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LEGAL STATUS OF THE RIGHTS OF WOMEN IN LIVE - IN- RELATIONSHIP IN INDIA: JUDICIAL TREND & RESPONSES- AN OVERVIEW

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Abstract: - India is fast developing country but women in India continue to be discriminated, the women across the country, struggle to live life with dignity continues. Women, irrespective of their class, caste and educational status, are not safe and sound. In a country like India we can see the blending between western ideas and Indian ethnicity. So, as the notion of live-in-relationship is also evolving. Directly there is no lawful hindrance to keep a man and woman living together without internal bound into formal marriage as "live-in-relationship". In any case, the standard society of India however does not authorize such living game plans for various reasons. Unmistakable quality of marriage, subjugation of females on men and the flimsiness of such a relationship created a subservient status for the woman are the primary elements for forbidding the live in relationship in India by the general public. Individuals still believes in marriage foundation as the base of the general public.

Keywords: - discriminated, blending, subjugation, subservient, forbidding

1. INTRODUCTION:

According to general definition, Marriage is a state of being united to a person of the opposite sex as husband or a wife in a consensual and contractual relationship recognized by law. When it comes to Hindu Law, marriage is termed as a sacred relationship.¹

According to **Hindu Marriage Act, Section 5**, a marriage can take place between the two consenting individuals of opposite sex, who are of sound mind and the bride is more than eighteen years of age and the groom is more than twenty one years of age. One must also know that even if the marriage takes place between a girl and a boy who have not attained the requisite age, the marriage remains valid. However it may lead to some penal provisions under the Hindu Marriage Act.

Muslim marriage is a contract, which like any other contract gets completed by a proposal by the groom and acceptance by the bride or her legal guardian in the presence of witnesses. This is based upon the concept of individual liberty and consent unlike Hindu marriage, which is the main theme of Muslim jurisprudence, unlike Hindu law; these formalities of proposal and acceptance are sine qua non under Muslim law. Muslim marriage is called 'Nikah' which literally means carnal conjunction.²

Christian marriage in India is also a sacramental contract and it is usually solemnized by a Minister of Religion licensed under the Indian Christian marriage Act, 1872. It can also be solemnized by the Marriage Registrar.³

The Indian Christian Marriage Act, 1872 provides for marriage in a monogamous form only. **Section 60** of the Act lays down the following condition; Section 60(2) neither of the persons intending to be married shall have a wife or a husband still living. Section 4 of the Christian Marriage Act, 1872 states that every marriage between persons, one or both of whom is or are Christians, shall be solemnized in accordance with the provisions of the next following Section; and any such marriage solemnized, between a Christian and a non-Christian, otherwise than in accordance with such provisions shall be void.

¹ See, Hindu Marriage Act, 1955 And Special Marriage Act, 1954

² Fitzgerald, Mohammedan Law, 1931 Edn., Pg. 37.

³ Christian Marriage - Christian law of marriage in India, Christian

www.webindia123.com/law/family_law/christian_law/christian_marriage.htm

2. DEFINITION OF LIVE IN RELATIONSHIP:

“As against marriage the idea of live in relationship does not extend the status of husband and spouse to the persons living under such relationship and denied of the status they are not ready to guarantee the rights, for example, conjugal rights, property rights, support rights, religious rights, societal rights, and ideal to separate and so forth. Consequently in above both the circumstance women, however are still as vulnerable. Indeed, even the official court room likewise attempting to take the live-in relationship under guise of marriage. However, it is not allowed in any choice freely the thought of live-in relationship.

Live-in relationship in undemanding terms can be explained as a relationship in the nature of marriage where both partners enjoy individual freedom and live in a shared household without being wedded to each other. It involves continuous cohabitation among the parties without any responsibilities or obligations towards one another. There is no law tying them jointly and consequently either of the associates can walk out of the relationship, as and when, they will to do so. Law customarily has been biased in favor of marriage. It reserves many rights and privileges to married persons to conserve and encourage the institution of marriage. Some stands, in meticulous cases of live-in relationship, it appears that, by and large, is based on the assumption that they are not between equals, and therefore women must be protected by the courts from the patriarchal power that defines marriage, which covers these relationships too. The developing occurrences of live seeing someone, predominantly those which occurs "by situation", however guaranteed that the call for changes was perceived.

In **June, 2008**, it was prescribed by the National Commission for Women to the Ministry of Women and Child Development to incorporate women in live in relationships for the right of maintenance under **Section 125 of Criminal Procedure Code, 1973**. The opinion was additionally bolstered by the judgment in **Abhijit Bhikaseeth Auti v. State Of Maharashtra** and Others. In October, 2008, the Maharashtra Government likewise supported the idea of live-in by accepting the proposal made by Malimath Panel and Law Commission of India which prescribed that if a female has been in a live-in relationship for altogether broadened time, she should be given the lawful position as given to spouse.

3. PROVISIONS REGARDING MAINTENANCE TO WOMEN:

Right of maintenance is granted to all wives under all personal laws be it Hinduism, Islam or Christianity etc. However, not any of these religions recognize live in relationship. Instead, an unmarried women living with a man is considered unchaste. In absence of any remedy available to women engaged in live in relationship, courts have extended the scope of application of remedy available under Criminal Procedure Code.

By and by there is no privilege of upkeep to a female living under live-in-association with a man who is Hindu aside from and till it has been appeared or assumed that the man and lady living as one are couple. The obligation of support of lady is just in the connection of marriage and not in some other connection in Hindu law. Despite the fact that the legal answer to the live-in-relationship is somehow makes it dim. It gives the guess of marriage for long length live-in-connection aside from and until the point when it is demonstrated clashing. Back in 1985, the **Supreme Court in Sumitra Devi v. Bhikan Choudhary** had said that wherever a man and woman were living jointly for quite a while and were dealt with by society as a couple, marriage is to be assumed for allowing upkeep. In any case, the courts have not stretched out this guideline to incorporate indicated live-in companions. Fundamentally, the Protection of Women from **Domestic Violence Act 2005** turned into the primary statute to give live-in companions an indistinguishable acknowledgment from wedded couples. The protection under this Act does not qualify live-in partners to get the same advantage under personal law. The live in relationship is a living arrangement in which unmarried couples lives together in a long term relationship that resembles as marriage. In everyday parlance it is cohabitation. Sometimes also called consensual union or de facto marriage and refer to unmarried heterosexual couples living together in an intimate relationship”.⁴

The **Hon'ble Apex courts** have identified, 3 essentials elements in Live-in- relationship which is necessary to constitute a definition of Live-in-relationship.

- a. There must be an arrangement of living together by heterosexual couples⁵.
- b. They must be unmarried⁶.
- C. There conduct must be long going relationship resemble or similar to marriage.

⁴Catherine, Soanes, Oxford English Dictionary, Oxford University Press, 7th ed. 2007

⁵ Impact on Marriage and Family Institutions, (2012) 4 SCC J-19

⁶D. Velusamy v. D.Patchaiammal 2011 CrL. L.J. 320

4. RIGHTS OF WOMEN IN LIVE-IN-RELATIONSHIPS: -

The status regarding Rights of women in Live in Relationship is quite dynamic & varies from nation to nation. Each nation has different perspective regarding this concept of live-in-relationships.

In **Bangladesh** cohabitation after divorce is frequently punished by the Salishi system of informal courts, especially in rural areas. On the opposite side a few nations like USA, Denmark, Norway, Sweden this notion of Live in relationship are acknowledged and are not considered to be unlawful in these nations.

In **France** the conception is well recognized where two adults of opposite sex or similar sex can enter into an arrangement to live together and systematize their lives and thus enjoy the rights of a married couple and also work in the direction of social welfare.

A few nations like **USA** convey a non-interventionist feeling to the thought while, nations of the east reflects it a social unthinkable. **Article 147, of the Family Code, Philippines 1987** mandate that when man and a woman who are capacitated to marry each other, live exclusively with each as a husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property obtained by both of them⁷.

Now coming to India at present the veracity is that here is no law dealings with the notion of live in together. But still in the absence of a precise legislation on the subject matter, it is commendable that our courts have taken an inventiveness and give positive recognition to such relationships because without giving any status woman are not able to claim the rights, for example right to maintenance, right against domestic violence, right to divorce, right to keep children in custody, property rights, societal rights etc. In previous cases the court tended to assume marriage based on the number of years of cohabitation.⁸But court⁹ through interpretation and judicial activism has recognized certain aspects dealing with the rights of the female like;

- 1) Children born out of live-in relationships are qualified to be maintained by both the parents and can succeed in inheritance of property of the parents.¹⁰
- 2) Domestic Violence Act also includes live-in relationships.
- 3) Indian courts also lean to look at long term live-in relationships more or less like marriages with application of maintenance laws.

The court¹¹ has held that there is a presumption of marriage between the individuals who are in live-in relationship for an elongated time and this can't be named as 'strolling in and exiting' relationship.

The public and even judicial responses to the legislative move to amend **Section 125** and the requirements of the **PWDVA, 2005** are sometimes deflected by a focus upon presumably western forms of non-marital cohabitation in which usually unmarried men and women enter non-marital but exclusive relations with each other, often as a form of experimentation prior to a connubial commitment. Law has been playing very important role in social change. Society is constituted of individuals. Law and society try to regulate the conduct of an individual.¹² The institution of marriage being base of the society, interest of the social order is well cosseted by keeping the foundation of institution of nuptials strong. As we are observing varying living patterns in the society, law has to act in response properly keeping in view the societal and constitutional values in its mind. In current times the Indian judiciary has taken a lead in showing a right path for the progress of the society.

5. STATUS OF LIVE - IN- RELATIONSHIP IN INDIA:

The legitimate position alongside law driving the living together with someone is not the indistinguishable inside all aspects of the nations. It differs from country to country. Differing nations have divergent plunk on live seeing someone. India a nation of social esteems and custom functions can't bear to dive into western culture. Be that as it may, since developing economy

⁷ Lesley Gordon, Jenny Nobbs, "Cohabitation: the new legal landscapel 15 May 06 , Journal of the Law Society of the Scotland, available at <http://www.journalonline.co.uk/Magazine/51-5/1003011.aspx>

⁸Right of Maintenance to Women in Live-in Relationships, Abhey Neagi Associates at Legally India; <http://www.legallyindia.com/blogs/right-of-maintenance-to-women-in-live-in-relationships>

⁹*PayalKatara v. Superintendent NariNiketanKandriVihar Agra and Others* AIR 2001 All 254

¹⁰Deepali Gaur Singh, "Live-In Relationships in India Accorded Legal Status",

<http://www.rhrealitycheck.org/blog/2008/11/14/livein-relationships-india-accorded-legal-status>, (January 25th, 2009).

¹¹Alok Kr. v. State Cr. M.C. No. 299/2009, decided on August 9, 2010

¹²[Law and Live in Relationships in India | Anuja Agrawal - Academia.edu](http://www.academia.edu/3793906/Law_and_Live_in_Relationships_in_India)
www.academia.edu/3793906/Law_and_Live_in_Relationships_in_India

and individuals getting increasingly mindful, India at long last needs to move ahead and by recognizing live-in relationship the Supreme Court today opined that a man and woman living conjointly without marriage cannot be construed as an offence.

"When two adult people want to live together what is the offence. Does it amount to an offence? Living together is not an offence. It cannot be an offence," a **three judge bench of Chief Justice K G Balakrishnan, Deepak Verma and B S Chauhan** observed. **The court said even Lord 'Krishna and Radha' lived together according to mythology. The apex court said there was no law which prohibits live-in relationship or pre-marital sex.** The apex court made the observation while reserving its judgment on a special leave petition filed by noted south Indian actress Khusboo [**S. Khushboo vs. Kanniammal & Anr. (2010) 5 SCC 600 (vide para 31)**]**seeking to quash 22 criminal cases** filed against her after she allegedly endorsed pre-marital sex in interviews to various magazines in 2005. The judges grilled the counsel for some of the complainants in the case and repeatedly stressed that the perceived immoral activities cannot be branded as offence. The argument of the counsel was that her comments allegedly endorsing pre-marital sex would adversely affect the minds of young people leading to decay in moral values and country's ethos.

"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 apex court further said the views expressed by Khusboo were personal. "How does it concern you? We are not bothered. At the most it is a personal view. How is it an offence? Under which provision of the law?" the bench asked the council. The apex court further asked the complainants to produce evidence to show if any girls eloped from their homes after the said interview.

"How many homes have been affected can you tell us," the bench asked while enquiring whether the complainants had daughters. When the response was in the negative, they shot back, "Then, how are you adversely affected?"

Khusboo had approached the apex court after **the Madras High Court** in 2008 dismissed her plea for quashing the criminal cases filed against her throughout Tamil Nadu.

The Supreme Court was dealing with the claim of maintenance by a woman claiming to be a wife in view of a live-in relationship for some year (about which we have already written noting a High Court decision). The Court ruled that the concept of palimony which applied to such relationships was not recognized in India and even though **the Domestic Violence Act** recognized live-in relationship to some degree, not all such relationships were entitled for maintenance unless they satisfied the conditions stipulated by the Court. **The Supreme Court** also commented on such relationships described as common-law marriages and the popularity of live-in marriages as a social phenomenon and even recognized by the Parliament in terms of **the Domestic Violence Act, 2005**.

It seems to us that in the aforesaid Act of 2005 Parliament have taken notice of a new social phenomenon which has emerged in our country known as live-in relationship. This new relationship is still rare in our country, and is sometimes found in big urban cities in India, but it is very common in North America and Europe. It has been commented upon by this Court in **S. Khushboo vs. Kanniammal & Anr (vide para 31)**.

In **Indira sarma v. V.K.V Sarmathe Court** has encircled different rules like span of relationship, shared family and pooling of asset for getting live in relationship contained by the articulation "relationship in the idea of marriage;" **under section (2)** of protection of woman from **Domestic violence Act 2005** for the protection of aggrieved woman. The court held that pooling of monetary and residential plans, entrusting the responsibility, sexual relationship, bearing children's, socialization in broad daylight and also expectation and conduct of the companions are a few or the other criteria to be measured. For span of relationship, the court held **section 2 (f) of the Domestic Violence Act** has utilized the articulation "at any point of time", which implies a "sensible timeframe or reasonable period of time to keep up and proceed with a relationship which may change from case to case, contingent on the reality circumstance". Similarly, it said the rules of pooling of money related plans signified "supporting each other, or any of them, monetarily sharing financial balances, getting unflinching properties in like manner names or for the sake of the lady, long haul interests in business, shares in independent and joint names, in order to brag a long standing relationship, might be a controlling element".

The judgments given by **the Supreme Court** are supplementary clearing detectable quality of Live-in-relationship in India and one would irrefutably forecast that a little while later there would be a specific enactment driving this positive field of law in India also. **The Supreme Court** states that living together is a right to life and consequently it cannot be held against the law or illicit. The court has also tried to perk up the conditions of the women and children borne out of live in relationships by defining their status under **the Domestic Violence Act, 2005** if the relationship is proved to be "relationship in the nature of marriage". The Court held that cohabitation of a couple would give rise to the presumption of a valid marriage and if a live in relationship breaks down, the man is bound to pay maintenance to the women.

In August 2010, the Supreme Court held that a live-in relationship that has existed for a long time will be considered a marriage and that the children born to such a couple will not be illegitimate. Justice P Sathasivam and Justice BS Chauhan of the Supreme Court passed this judgment and it will have strong legal implications on disputes relating to the legitimacy of children who are born to live-in partners. Different court judgments have discussed on different disputes pertaining to live-in relationships. Live-in relationships are now considered with marriage under a new Indian law pertaining to domestic violence. The provisions of the Domestic Violence Act, 2005 are now extended to those who are in live-in relationships as well. The amendments intend to protect the victims of domestic abuse in live-in relationships. Section 2 (g) of the aforementioned Act provides that a relationship between two individuals who live together or have lived together in the past is considered as a domestic relationship. A woman who is in a live-in relationship can seek legal relief against her partner in case of abuse and harassment. Further, the new law also protects Indian women who are trapped in fraudulent or invalid marriages.

France and Scotland are the primarily direct nations where live-in-relationship thought is concerned. While the vast majority of the nations are administering laws to tie up this novel veneer of social union and giving legal holiness to the unification. The circumstance that develops with adoration to live in relationship is not terribly noticeable and does not have a definition in larger piece of the nations. A few nations have endorsed enactment as per legal status to live-in-companions. Additionally a few nations are giving way better authenticity to such companions by the circuitous stipulation of their statuses as talked about

The need of the present hour is to try bringing live-in relationships beneath the realm of any accessible law, rather than to enact a new different law which would look into the matter of live-in independently so that court would award rights and obligations on the part of the couples thereby reducing the cases of misuse of existing laws and also to reduce cases of atrocities faced by the female partners under such relationships. Then again, the reality remnants; the official progression of laws with profound respect to live in relationship and the thorough lift up in the figure of such live in relationship are not successively comparing to each other. The direction needs to accelerate to set down and restrict suspicion with concession to live in relationship.

6. JUDICIAL TREND AND RESPONSES:-

In **A.Dinohamy v. W.L. Balahamy**¹³, the Privy Council rested down the all-inclusive suggestion that where a man and lady are appeared to have lived in partnership as man and spouse, the law will assume, unless the opposite is unmistakably demonstrated, that they were living sorted out in significance of substantial marriage, and not in the condition of courtesan.

Here is a first case in which the Supreme Court of India first acknowledged the live in relationship as a valid marriage was that of **Badri Prasad vs. Dy. Director of Consolidation**¹⁴, in which the Court held if a man and woman live together as husband and wife in society are compelled to prove, after half –a-century of wedlock by eye-witness evidence that they were validly married fifty years earlier, few will succeed. A solid conviction emerges for marriage where the accomplices have existed together for a long spell as a couple. In spite of the fact that the assumption is rebuttable, an overwhelming weight lies on him who tries to strip the relationship of its legitimate birthplace. Law inclines for authenticity and frowns upon bastardy and gave legitimate legitimacy to the 50 year live in relationship of a couple.

In **S.P.S. Balasubramanyam v. Suruttayan**¹⁵ the Supreme Court trusted that if a man and woman are living under one rooftop and live respectably for various years, there will be a conviction under **Section 114 of the Indian Evidence Act** that they are living as a couple and the children born to them won't be illegitimate. The court maintained the lawfulness of the children and interpreted the statutes in concurrence with **Article 39(f) of the Constitution of India** which puts down the responsibility on the state to confer on children the chances to develop in a solid way and insurance their interests.

In **Payal Katara Superintendent v. Nari Niketan and others**¹⁶, the Allahabad High Court again recorded the idea of live in relationship. The Court imagined that a man and a woman can live in unison according to their desire even denied of getting married. This might be considered indecent by society however it is not illegal. We may reference there is distinction amongst law and ethical quality, as the British legal scholar, Bentham and Austin called attention to. According to them what is good may not be law but rather what is law can be corrupted.

The tenets incorporate nearness of sexual relationship and children which signify, "Marriage like relationship" notices to sexual relationship, reproducing of children, in order to give expressive help, organization and furthermore material fondness, mindful and so forth. "Having children is a solid sign of a relationship in the idea of marriage. Live in relationship, hence; plan to

¹³ AIR 1927 P.C. 185

¹⁴1978 AIR 1557, 1979 SCR (1) 1

¹⁵1992 Supp (2) SCC 304

¹⁶ 2001 (3) AWC 1778 : AIR 2001 All 25

have a long standing relationship. Sharing the duty regarding raising and supporting them is additionally a solid sign." **The Supreme Court** affirmed the decision while settling question between a live in companions where the woman had looked for upkeep from the man after the relationship arrived at an end.

The Supreme Court in Lata Singh v. State of U.P.¹⁷ held that the live-in together is reasonable just in unmarried people of hetero sex of the period of standard. The brothers of Lata Singh had alleged that she was mentally unfit when they had protested her marriage. However this was held to be untrue when she was examined by doctors. The court additionally said that the live-in relationship if managed for such quite a while, can't be named as a "stroll in and exit" relationship; there must be a conviction of marriage between them.

Again in the case of **Tulsa and others v. Durghatiya and others**¹⁸ **the Supreme Court** has said that where companions lived conjointly for an extended mantra as a couple, a conviction would emerge for a substantial marriage. Subsequently there is no rule which expect that living together with someone is unlawful. Additionally the children conceived out of such relationship will no more will be viewed as illegitimate.

In the case of **S. Khushboo vs. Kanniammal & Anr**¹⁹, **the Supreme Court** held that living together is a right to life. Live in together might be devilish according to the conventional Indian culture however it is not "unlawful" according to law. For this situation, every one of the charges against Kushboo, the south Indian performing artist who allowed pre-conjugal sex and live in relationship were dropped, criminal interests were assemble in a line against her which **the Supreme Court** stifled saying that how might it be illicit if two grown-ups live respectively, in their words "living respectively can't be unlawful."

However in one of its judgment **Alok Kumar vs. State**²⁰, **the Delhi High Court** has held that live in relation is walk in and walk out relationship and no strings are attached to it. It is a contract of living together "which is renewed every day by the parties and can be terminated by either of the parties without consent of the other party." This kind of relationship does not create any legal bond between the partners. It further held that in case of live in relationships, the partners cannot complain of infidelity or immorality.

Once more giving gratitude to live in relationships, **the Supreme Court in the case of D. Velusamy v. D. Patachiammal**²¹ the issue, subsequently, insignia under the watchful eye of the Supreme court, that what is the feeling of the indication "a relationship in the idea of marriage" the court saw that, it is unsuccessful that this articulation has not been characterize in the Act. Parliament by the "**Domestic Violence Act 2005**" has distinguished between the relationship of marriage and a relationship in the idea of marriage. From this time forward, the "relationship in the idea of marriage" is like the customary marriage. Therefore the court has secured that a 'relationship in the idea of marriage' under the 2005 Act need likewise achieve some essential guidelines. Only outgoings ends of the week together or a one night stand would not mark it a 'residential relationship'. It likewise kept that if a man has a "keep" whom he upholds monetarily and utilizes basically for sexual assurance and additionally as a hireling it would not, in our estimation, be a relationship in the idea of marriage'. As the status of the female companion is helpless in a live in relationship given the reality she is intimidated rationally, candidly and physically amid the relationship. Nevertheless the security of woman from **Domestic Violence Act 2005** conveys shield to the battered females if the bond is "in the idea of marriage".²²

7. THE LEGAL AMBIGUITY AND INADEQUATE PROTECTION OF WOMEN IN LIVE-IN-RELATIONSHIP

There is no explicit enactment for live in relationship. Neither any personal laws recognize 'live-in-relationship' nor does **the Criminal Procedure Code 1973**. The Protection of Women from **Domestic Violence Act 2005** on the other hand for the purpose of providing protection and preservation to women says that an aggrieved person from relationship in nature of marriage. However, law on this subject is not very clear either in India. Here my concern in such type of relationship is that, the women are still the losers and their rights were jeopardized. They do not have the suitable remedies regarding this informal relationship. The court is only protecting the "limited interest" of the tattered women instead of creating right for those women and providing them appropriate remedies.

¹⁷ (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478

¹⁸ (2008) 4 SCC 520

¹⁹ (2010) 5 SCC 600

²⁰ Cr.M.C.No. 299/2009, Decided on 9 August 2010,

²¹ AIR 2011 SC 479

²² Section 2(f) of the Protection of Women from Domestic Violence Act 2005

According to Salmond, "A right is an interest recognized and protected by a law"²³.

According to Austin, "An interest is the base of right"²⁴.

Therefore, interest is lesser than right, unless and until these "limited interest" has been fully recognized by the court they will not become rights. There is an assortment of cases where judiciary tries to guard the "limited interest" of the battered women. The judiciary is not actively but passively supporting to the concept of live-in-relationship, by putting such conception into domain of the other legislation. Hence, the court is positive and partially recognized this notion. But with the changing time and tides it is the duty of the court to protect the rights of the women so that they should not face any issue in relation to characterizing their position in the socio-legal setup.

Live in relationship can be marked in two ways, either 'by decision' or 'by condition'. Individuals who by agreement intentionally are living together are under the classification of 'by decision'. Be that as it may, incidentally by misrepresentation individuals are living in unison as a couple then they can be set under the classification of 'by situation'

The Supreme Court in **Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga**²⁵ tried to separate between the "lawfulness" and "profound quality" of relations. Where the Court watched that keeping into thought the current situation with statutory law, a bigamous marriage²⁶ may be affirmed illicit in the light of the fact that it breaks the arrangements of the **Hindu Marriage Act, 1955** but it can't be said to be indecent to preclude even the privilege from securing divorce or maintenance to spouse.

In **June, 2008**, it was recommended by the National Commission for Women to the Ministry of Women and Child Development to include live in female partners for the right of maintenance under **Section 125 of Criminal Procedure Code, 1973**. The view was also supported by the judgment in **Abhijit Bhikaseeth Auti v. State Of Maharashtra and Others**²⁷.

In **October 2010** also supported the idea of live in relationships by accepting the recommendation arranged by Malimath advisory group and Law Commission of India which suggested that if a woman has been in a live-in relationship for seriously long time, she should to appreciate the legitimate position as given to spouse. However, lately it was perceived that it is divorced wife who is treated as a wife in context of **Section 125 of Criminal Procedure Code** and if a person has not even been married i.e. the condition of live in partners, they can't be separated, and henceforth cannot claim maintenance under **Section 125 of Criminal Procedure Code**.

8. PROVISIONS REGARDING DIVORCE IN LIVE-IN-RELATIONSHIP:

Women in live in relationship are not recognized by their significant other's surname, for any lawful or money related issues together with opening a ledger, accommodation of salary expense form, applying for advances, and so forth. They maintain their way of life as an individual and are not recorded as a "spouse or a "residential accomplice". Thus, live-in couples can separate casually denied of any official separation or the interest of a court.

In case of live-in relationship, it is not conceivable to have a formal divorce in law among partners. The careful scrutiny of the existing matrimonial laws indicates that unless this sort of relationship is not recognized and documented in law the live-in couples cannot be permitted to break up officially. An enactment is required as it the lady who constantly endures due to the breakdown of relationship. It would seem that it is easy to get into live-in relationship whether "by decision" or "by condition"²⁸ yet convoluted to escape this bond formally. While the results of this affiliation are left unreciprocated in law, for example, there are no standards and controls in an arrangement which manages with the detachment and protection of their separate or joint property on disengagement or partition.

In **Varsha Kapoor v. UOI & Ors**²⁹, the **Delhi High Court** has held that female living in a relationship in the nature of marriage has right to file complaint not only against husband or male partner, but also against his relatives.

²³mbhaa.com/Microsoft%20Word%20-%20RIGHTS.pdf

²⁴mbhaa.com/Microsoft%20Word%20-%20RIGHTS.pdf

²⁵ (2005) 2 SCC 33

²⁶ Section 494, Section 495, Indian Penal Code, 1860; Section 17 of the Hindu Marriage Act, 1955

²⁷ Criminal Writ Petition No.2218 OF 2007: AIR 2009 (NOC) 808 (BOM):

²⁸ Impact on Marriage and Family Institutions, (2012) 4 SCC J-19

²⁹WP (CrI.) No. 638 of 2010

9. PROVISIONS REGARDING DOWRY IN LIVE-IN-RELATIONSHIP:

Supreme Court of India ruled in a case that dowry laws would also apply to live-in relationship. That means you could be prosecuted under anti-dowry provisions of **section 498A of the IPC** if you are accused of demanding dowry by your live-in partner. Enacting new laws to address evolving social needs is a legislative function and there is reason why it is so. Judges live in ivory towers. If they feel it is incumbent upon them to fill the legal void by legislating through their rulings then they are down a slippery slope.

In the case of **Koppiseti Subbharao Subramaniam vs. State of Andhra Pradesh**³⁰, the defendant used to harass his live in partner for dowry. The Court rejected the contention of the defendant that since he was not married to the complainant, **Section 498A** did not apply to him. **Thus, the Supreme Court** took one more step ahead and protected the woman in a live in relationship from harassment for dowry.

This ruling came from a **Supreme Court Bench** comprising **Justices Arijit Pasayat and A K Ganguly where Subbarao**, faced with a dowry harassment case, said that he was not liable to be prosecuted under anti-dowry provisions -- **section 498A of the IPC**-- since there was no valid marriage between him and the complainant. The Bench did not agree at all. "Can a person who enters into a marital agreement be allowed to take shelter behind a smokescreen to contend that since there was no valid marriage, the question of dowry does not arise," the bench asked. It elaborated on the reasoning, saying, "Such legal niceties would destroy the purpose of the provisions. Such hairsplitting legalistic approach would encourage harassment of a woman over demand of money." Writing the judgment for the Bench, **Justice Pasayat** made it clear that the court would not let a narrow interpretation of dowry come in the way of women's rights. "The nomenclature 'dowry' does not have any magic charm written over it. It is just a label given to demand of money in relation to marital relationship."

The Bench gave the example of the law recognizing rights of children born out of void and voidable marriages, to explain its stand why it was defining dowry in a broad way. "Can it be said that legislature, which was conscious of the social stigma attached to children of void and voidable marriages, closed its eyes to plight of a woman who unknowingly or unconscious of the legal consequences entered into marital relationship," the Bench said. "If such restricted meaning was given, it would not further the legislative intent, the Bench said, adding, "On the contrary, it would be against the concern shown by the legislature for avoiding harassment of a woman over demand of money in relation to marriages."

In **Chanmuniyavs Virendra Kumar Singh Kushwaha**³¹ it is held that a broad and expansive interpretation should be given to the term 'wife' to include even those cases where a male and female have been living in cooperation as husband and wife for a reasonably lengthy period of time, and strict proof of marriage should not be a pre-condition for maintenance under **Section 125 of the Cr. P. C.**, so as to fulfill the true spirit and essence of the beneficial provision of maintenance under **Section 125 of Cr. P. C.** Such an explanation would be a just appliance of the principles enshrined in the Preamble to our Constitution, namely, social justice and keeping the dignity of the individual.

10. CONCLUSION & SUGGESTION: -

CONCLUSION

Seeing as there is no exact law that perceives the status or position of the couples in live in relationship. Though the condition of women in India, both historically and socially, has been one of the respect and reverence, but the hard truth is that even today, they are struggling for their own identity and individuality, shouting for dispersion of their voices and combating for their own esteem and value. Every day, they cross among the fears and fraught for individuality. In spite of the constitutional guarantee of equality of sexes, unconstrained discrimination and exploitation of women in India continues. The occurrence of dowry deaths, woman sexual harassment, molestation and ill-treatment of women are on added to. It is high time now that women should get a reputable and dignified position in the Indian society. Awareness in the women as well as society should be created and their equal rights should be effectively implemented.

In conclusion, the legal status of women in live-in relationships in India remains uncertain and inadequate. While there is no explicit enactment for live-in relationships, the existing laws do provide some limited protection for women under certain circumstances. However, these protections are insufficient, and women in such relationships continue to face numerous challenges, including the lack of suitable remedies and the jeopardization of their rights. It is crucial for the court to recognize and safeguard the rights of women in live-in relationships to ensure their well-being and empowerment within the socio-legal framework.

³⁰CrI. Appl. No. 867/2009

MANU/SC/0689/2009 (S.C. Sept. 24, 2009)

³¹ (2011) 1 SCC 141

The legitimate position alongside law driving the living together with someone is not the indistinguishable inside all aspects of the nations. It differs from country to country. Differing nations have divergent plunk on live seeing someone. India a nation of social esteems and custom functions can't bear to dive into western culture. Be that as it may, since developing economy and individuals getting increasingly mindful, India at long last needs to move ahead and by recognizing live-in relationship **the Supreme Court** today opined that a man and woman living conjointly without marriage cannot be construed as an offence.

SUGGESTIONS

Legal Recognition: There is need to introduce legislation explicitly which is recognizing and regulating live-in relationships, providing legal rights and responsibilities for partners involved. This would enable women to seek legal remedies and protection in case of disputes or violence within such sort of relationships.

Amend Domestic Violence Protection Act: Also needed to amend the **Domestic Violence Act, 2005**, to explicitly include provisions for women in live-in relationships. This would ensure that they have access to the necessary legal protections against domestic violence, irrespective of their marital status, recommendation was also made to the legislation to expand the definition of "domestic relationship" under **Section 2(f) of the Protection of Women from Domestic Violence Act 2005**, with an examination to assess the casualties of ill-conceived relationship who are underprivileged, uneducated and likewise their children who are conceived of live-in-relationship and who don't have any wellspring of profit of their own.

Property and Financial Rights: Grant women in live-in relationships the similar rights as married women in terms of property, inheritance, and financial matters. In general, women in live-in relationships do not have automatic rights to the property of their partners. However, in certain cases, courts have recognized the principle of "palimony" (similar to alimony in marriage) and have granted women a share in the property acquired during the course of the relationship. The determination of property rights can vary based on factors such as the duration of the relationship, financial contributions made by the woman, and the intention of the parties. This would help preventing the economic vulnerability often faced by women when relationships end or dissolve.

Social Security Benefits: Must extend social security benefits including those provided by the government, which are primarily designed for married individuals or those in legally recognized relationships. Unfortunately, women in live-in relationships do not have the same entitlement to social security benefits as married women.

Social security benefits such as pensions, survivor benefits, and other related schemes typically require a legal marriage certificate as proof of eligibility, health insurance, pension, and maternity benefits as this would provide them with the necessary support and financial stability. Unfortunately, women in live-in relationships do not have the same entitlement to social security benefits as married women.

Mediation and Counseling: Establish mediation and counseling services specifically designed for resolving disputes and conflicts within live-in relationships. This would provide an alternative and less adversarial approach to addressing issues and promoting understanding between partners.

Mediation and counseling provide a structured and neutral space for partners to communicate effectively. It also provides a supportive environment where partners can express their emotions and receive guidance on managing them constructively. Mediation and counseling prioritize preserving the relationship and finding mutually acceptable solutions. By engaging in these processes, live-in partners have an opportunity to resolve their disputes amicably and avoid the need for costly and adversarial legal proceedings.

Sensitization of Judiciary: Sensitize the judiciary about the complexities and realities of live-in relationships, encouraging judges to interpret and apply the law in a manner that protects the rights and interests of women involved. It also leads to the development of policies and guidelines that address the specific needs and concerns this can include the formulation of laws or the revision of existing laws to provide adequate protection and support to women in such relationships. By raising awareness about gender biases and stereotypes, judges can be better equipped to provide fair and impartial decisions, ensuring that women in live-in relationships are not subjected to unfair treatment based on societal prejudices.

By implementing these suggestions, the legal status of women in live-in relationships can be significantly improved, ensuring their rights are recognized, protected, and upheld within the Indian legal system. It is essential to adapt to the changing dynamics of relationships and provide appropriate legal frameworks that cater to the needs and rights of women in contemporary society.