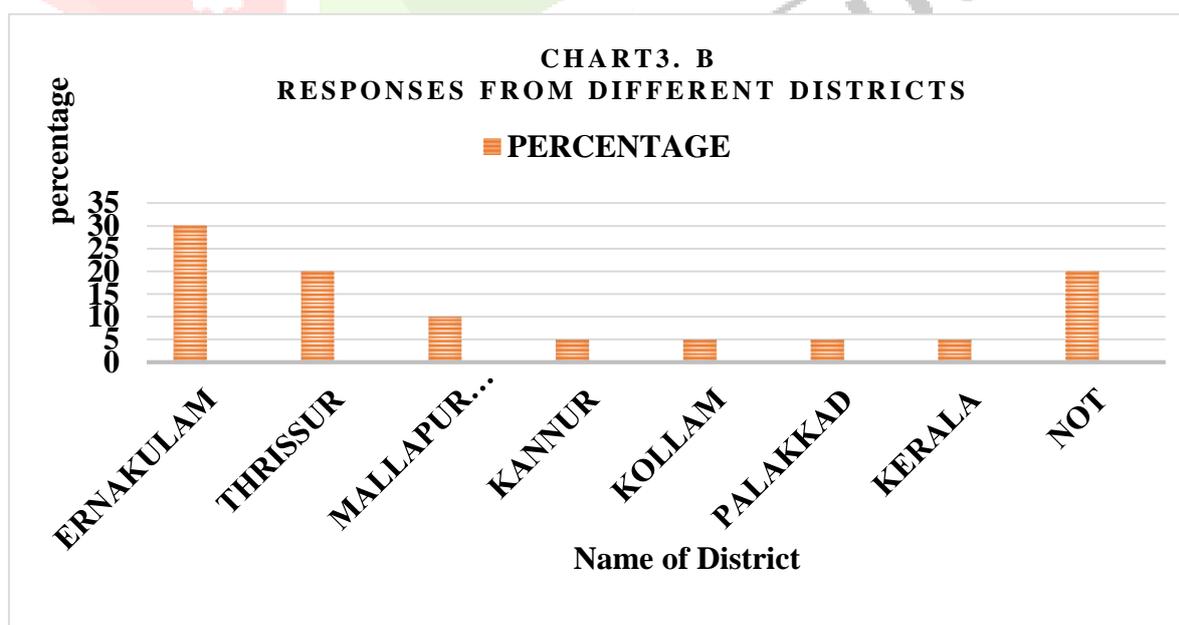
<sup>78</sup> Women Protection Act 2006 of Pakistan.art. 493(a).

<sup>79</sup> Exchange Marriage system in Pakistan.Law Teacher (Jul. 17 2019) <https://www.lawteacher.net/free-law-essays/family-law/family-marriage-laws-in-pakistan-law-essays.php#:~:text=Cohabitation%20has%20been%20further%20penalized,relations%20defined%20in%20separate%20legislation> ( last visited on Nov 22,2022)

**Theoretical Interpretation:** The Table 3 A (above) provides data about the number of respondents from different age group (in numerals) Chart 3. A represent it in percentage form, table contain 5 columns and 9 rows. Columns named as age group, female, male, others, total and percentage and rows are named as 18-39, 39-58 ..... not specified and the number of responses from each gender and its percentage (total number of response/ sample unit \*100) are given under the particular columns. By examining the graph, we can say that the high response is from the age group of 18-39 the number of responses is 16 and its 80 % of the sample unit. The age group of 39-58 and not specified shows same number of responses (2) and it is 10 % from each age group so total 20 % and there were no responses from the other age group.

**TABLE 3 B**  
**RESPONSES FROM DIFFERENT DISTRICTS.**

DISTRICT	RESPONSES(NUMBERS)	PERCENTAGE %
ERNAKULAM	6	30
THRISSUR	4	20
MALAPPURAM	2	10
KANNUR	1	5
KOLLAM	1	5
PALAKKAD	1	5
WHO MARKED AS KERALA	1	5
NOT SPECIFIED	4	20



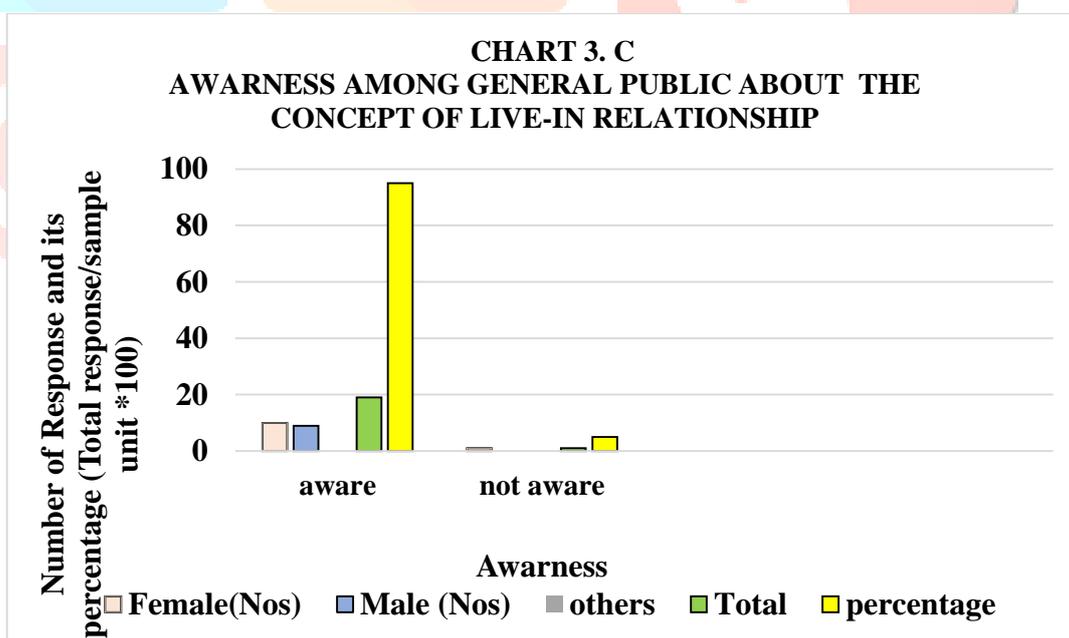
**Theoretical Interpretation:** The Table 3. B shows the number of responses from the specified states and its percentage and in the Chart 3. B, X Axis contain the name of district and Y Axis contain the responses received

from the district and its percentage for example if the response is 6 the first column specifies the number of responses and the second column shows its percentage 30 % the percentage is calculated by using the formula number of responses / total sample unit multiplied by 100.

TABLE 3 C

AWARNESS AMONG GENERAL PUBLIC ABOUT THE CONCEPT OF LIVE-IN-RELATIONS.

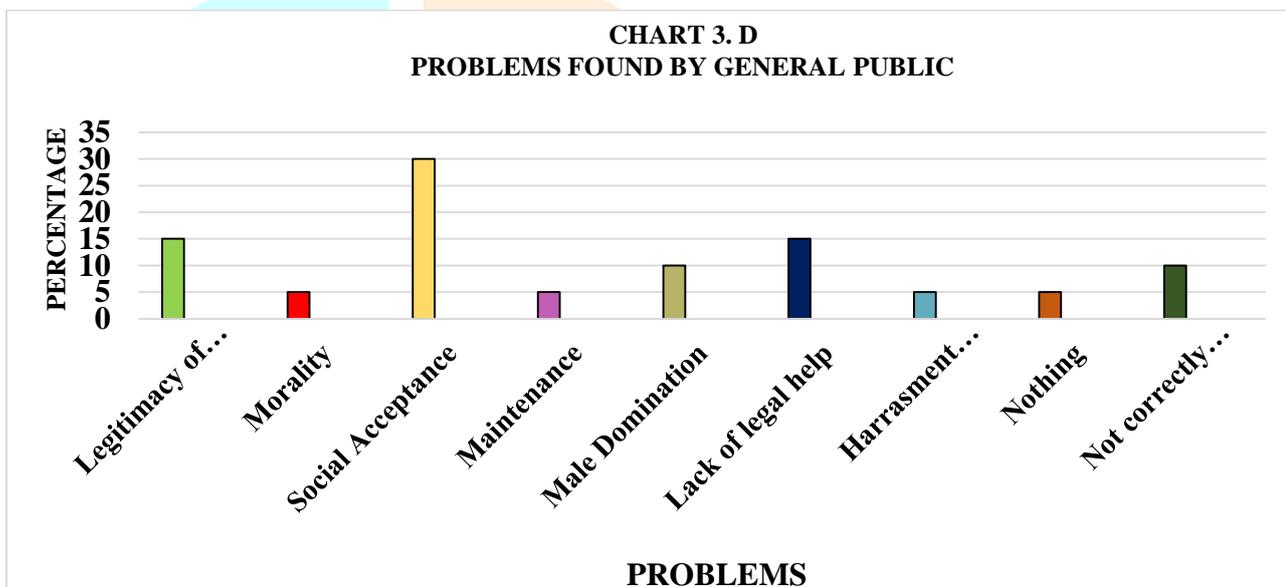
Awareness	Female (No.s)	Male (No.s)	Others (No.s)	Total (No.s)	Percentage %
Aware	10	19	0	19	95
Not aware	1	0	0	1	5



**Theoretical Interpretation:** The Table 3 C shows the awareness among the general public about the concept of living together and it specify the number of people who are aware and not aware about the concept of Live-In Relationship. The whole people are classified under three heads female male and others and the sum total is given in the total column and the last column shows the percentage, the rows are named as aware and not aware and the above graph shows the number of respondents converted into percentage by analysing the Chart 3. C in general we can say that 95 % (of the sample unit (19 out of 20) is aware about the concept.

**TABLE 3 D**  
**PROBLEMS FOUND OUT BY THE GENERAL PUBLIC.**

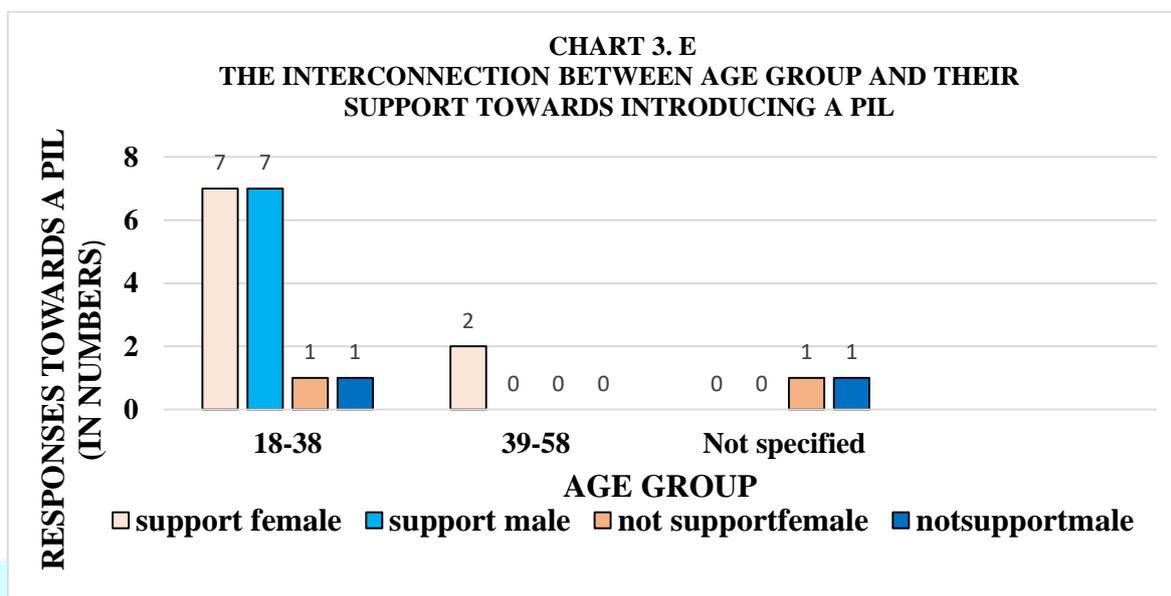
PROBLEM	NUMBER OF RESPONSES	PERCENTAGE %
Legitimacy of children	3	15
Morality	1	5
Social acceptance	6	30
Maintenance	1	5
Domination/thrust issues	2	10
Lack of legal help	3	15
Harassment from partner	1	5
Nothing	1	5
Not correctly answered	2	10



**Theoretical Interpretation:** The Table 3 D (above) portrays the problem found by the general public and number of respondents who find out that particular problem, by analysing Chart 3. D (above) we can say that according to general public the main problem faced by female partners are acceptance by society (30%) legitimacy of children (15%), lack of legal help (15 %) maintenance (5%), male domination (10%) harassment from male partner (5%) and some of them saying that cohabiting couples have no problem (5%) and 10 % of the responses does not provide an answer. The tables show the number of respondents who points each category of the problem.

**TABLE 3 E**  
**HOW AGE GROUP AND RESPONSE IN FAVOR AND NOT IN-FAVOUR OF PIL IN RELATION TO LIVE-IN-RELATIONS ARE INTERCONNECTED.**

Age	Yes		No	
	Male	Female	Male	Female
18-38	7	7	1	1
39-58	0	2	0	0
Not Specified	0	0	1	1



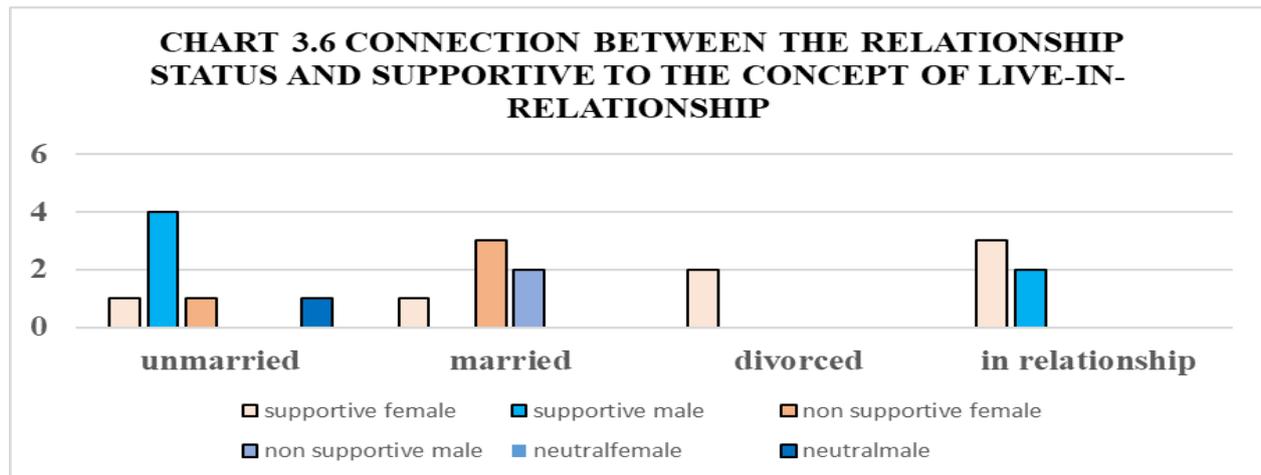
**Theoretical Interpretation:** The Table 3 E (above) provides information about the support from different age group towards the introduction of a Public Interest Litigation in detail and the graph gives a pictorial representation of the same from analysing Chart 3. E (above) we can conclude that female respondents are more supportive towards the introduction of a PIL than the male, the more supportive s from the people of age group 18-38 out of the 16 respondents 7 from both female and male are in supportive towards the introduction and only 2 had provide a negative response from the age group 39-58 only 2 females participated in the survey and they are supportive in nature and out of the twenty respondents 2 of them doesn't provide their age and they provide a negative response.

TABLE 3 F

**CONNECTION BETWEEN THE RELATIONSHIP STATUS AND SUPPORTIVE TOWARDS THE CONCEPT OF LIVE-IN-RELATIONS**

Relationship status	Supportive female	Supportive male	Non-supportive female	Non-supportive male	Neutral Female	Neutral Male
Un-married	1	4	1	0	0	1
Married	1	0	3	2	0	0
Divorced	2	0	0	0	0	0

In-Relationship	3	2	0	0	0	0
-----------------	---	---	---	---	---	---



**Theoretical Interpretation:** The Table 3 F and Chart 3.F portrays the data of the interrelationship between the marital status of the respondents and their support towards the concept of live in relationship (the table contain the numerical values and graph shows the percentage of respondents), By analysing the above graph we can conclude that among the unmarried people, males are more in supportive to the concept of live-in-relationship. According to the females who are currently in a relationship it is a better option. In the view of divorced females, it is better to engage in a live-in -relationship. Also, there is acceptance to the concept among the married males and female.

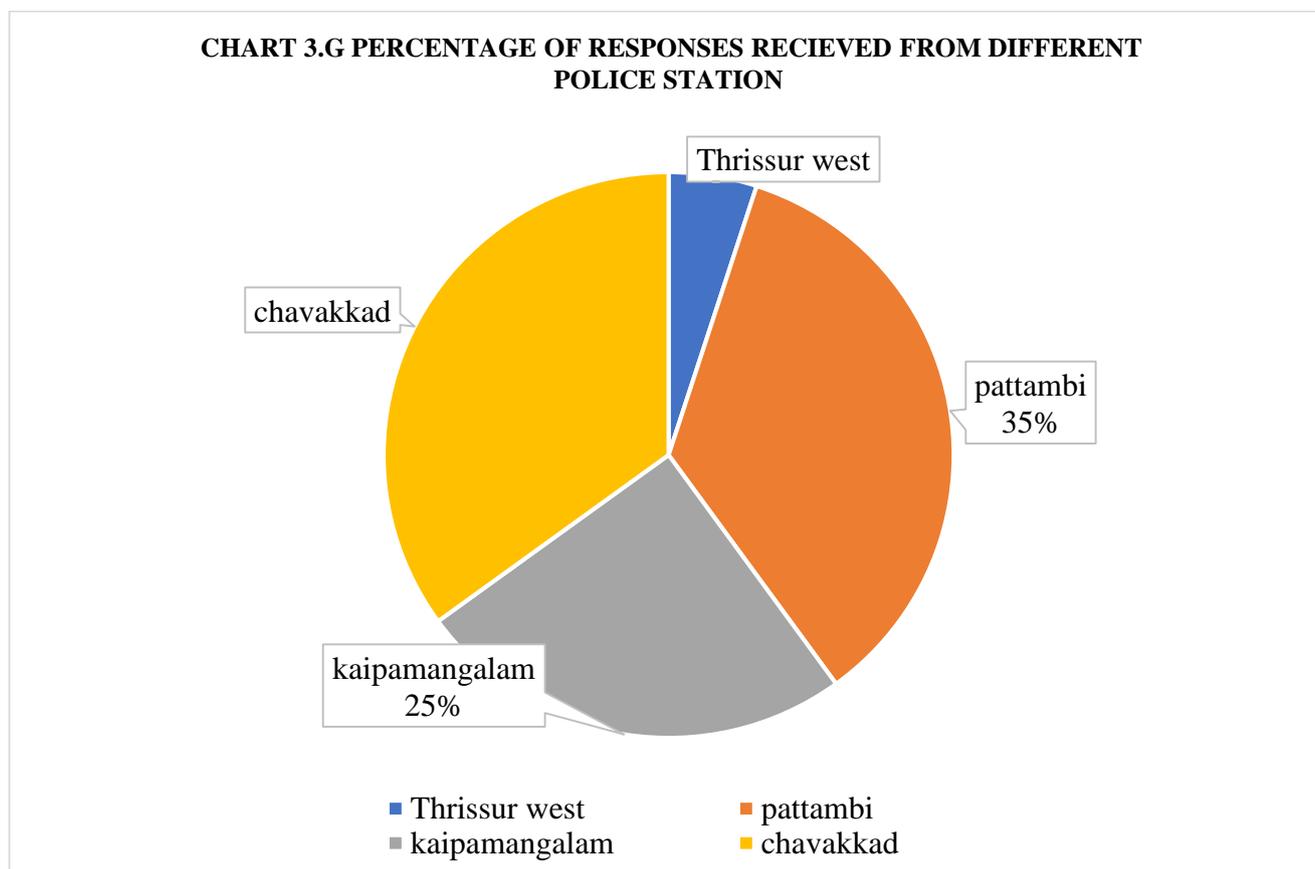
### 3. 2 ANALYSIS OF QUESTIONNAIRE TO THE POLICE OFFICERS

(SAMPLE UNIT 20)

TABLE 3 G

NUMBER OF RESPONSES FROM DIFFERENT POLICE STATION

NAME OF STATION	RESPONSE
Thrissur West	1
Pattambi	7
Kaipamangalam	5
Chavakkad	7



**Theoretical Interpretation:** The Table provides information regarding the the number of respondents received from the different Police Stations and Chart shows the same in percentage form, By analysing the Table 3 G and graph Chart 3 G ( shown above) , we can conclude that there is a high response from the side of police officers from the Pattambi Police Station (7/20 i.e., 35 %) and the rest of the response are from the Chavakkad Police Station (7/20 i.e., 35 %), Kaipamangalam (5/ 20 i.e., 25 %) and Thrissur West (1/20 i.e., 5 %).

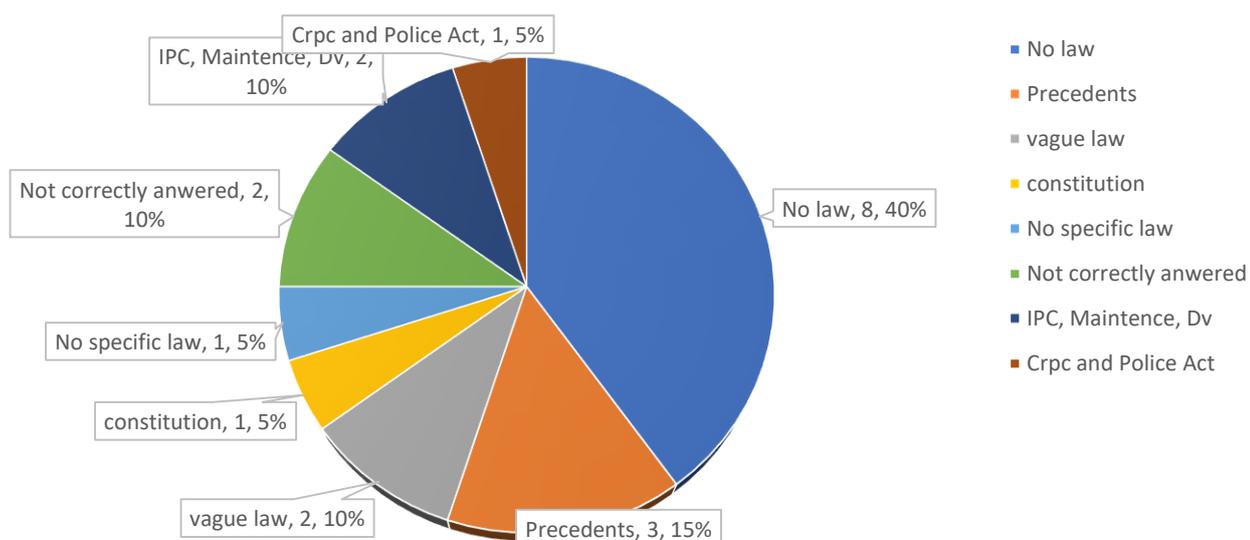
**TABLE 3 H**

**LAWS GOVERNINGS LIVE-IN RELATIONSHIP IN INDIA (ACCORDING TO POLICE OFFICERS IN STATE OF KERALA)**

LAW	NUMBER OF RESPONSES
NO LAW	8
PRECEDENTS	3
VAGUE LAW	2
CONSTITUTION OF INDIA 1950	1
NO SPECIFIC LAW	1
NOT CORRECTLY ANSWERED	2
INDIANPENALCODE 1860, HINDU ADOPTION AND MAINTENANCE ACT 1956, PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2002	2
CODE OF CRIMINAL PROCEDURE 1973, KERALA POLICE ACT 2011	1



**CHART 3. H**  
**LAWS GOVERNING LIVE-IN-RELATIONSHIP (ACCORDING TO POLICE OFFICERS)**



**Theoretical Interpretation:** Table 3 H and Chart 3. H (above) shown above provides the details of Laws governing the live in relationship in Kerala and the number of respondents who is of the opinion that the concerned law is the law governing the live -in relationship, by analysing the above table and Chart we can conclude that 8 out of 20 i.e., 40 % of the total respondents (Police Officers) are of the opinion that there is

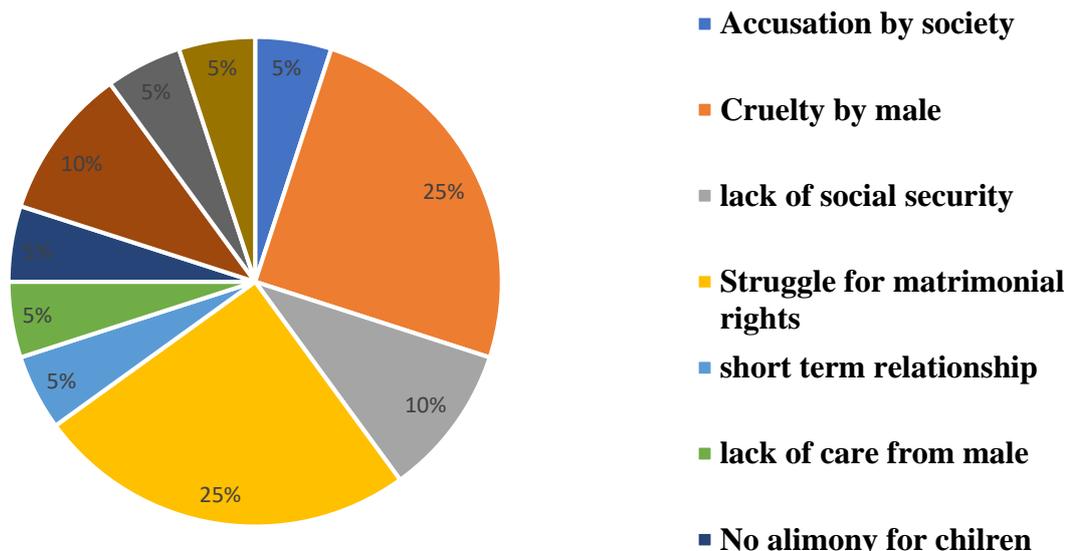
no law deal with the problem of female partners in Live – In Relationships. 3 of them i.e., 15 % are of the opinion that there are only precedents regarding the matter, 2 of them (10%) says that there are laws but they are vague. 2 (10 %) among the 20 respondents does not provide any answer to the question. 2 of them says Indian Penal Code 1860, Hindu Adoption and Maintenance Act 1956 and Protection of Women from Domestic Violence Act 2005 have provisions. One of the 20 says that Code of Criminal Procedure 1973 and police Act had provisions and one say that there are certain provisions in Constitution of India 1950.

TABLE 3 I

**PROBLEMS FACED BY FEMALE PARTNERS IN THE EVENT OF SEPERATION FROM LIVE – IN RELATIONSHIPS.**

<b>Problem</b>	<b>Number of Responses</b>
Accusation by Society	1
Cruelty by male partner	5
Lack of social security provided by law	2
Struggling for matrimonial rights	5
Short term relationship	1
Lack of care from male	1
No alimony for children	1
Cheating/ ignorance from male	2
Rape	1
Not correctly answered	1

**CHART 3. I**  
**PROBLEMS FACED BY FEMALE PARTNER AT THE EVENT OF SEPERATION**  
**FROM LIVE-IN- RELATIONSHIPS**

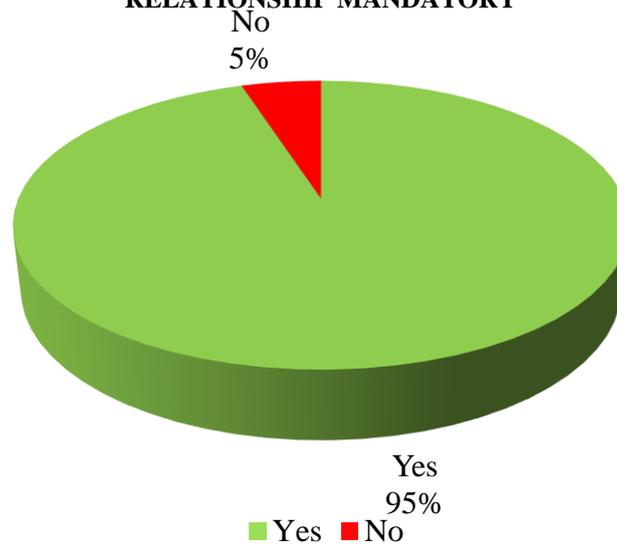


Theoretical Interpretation: The Table 3 I (above) and Chart 3. I highlights the problems faced by the female partners at the event of separation from a live- in relationship (as point out by the police officers) the number of respondents who mark the problem is given in table and its percentage is shown in the chart , by analysing the above table and pie chart, one can conclude that the main problem faced by female at the time of separation from live- in relationship according to the police officers is cruelty from male partners (5/ 20 i.e., 25%), and struggling for matrimonial rights (5/20 i.e., 25 %). Then the others problems are accusation by society (1/ 20 i.e., 5 %), short term relationship (1/ 20 i.e., 5%), lack of social security provided by law (2/ 10 i.e., 10 %), No Alimony for children (1/ 20 i.e., 5 %), cheating/ ignorance from male (2/ 20 i.e., 10%), Rape (1/ 20 i.e., 5 %), Not correctly answered (1/ 20 i.e., 5 %).

**TABLE 3 J**  
**RESPONSE TOWARDS MAKING REGISTRATION OF LIVE -IN RELATIONSHIP MANDATORY FOR SECURING**  
**THE RIGHTS OF FEMALE PARTNERS.**

RESPONSES	NUMBERS
Yes	19
No	1

**CHART 3. J**  
**RESPONSES TOWARDS MAKING THE REGISTRATION OF LIVE-IN-  
 RELATIONSHIP MANDATORY**

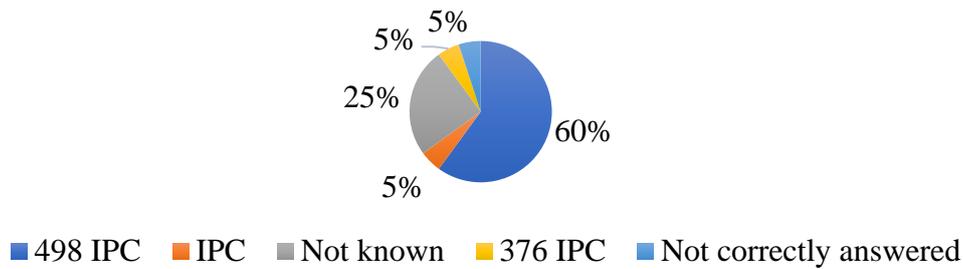


**Theoretical Interpretation:** The Table 3 J (above) and Chart 3. J (above) provides the opinion given by the police officers towards the making the registration of live- in relationship a mandatory one for securing the rights of female partners. Out of the 20 respondents 19 are of the opinion that it should be made mandatory and only one disagree, and the pie chart shows the responses converted into the percentage form. By analysing the pie chart, we can conclude that 95 % ( $19/20 * 100$ ) thinks that it is necessary to make the registration a compulsory one for securing the rights. 5% that it is not necessary.

**TABLE 3 K**  
**LEGALPROVISION GENERALLY INVOKED AGAINST THE MALE PARTNERS WHEN A COMPALINT IS  
 FILED BY FEMALE.**

PROVISION	NUMBER OF RESPONSES
IPC	1
498 IPC	12
Not Known	5
Not correctly answered	1
326, 376 IPC (depending on the cases)	1

**CHART 3. K  
LEGAL PROVISIONS INVOKED WHEN A  
COMPLAINT IS FILED**

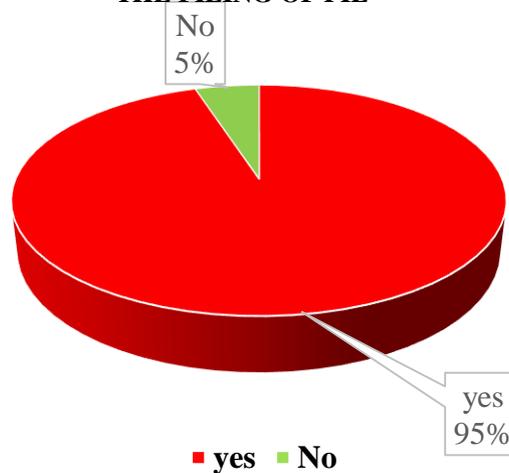


**Theoretical Interpretation:** The Table 3 K and Chart 3. K (above) provides the details of answers provided by the police officers regarding the provisions generally invoked against the male partner when a female partner files a complaint in cases of De-facto relationship. 12 out of the 20(60 %) says that section 498 of the Indian Penal Code is generally applied, 5 of them (25 %) says that the provisions were not known to them, one of them (5%) says that Indian Penal Code is applied (without writing the sections),1 of them (5%) says that sections 326, 376 are used and depends upon the nature of complaint and not correctly answered 1 (5%).

**TABLE 3 L  
RESPONSES REGARDING THE SUPPORT TOWARDS THE FILING OF A PIL TO SECURE THE RIGHTS OF FEMALE.**

Response	Number of Response
Yes	19
No	1

**CHART 3. L  
RESPONSE REGARDING THE SUPPORT TOWARDS  
THE FILING OF PIL**



**Theoretical Interpretation:** The Table 3 L and Chart 3 L (shown above) indicates the support of the Police officers towards the filing of a Public Interest Litigation for securing the rights of females in a Live-in relationship, by analysing the table and graph shown above. It is clear that among the police officers there is

a positive attitude among the police officers (19 out of the 20 respondents) towards filing a Public Interest Litigation. Only one took a negative attitude.

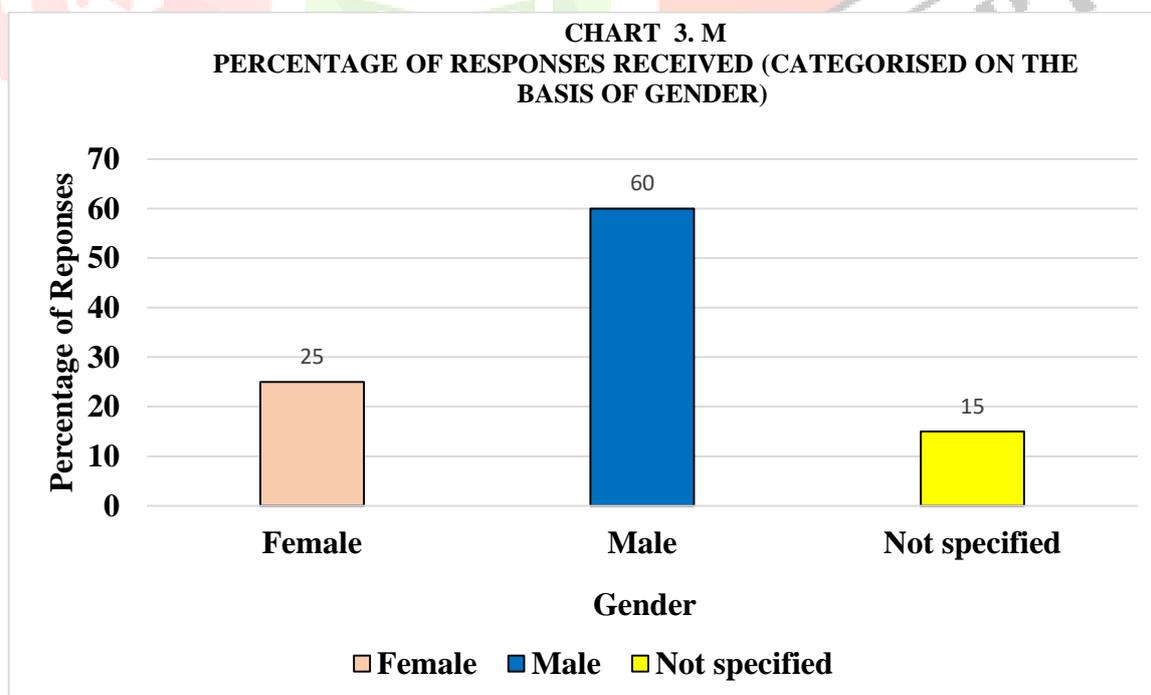
### 3. 3 ANALYSIS OF QUESTIONNAIRE TO ADVOCATES

(SAMPLE UNIT IS LIMITED TO 20)

TABLE 3 M

NUMBER OF RESPONSES CATEGORISED ON THE BASIS OF GENDER

Gender	Number of Responses
Female	5
Male	12
Not specified	3



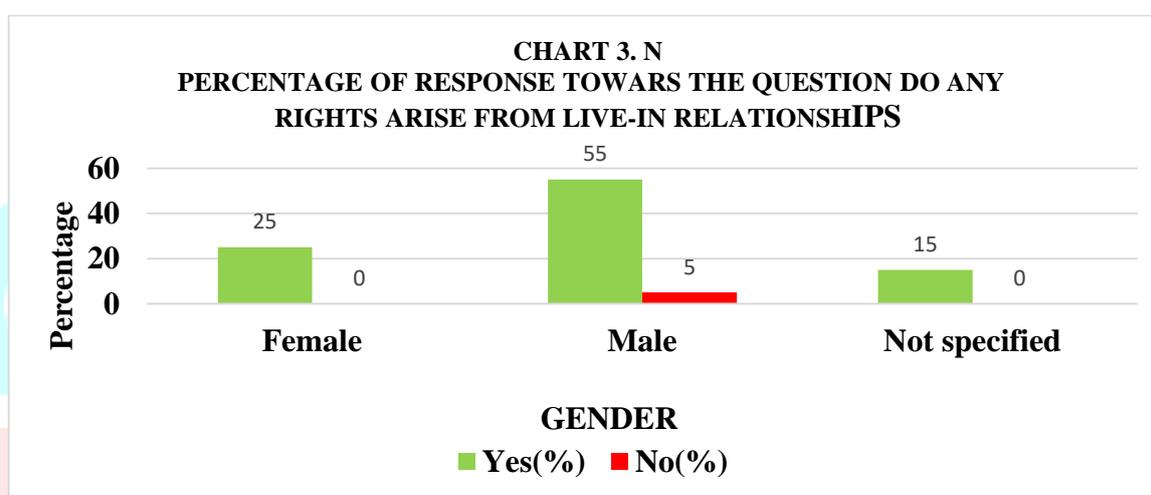
**Theoretical Interpretation:** The Table 3 M (above) highlights the number of responses obtained, and the total responses received is categorised on the basis of their Gender, and the table showing the Responses in Numbers and in the graph the number of responses is shown in percentage. By analysing the table and graph

we can come across the conclusion that out of the 20 responses 60 % i.e., 12 of them were male, 25 % i.e., 5 out of 20 were female, and the remaining respondents 15 % i.e., 3 of the them doesn't specify their gender.

TABLE 3 N

**OPINION TOWARDS THE QUESTION DO ANY LEGAL RIGHTS ARISE FROM LIVE-IN-RELATIONSHIP**

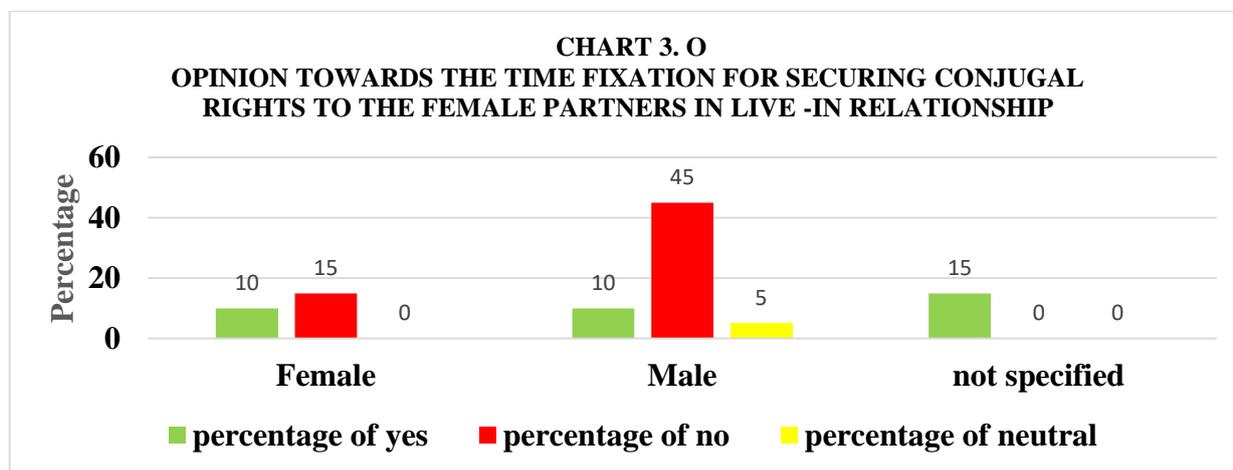
Category	Yes	No
Female	5	0
Male	11	1
Not specified	3	0



**Theoretical Interpretation:** The Table 3 N (above) provide information regarding the responses obtained from the Advocates on the question Do any legal rights arise from live-in relationships. From the table we can understand that in the opinion of females all of them (total 3 responses from female) says that some rights arise from live-in relationships. In the opinion of male respondents out of the 12 responses received 11 of them says yes to the question and one says no and 3 of them doesn't specify their gender and all of them says yes. In the Chart 3. N the responses are given in its percentage, from the total responses 3 of them are female and all of them says yes so, the percentage is 15% and from the male, 12 responses are received out of 12 11 says yes that is 55 % of the total response received (total response 20) and one says no that is 5% of the total responses. And other 3 response dents who doesn't specify their gender consist of the remaining 15 % and they say yes.

TABLE 3 O

**OPINION TOWARDS THE TIME FIXATION FOR THE AVAILABILITY OF CONJUGAL RIGHTS TO THE FEMALE PARTNERS IN LIVE-IN- RELATIONSHIP**



**Theoretical Interpretation:** The Table 3 O (above) specifies the opinion obtained from the advocates regarding the time fixation for securing the conjugal rights. Chart 3. O (above) represents the opinions in percentage. Out of the Total responses (20) 5 are female, 12 are male and the remaining 3 does not specify their gender. Out of the 5 female responses 2 of them say the time is to be fixed (i.e., 10 % of the total response) and 3 of them (i.e.,15% of total response) are of the opinion that there is no need for time fixation and in the opinion of male majority are of the opinion that there is no need for time fixation (i.e., 9 out of 12 and 45 % of the total response) and 2 of them(10 % of the total response) says that time is to be fixed and 1 took a neutral stand (5% of the total response) and the remaining 3 respondents are of the opinion that the time is to be specified (15% of the total response).

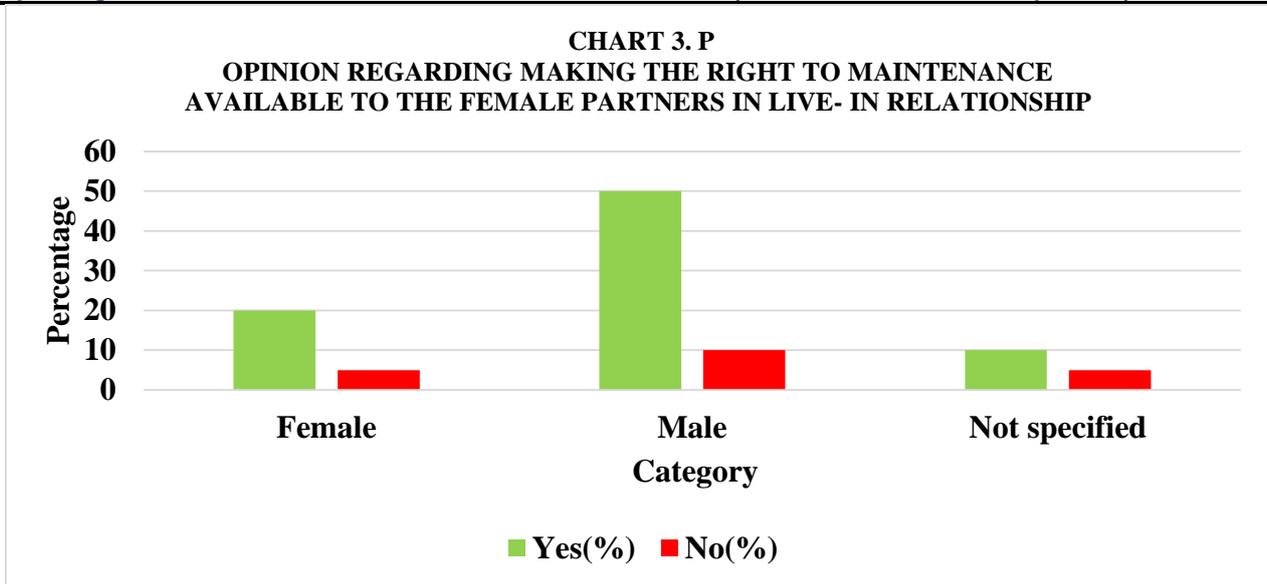
**TABLE P**

**OPINION TOWARDS MAKING THE RIGHT TO MAINTENANCE AVAILABLE TO THE FEMALE PARTNERS UNDER THE AMBIT OF SECTION 125 OF THE CRIMINAL PROCEDURE CODE**

Category	Yes	No
Female	4	1
Male	10	2

Category	Not specify	No	Yes	Neutral
Male		9	2	1
Female		3	1	0
Not specified		0	3	0



**Theoretical Interpretation:** The Table 3 P and Chart 3. P (shown above) provides information regarding the opinion received from advocates towards making the right to maintenance available to the female partners in live-in relationships. And the graph shows the response converted into percentage. Out of the 20 responses 5 are female and out of these 5 responses the responses are in the ratio of 4 (20% of the total responses received): 1(5% of the total responses received). In the male category out of 12 responses the responses are in the ratio of 10 (50% of total response received): 2 (10 % of the total response received) and the remaining 3 responses who come under the category of not specified the ratio is 2(10% of the total response received): 1(5% of the total response received). Ratio are given in yes: no.

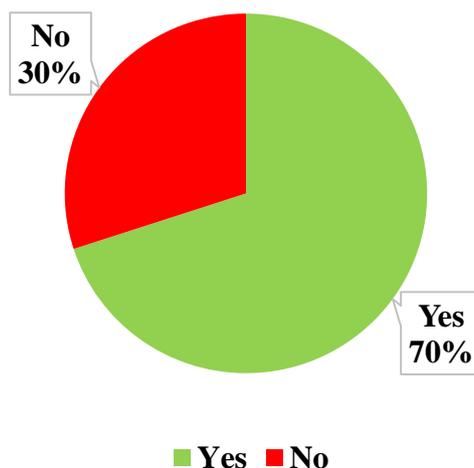
**TABLE 3 Q**

**OPINION TOWARDS MAKING THE REGISTRATION OF LIVE IN RELATIONSHIP A MANDATORY ONE IN INDIA FOR REMEDIES**

Opinion	Number of responses
Yes	14
No	6

**SECURING UNDER LAW**

**CHART 3.Q**  
**OPINION TOWARDS MAKING THE REGISTRATION OF LIVE-IN RELATIONSHIP MANDATORY**

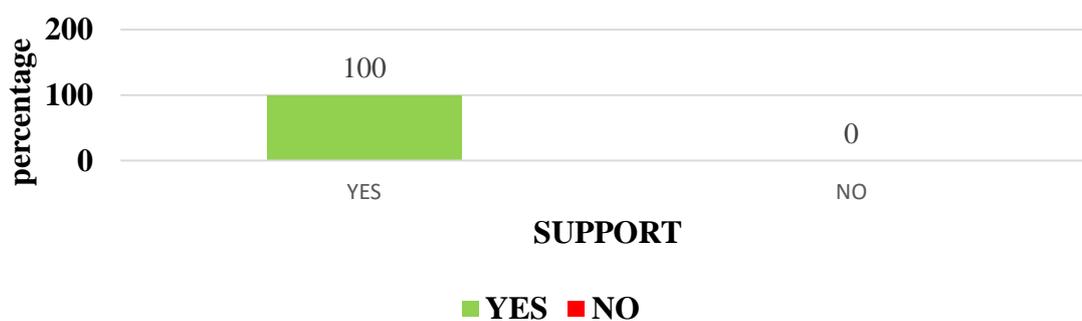


**Theoretical Interpretation:** The Table 3 Q and Chart 3 Q (shown above) provides information regarding the opinion of advocates regarding making the registration of live – in relationship mandatory, by analysing the above table and chart we can conclude that out of the 20 responses received, 14 (70%) are of the opinion that the registration of live-in relationship should made mandatory and 6 (30%) of them says that there is no need to make the registration mandatory.

**TABLE 3 R**  
**SUPPORT TOWARDS THE FILEING OF A PUBLIC INTEREST LITIGATION FOR A SPECIFIC LEGITISTATION IN FAVOUR OF LIVE-IN-RELATIONSHIP.**

Category	Yes	No
Female	5	0
Male	12	0
Not specified	3	0

**CHART 3. R**  
**SUPPORT TOWARDS THE FILEING OF PIL IN FOR ENACTMENT OF A NEW LEGISTATION FOR SECURING RIGHTS OF FEMALE PARTNERS**



**Theoretical Interpretation:** The Table 3 R and Chart 3. R (shown above) indicates the support of advocates towards the filing of a Public Interest Litigation for the enactment of a new legislation for securing the rights of female partners in a live in relationship. By analysing the graph and table above we can conclude that every

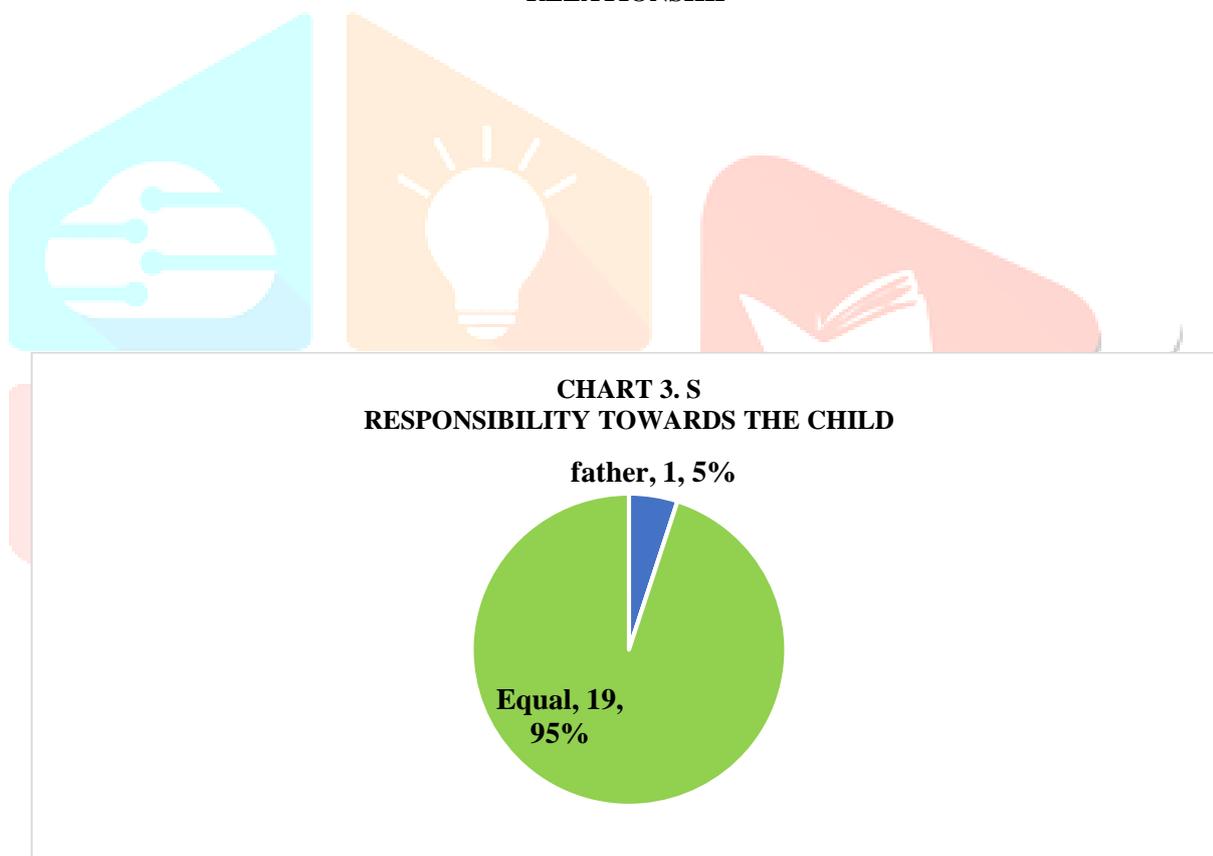
one that is all the female and males who respond are supportive towards the introduction of a PIL for the enactment of a new legislation securing the rights of female partners in live in relationship.

**TABLE 3 S**

**OPINION OF ADVOCATES REGARDING THE RESPONSIBILITY OF PARENTS TOWARDS THE CHILD BORN**

OUT OF	Category	Number of responses	LIVE IN
	Father	1	
	Mother	0	
	Equal responsibility	19	

**RELATIONSHIP**



**Theoretical Interpretation:** The Table 3 S and Chart 3. S shown above highlights the opinion of advocates regarding the responsibility of parents towards a child born out of live in relationship, by analysing them, it is concluded that 95 % (19/20) of the respondents are of the opinion that both the father and mother has equal responsibility towards the child born out of a live -in relationship.

## QUALITATIVE DATA

JUDGEMENT ANALYSIS OF CASES RELATING TO LIVE IN RELATIONS IN KERALA  
HIGH COURT DURING THE PERIOD OF 2018 -2022*Xxx v. State of Kerala*

Bail Appl. No. 5251 OF 2021(para 2 and 8)

**Brief facts:** The case was a bail appeal by the accused before the High court Of Kerala. The mere facts of the case are as follows, the petitioner and the de- facto complainant were in a live -in- relationship from Feb 2020 and were staying at a flat at Marine drive Kochi. And it was alleged that the petitioner committed rape upon her on very occasions and took nude photographs of the victim and threatened her that he will publish the photograph on social media. . By giving a promise to marry her the petitioner borrowed a sum of Rs 5 lakhs from her on the basis of a return back of Rs 40,000 on monthly basis but he failed thus the victim was cheated by him. It was also alleged that the victim was under wrongful confinement of the petitioner from 15.02,2020 to 08.3.2021 and on 08.03.2021 she escaped from his custody at the time when the petitioner went to collect food.

**Decision:** The bail application was dismissed on the ground that the investigation is in progress

*Basil Eldho v. State of Kerala*

Bail Appl. No. 329 OF 2022

**Brief facts:** The petitioner filed for Bail Application before the High Court. The allegations of the prosecution is that after promising to marry the victim the petitioner enter into a relationship with her had sexual intercourse and after a certain period, he left her and she files a complaint against the petitioner for rape at Palarivattom Police station (Crime No.11/2022). As per the counsel for petitioner it is said that the petitioner and the complainant were in love with each other from the time of studying in speed wing academy during 2018 and they started living together and due to his employment, he left to Qatar and also took her to Qatar during their life in Qatar the petitioner with evidence found out that she had relation with other man and this forced him to withdraw from the relationship with the complainant and as this is not a case of where the promise of marriage as a false inception and the petitioner is not guilty of the offence alleged against him. (Para 4 of the order).

**Decision:** Hearing both parties the Kerala High Court Grant bail to the petitioner (taking into consideration of the FIR) by imposing certain conditions.

*Ubaid v. State of Kerala*

Bail Appl. No. 8416 OF 2019

**Brief Facts:** The petitioner is sole accused is Crime No. 657/ 2019 of Kozhikode Town police Station, which has been registered for offences punishable under section 376 and 509 IPC and the case of the prosecution is that the de-facto complainant (lady aged 32 ) during her course of work in gulf country fall in love with the petitioner aged 24 who is an unmarried person and started living together under the same room in the gulf country, the petitioner assured that he could marry her later and later the petitioner left the country to his

native place in India and not returned back to Gulf country and he even avoid her calls and on 2.11.2019. the petitioner called her to a hotel at Kozhikode and on their talking as the petitioner show disinterest regarding the marriage between them the lady tried to leave the place, suddenly the petitioner looked her in the room and had forcible sexual intercourse with her.

**Decision:** The Hon'ble High Court allowed the bail application with certain conditions like he will not influence the witness or shall or tamper the evidence, petitioner shall not visit or go anywhere near the residence of the lady until the completion of trail process.

*Muhammed Nayik v. State of Kerala 2022*

Bail Appl. No. 1314 OF 2022

**Brief Facts:** The complaint against the petitioner is that he had committed offence of rape and misappropriated 15 sovereigns of gold and a huge amount of the complainant.

**Decision:** The Hon'ble High Court as evident from The FIS of the de- facto complainant that the parties were in a live-in- relationship during 2018 -19 the Court took a view that consensual relationship two adults will not amount to rape unless it is proved that the consent of victim is obtained by fraud. And the bail application was allowed.

*Sumesh Nair v. State of Kerala.*

Bail Appl. No. 992 Of 2019

**Brief facts:** In this case both the petitioner and complainants were previously married person and as per the complaint filed by the complainant it is alleged that after obtaining divorce from her husband she started live in relationship with the petitioner and she alleges that she was invited by the applicant to stay together and they stayed together for a period of one month during the month of February to march 2018. Later she was admitted by to the hospital for a surgery and after the surgery she went back to the petitioner and starting residing with him and when their relationship broke, she files a complaint against the petitioner for the offence of rape.

**Decision:** The High Court Allowed the Anticipatory Bail to petitioner (Para 8 of the order)

*Jeneesh M. K. v. State of Kerala.*

Bail Appl No. 1940 of 2020

**Brief facts:** The bail application is for securing a pre arrest bail of the petitioner. The mere facts is that the lady (complainant) and the petitioner were in a live-in- relationship for the past 7 years form the date of the complaint filed by the lady and they residing at a rented house at Kallentikkara for the last 8 months prior to the date of the complaint and on 07.12.2019 due to a quarrel arose between them the petitioner left home and the lady lodged a complaint against him before the District Police Chief on 03.01.2020 alleging that the petitioner cheated her and had sexual intercourse with her on false promise of marriage and Crime number 14

Of 2020 was registered against the petitioner. It was argued by the prosecution that the bail should not be granted as the lady is pregnant and it is essential to conduct a DNA Test to prove the paternity of the child.

**Decision:** By hearing both sides and taking into consideration all the evidences the court grant pre arrest bail to the petitioner and opinioned that the de-facto complainant is a mature lady and she was willingly residing with the petitioner for several years so the intercourse between them can be treated as a consensual intercourse and the custodial interrogation of the petitioner is not necessary for conducting an effective investigation.

*John And Anita V. Child Welfare Committee Ernakulam*

Brief facts: John and Anita (named changed due to privacy issues) were the members of An NGO and during the flood as NGO came forwards to help the victims of flood, Anita and john came forward to help the victims and during their work both of them fall in love and started living together and Anita gave birth to a child on Feb 2020. John went to Karnataka as a part of his employment and as a result the relationship strained due to lack of communication between them and being a single mother, Anita Surrender the child before the Child Welfare Committee on June 2020. And had frequent contact with the Child Welfare Committee. And the child was put on adoption by the Committee On 17 Aug 2020 and the girl was adopted by a couple as per the Order of Family Court. Later John and Anita decided to took back the child, and filed a petition before the Kerala High court.

Decision: The Kerala High court held that the Committee must return back the child to her parents and held that when a female in a live-in- relationship surrender her child due to financial burdens if the father and mother together ask for a return back of the child they must be considered as a legally wedded couples even though they were in a live in relationship and for the welfare of child she must be return back to her biological parents

*Muhammed Riyad v. State Police Chief, Trivandrum*

Wpl (CrI ) No- 178/ 2018

In this case the court dismissed the writ petition filed by Muhammed Riyad in Alappuzha for the Custody of his daughter Rifana who was leading a live-in- relationship with a 18 years old boy Hanize alleging that the boy doesn't attain the age of marriage as recognised by the statutes. The observation of the Kerala High Court in this case was that can adult was free to choose his/ her partner and he or she is free to lead a live-in-relationship which was guaranteed under the Constitution of India.

**Finding from the above-Mentioned cases**

Referring to the aforementioned cases the Kerala High Court grant bail to the petitioners and taking into consideration the age of the victims ( female) the Court took the view that the ladies are mature enough to understand the consequences of a live-in-relationship and the sexual intercourse among the live-in- couples

who lived under same roof are of consensual sex and cannot be considered as a one which can be treated as a case of false promise of marriage , so we can say that the rights of female are not secured by the judiciary.

## CHAPTER IV FINDINGS AND SUGGESTIONS

### 4.1 FINDINGS

By conducting the study on the topic Legal issue of female partner in live-in- Relationship using the sampling techniques and secondary sources, it is found that find all the objectives of the study are fulfilled and the final findings are as follows

- By analysing the primary sources like articles from law journals it can be concluded that in many countries across the world including India the live in relationship are considered legal in the eyes of law but while comparing the laws in India with other countries, in most of the countries there is a registration for live -in-together couples through cohabitation agreement and the same is not seen in India.
- By the qualitative study conducted by analysing the cases of live-in-relationship in Kerala, it can be concluded that in all cases the Hon'ble High Court of Kerala grants bail to the accused taking into consideration the period of live in relationship in the opinion of court short term relationship below 2 years are not considered and if the relationship period is for several years the female can't file a rape case against the male as it is considered as a consensual intercourse.
- By the data collected from the general Public, Police Officers and Advocates , majority of the public, Advocates and Police officers took a supportive stand towards the introduction of Public Interest Litigation for the enactment of a new legislation and in the opinion of police officers the existing laws are vague and now they are applying the provisions of The Indian penal code 1860 and Kerala Police Act 2011 and Some provision of The Code of Criminal Procedure 1973 and some are of the opinion that the laws are vague and they are confused regarding the application of laws . This shows that there is a need for a new legislation in Kerala for securing the rights of female partners in a live in relationship thus hypothesis number one (Lack of a Special legislation is the main reason for problems faced by female in living together.) succeed.
- In the opinion of the majority of general public, says that the main problems faced by the female partners in a live- in relationship are acceptance by the society and legitimacy of child. In the opinion of Police officers, the main problem is cruelty by the male (25%) and struggling for matrimonial rights (25%) and the others problems are rape and alimony for children. By analysing the case studies majority of the cases filed by the female partners are rape cases and cheating.

- Regarding the making of registration of live-in-relationship a mandatory one for securing the rights. 95% of the Police officers who participated in the survey (opinion of 19 out of 20 respondents) are of the opinion that it should be made mandatory and in the opinion of advocates 70% of the respondents are of the opinion that it should be made mandatory. Considering the opinions of police officers and Advocates in general we can conclude that there is a need for making the registration a mandatory one and thus hypothesis number 2 (Non-Registration of Live-In-Relationship is a loophole for males to escape from their responsibilities towards the female partner) also succeed.
- Regarding the third hypothesis (The fixation of two years for considering a live-in-relationship to be a valid one is a problem for securing rights of female who break up before the specified period). As the question is asked to Advocates only, majority of female advocates and male advocates are of the opinion that there is no need to fix the time as if the time is fixed it will be against the rights of victims. so, my final hypothesis failed but by analysing the case laws, came to a conclusion that there is need to have a clarity regarding the time period.

## 4.2 SUGGESTIONS

From the study conducted and conclusion arrived, following suggestions are put forward for securing the rights of female partners.

- The registration of the live-in relationships to be made mandatory through a cohabitation agreement as in other countries.
- A new legislation should be enacted to deal with the matters of couples in a live-in relationship and the legislation should have a clarification regarding the following.
- There should be clarity regarding the period of cohabitation to consider it under the definition of live-in-relationship in the eyes of law.
- There should be a provision for registration of an agreement of cohabitation and a certificate of relationship should be issued by Courts for providing a proof.
- Amend section 125 of the Code of Criminal Procedure 1973 as recommended by Justice Malimath Committee Report for providing maintenance to female partners.

The study is restricted to Sample Size of 60 People (sub divided into 20 units from each category namely general public, police officers and lawyers) natives of Kerala State, The Findings and Suggestions are given based upon the opinion of respondents who are participants of the survey conducted, and within the limitation. The researcher will help the policy makers for an understanding about the issues of females in a live-in relationship and to take necessary step for providing them necessary advices, but as the study consist of the opinions of the respondents, as they does not represent the whole natives of Kerala, for obtaining a clear picture on the issues of female partner in a live-in relationship or to investigate whether there is a necessity for the Special Legislation for securing the rights of live-in relationship, it is recommended that further investigations be done by the Government and other Authorities for women (at State Level).

## BIBLIOGRAPHY

BOOKS

- ❖ Bare act of Criminal procedure Code, The Code of Criminal Procedure 1973 69 (UNIVERSAL'S New Delhi – Universal law publishing, 24th Edtn 2018.)
- ❖ Bryan A.Garner, Black's Law Dictionary 296, ( West Publishers USA. 9<sup>th</sup> Edtn)
- ❖ PM BHASHI, THE COSTITUTION OF INDIA 73 (Lexis Nexis Hariyana ,18th edtn).
- ❖ The Code of Criminal Procedure ,1973, Bare Act with short notes (Universal's law publishing co.pvt. Ltd. New DELHI INDIA -universal law publishing, 24th Edtn 2018).

ARTICLES

- ❖ Aishwarya Pandey, “A Comparative Study of Live-in Relationship in India with other countries” 4 (1) *IJMLH* 261- 270 (2021).
- ❖ Arirtra Sarkar and Harika Tejavath, “Analysis of property rights concerning Live-in- relationship”, 1(6) *International Journal of Law Management and Humanities*;848- 853 (2020).
- ❖ Astu khadelwal and Shashwat patwa, “Muta Marriage”1(2) *IJLMH* 1 -10 (2018).
- ❖ Choudhary Laxmi Narayan, Mridula Narayan, et. al., “Live-In Relationships in India—Legal and Psychological Implications” 3(1) *Journal of Psychosexual Health* 18-23,19 (2021).
- ❖ Dr. Rabbiraj C., “Socio- Legal Dimensions of Live-In- Relationships in India” 19(7) *IOSR-JHSS* 25- 29 (2014).
- ❖ Dr. Rachna Choudhary, “Nata Pratha: An Unusual Custom” 2(6) *IJLDAI* 89 – 97 (2019).
- ❖ Dr. Rajesh M. Dave, “Legal status of live in relationship in India” 9 (1) *IJAR* 17-19 (2019).
- ❖ Mandheep Kaur, “Legal Perspective on Live - in Relationship in Present Scenario” 6 (1) *IJRAR* 938-942 (2019).
- ❖ Manju Jawal, “Live in relations in India; legal moves and judicial attitude; some observations” 4 (6) *RGNUL LAW REVIEW* (2014).
- ❖ Ms. Anupama Yadhav, Dr.Anand Kumar, “Live-in relationship A Study on Legal Action” 9(8) *IJCRT* 396 – 402 (2021).
- ❖ Prof. Priya Sepaha, “Live-in-Relationship in India: Laws and Challenges”1 *LCJLS* 11 (2021).
- ❖ Sonali Abhang. “Judicial Approach to „Live- In-Relationship“ In India- Its Impact on Other Related Statutes” 19 (12) *ISOR* 33- 35 ,33 (2014).
- ❖ Wazida Rahman, “Live-in Relationship and status of women in India”, 3(3) *International Journal of Law and Legal Jurisprudence Studies* 207- 212, (2010).

**LEGISLATIONS**

- ❖ Indian Evidence Act 1872 (ACT No. I. OF1872)
- ❖ The Code of Criminal Procedure, 1973 (ACT NO. 2 OF 1974).
- ❖ The Constitution of India 1950.
- ❖ The Indian Penal Code 1860 (ACT NO. 45 OF 1860).
- ❖ The Protection Of Women From Domestic Violence Act, 2005 (No. 43 Of 2005).

**FOREIGN LEGISLATIONS**

- ❖ Civil partnership and Certain Rights and Obligations of Cohabitants Act 2010 of Ireland.
- ❖ The Family Code of Philippines (Executive Order No. 209).art.147
- ❖ The Family Law (Scotland) Act ,2006 of Scotland.

**WEBSITES**

- ❖ E-Journal,<https://www.legalserviceindia.com/legal/article-5247-property-rights-of-women-in-a-live-in-relationship-and-laws-relating-thereto.html>.
- ❖ <http://familylawirelandhq.com/cohabiting-couples-in-ireland-some-legal-essentials/>
- ❖ <https://english.mathrubhumi.com/news/kerala/consumer-culture-influences-marriages-hc-makes-constroverial-remark-against-live-in-relations-1.7837330>.
- ❖ <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/why-young-keralites-prefer-a-live-in-relationship/articleshow/29449484.cms>.
- ❖ [https://www.academia.edu/11693302/Live\\_in\\_Relationship\\_and\\_its\\_role\\_in\\_social\\_transformation](https://www.academia.edu/11693302/Live_in_Relationship_and_its_role_in_social_transformation) (Visited on Nov 19 2022)
- ❖ <https://www.britannica.com/biography/Saint-Mary-Magdalene>.
- ❖ <https://www.dailyo.in/lifestyle/live-in-relationships-vedas-marriage-rape-prostitution-supreme-court-3361>
- ❖ <https://www.fcftoa.gov.au/fl/pubs/defacto#:~:text=A%20de%20facto%20relationship%20is,on%20a%20ge nuine%20domestic%20basis> (visited on Nov 22 2022).
- ❖ <https://www.indiatimes.com/explainers/news/jharkhands-dhuku-marriage-where-couples-opt-for-live-in-relationships-due-to-poverty-552704.html>
- ❖ <https://www.lawyersclubindia.com/articles/maintenance-to-live-in-partners-14110.asp>.
- ❖ <https://www.scconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>
- ❖ LSIE-journal,<http://www.legalservicesindia.com/article/721/A-Misinterpretation-&-Un-Called-Construction-Of-Section-114-Of-Evidence-Act:-Live-In-Relationship.html>
- ❖ [outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures- -news-40994](http://outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures--news-40994).

**NEWS PAPER REPORTS**

- ❖ Jagriti Chandra, “Couples in live-in relations cannot adopt, says CARA”, THE HINDU, June 14, 2018.

**UNPUBLISHED WORKS**

- ❖ Sushma, Legal recognition to live-in relationship in India and issues Involved (2021) (Unpublished LL.M. Thesis, The National University of Advanced Legal Studies).

**BIBLIOGRAPHY****BOOKS**

- ❖ Bare act of Criminal procedure Code, The Code of Criminal Procedure 1973 69 (UNIVERSAL'S New Delhi – Universal law publishing, 24th Edtn 2018.)
- ❖ Bryan A.Garner, Black's Law Dictionary 296, ( West Publishers USA. 9<sup>th</sup> Edtn)
- ❖ PM BHASHI, THE COSTITUTION OF INDIA 73 (Lexis Nexis Hariyana ,18th edtn).
- ❖ The Code of Criminal Procedure ,1973, Bare Act with short notes (Universal's law publishing co.pvt. Ltd. New DELHI INDIA -universal law publishing, 24th Edtn 2018).

**ARTICLES**

- ❖ Aishwarya Pandey, “A Comparative Study of Live-in Relationship in India with other countries” 4 (1) *IJMLH* 261- 270 (2021).
- ❖ Arirtra Sarkar and Harika Tejavath, “Analysis of property rights concerning Live-in- relationship”, 1(6) *International Journal of Law Management and Humanities*;848- 853 (2020).
- ❖ Astu khadelwal and Shashwat patwa, “Muta Marriage”1(2) *IJLMH* 1 -10 (2018).
- ❖ Choudhary Laxmi Narayan, Mridula Narayan, et. al., “Live-In Relationships in India—Legal and Psychological Implications” 3(1) *Journal of Psychosexual Health* 18-23,19 (2021).
- ❖ Dr. Rabbiraj C., “Socio- Legal Dimensions of Live-In- Relationships in India” 19(7) *IOSR-JHSS* 25- 29 (2014).
- ❖ Dr. Rachna Choudhary, “Nata Pratha: An Unusual Custom” 2(6) *IJLDAI* 89 – 97 (2019).
- ❖ Dr. Rajesh M. Dave, “Legal status of live in relationship in India” 9 (1) *IJAR* 17-19 (2019).
- ❖ Mandheep Kaur, “Legal Perspective on Live - in Relationship in Present Scenario” 6 (1) *IJRAR* 938-942 (2019).
- ❖ Manju Jawal, “Live in relations in India; legal moves and judicial attitude; some observations” 4 (6) *RGNUL LAW REVIEW* (2014).
- ❖ Ms. Anupama Yadhav, Dr.Anand Kumar, “Live-in relationship A Study on Legal Action” 9(8) *IJCRT* 396 – 402 (2021).
- ❖ Prof. Priya Sepaha, “Live-in-Relationship in India: Laws and Challenges”1 *LCJLS* 11 (2021).

- ❖ Sonali Abhang. “Judicial Approach to „Live- In-Relationship” In India- Its Impact on Other Related Statutes” 19 (12) ISOR 33- 35 ,33 (2014).
- ❖ Wazida Rahman, “Live-in Relationship and status of women in India”, 3(3) *International Journal of Law and Legal Jurisprudence Studies* 207- 212, (2010).

### LEGISLATIONS

- ❖ Indian Evidence Act 1872 (ACT No. I. OF1872)
- ❖ The Code of Criminal Procedure, 1973 (ACT NO. 2 OF 1974).
- ❖ The Constitution of India 1950.
- ❖ The Indian Penal Code 1860 (ACT NO. 45 OF 1860).
- ❖ The Protection Of Women From Domestic Violence Act, 2005 (No. 43 Of 2005).

### FOREIGN LEGISLATIONS

- ❖ Civil partnership and Certain Rights and Obligations of Cohabitants Act 2010 of Ireland.
- ❖ The Family Code of Philippines (Executive Order No. 209).art.147
- ❖ The Family Law (Scotland) Act ,2006 of Scotland.

### WEBSITES

- ❖ E-Journal,<https://www.legalserviceindia.com/legal/article-5247-property-rights-of-women-in-a-live-in-relationship-and-laws-relating-thereto.html>.
- ❖ <http://familylawirelandhq.com/cohabiting-couples-in-ireland-some-legal-essentials/>
- ❖ <https://english.mathrubhumi.com/news/kerala/consumer-culture-influences-marriages-hc-makes-constroversial-remark-against-live-in-relations-1.7837330>.
- ❖ <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/why-young-keralites-prefer-a-live-in-relationship/articleshow/29449484.cms>.
- ❖ [https://www.academia.edu/11693302/Live\\_in\\_Relationship\\_and\\_its\\_role\\_in\\_social\\_transformation](https://www.academia.edu/11693302/Live_in_Relationship_and_its_role_in_social_transformation) (Visited on Nov 19 2022)
- ❖ <https://www.britannica.com/biography/Saint-Mary-Magdalene>.
- ❖ <https://www.dailyo.in/lifestyle/live-in-relationships-vedas-marriage-rape-prostitution-supreme-court-3361>
- ❖ <https://www.fcfoa.gov.au/fl/pubs/defacto#:~:text=A%20de%20facto%20relationship%20is,on%20a%20ge nuine%20domestic%20basis> (visited on Nov 22 2022).
- ❖ <https://www.indiatimes.com/explainers/news/jharkhands-dhuku-marriage-where-couples-opt-for-live-in-relationships-due-to-poverty-552704.html>
- ❖ <https://www.lawyersclubindia.com/articles/maintenance-to-live-in-partners-14110.asp>.
- ❖ <https://www.sconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>
- ❖ LSIe-journal,<http://www.legalservicesindia.com/article/721/A-Misinterpretation-&-Un-Called-Construction-Of-Section-114-Of-Evidence-Act:-Live-In-Relationship.html>
- ❖ [outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures- -news-40994](http://outlookindia.com/national/the-anatomy-of-love-mating-and-marriages-in-tribal-cultures- -news-40994).

**NEWS PAPER REPORTS**

- ❖ Jagriti Chandra, “Couples in live-in relations cannot adopt, says CARA”, THE HINDU, June 14, 2018.

**UNPUBLISHED WORKS**

- ❖ Sushma, Legal recognition to live-in relationship in India and issues Involved (2021) (Unpublished LL.M. Thesis, The National University of Advanced Legal Studies).



APPENDIX

ANNEXURE NO. 1

QUESTIONNAIRE TO POLICE OFFICERS

(Please provide your answers in the space given for each question)

PART A GENERAL

- 1) Name: ..... (Optional)
- 2) Please Specify your Rank: ..... (Optional)
- 3) Please Specify your Jurisdiction: ..... (Mandatory)

PART B QUESTIONS BASED ON TOPIC

4) Enumerate laws governing live in relationship in your State?

.....  
 .....  
 .....  
 ..... (Mandatory)

5) According to You what are the main problems faced by female partner at the event of dissolution of a live-in- relationship? (If you find more than one problem write them one by one in the given space)

.....  
 .....  
 .....  
 ..... (Mandatory)

6) Do You think that the registration of live-in relationship should be made mandatory for securing the rights of female partner in a live in relationship? (Please tick the correct option)

Yes      No

7) What are the legal provisions invoked when a complaint is filed by a Female partner in a live in relationship against the Male partner? (In case of multiple answers, specify after the another in the space provided)

.....  
 .....  
 .....  
 .....

8) Will You support me If I file a public Interest Litigation for the enactment of a new legislation for securing the rights of female partner in a live -in- relationship?

(Please tick the correct option)

Yes      No

ANNEXURE NO 2

QUESTIONNAIRE TO GENERAL PUBLIC

PART A GENERAL

(Tick the correct option in the box given near the option)

1) Name: .....

2) Age

18 – 38      39- 58      59- 78      79- 88      Above

3) Gender

Male      Female      Others

4) Marital Status

Unmarried      Married      Divorced  
Separated      Widow/Widower      In an open relationship

5) Specify your district?

.....

**PART B QUESTION RELATED TO TOPIC**

(Tick the correct option in the box given near the option)

6) Are you aware of the concept of live-in relationship?

Yes      No

7) Do you support the concept of live-in relationship?

Yes      No      May be

8) According to you what are the main problems faced by female partner in a live-in relationship?

.....  
.....

9) Will you support me if I file a Public Interest Litigation for enactment of a special legislation for securing the rights of female partner in a live-in relationship?

Yes      No

**ANNEXURE NO 3**

**QUESTIONNAIRE TO LEGAL OFFICERS**

**PART A GENERAL**

1) Name: .....

2) Specify your Rank in judicial field .....

**PART B QUESTION RELATED TO TOPIC**

3) Do any legal right arise from live-in relationship?

Yes      No

4) One of the important characteristics of live-in relationship to be considered in the nature of marriage, as held by court, is “reasonable period of time” should this period of time be fixed, for the availability of legal rights to the female partner at the event of break up?

.....

5) If the period of time is fixed, do You think that it would limit the scope of right of those partners who have not being live-in together for that fixed period?

.....

6) Is there a need to make “Rights to Maintenance” (Under Section 125 of Criminal Procedure Code) should be made available to the female partners in a live-in relationship?

Yes            No

7) Do you think that the registration of live-in relationship should be made mandatory in India, keeping in mind the abuse of the concept?

Yes            No

8) Who will take care of the children in live-in relationship after separation?

Father            Mother            Equal

9) Will you support me if I file a Public Interest Litigation for enactment of a special legislation for securing the rights of female partner in a live-in relationship?

Yes            No

