

Live-in-Relationship and Institution of Marriage: Socio-Legal Dimensions

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Abstract

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Live-in-relation and marriage are two varied concepts resembles some-how with certain differences in them. Live-in-relation is most older concept exist than the marriage, but widely used in these days. Pre-civilisation reflect the concept of live-in-relationship where the concept of marriage was not in vogue. The concept of marriage is a product of civilisation. Civilisation gave birth too many newer concepts and ideas which shaped the destiny of the human existence among which is the institution of marriage. Marriage is one of the universal social institutions established to control and regulate the life of mankind. It is closely associated with the institution of family. In fact both the institutions are complementary to each other. It is an institution with different implications in different cultures. Its purposes, functions and forms may differ from society to society but it is present everywhere as an institution [1]. The live-in-relation is another concept which will resemble with the marriage but differs in many aspects. The resembling factors are there will be two persons male and female live together for uncertain period. However, the period is very much limited in live-in-relationship which may end in short or result in marriage. Marriage is to a greater extent is permanent in character while live-in-relation is temporary. Imperfect rights and duties are the features of liv-in-relationship while in marriage they appears to be perfectly situated. More mutual trust and understanding find in marriage while they will be less in live-in-relation. The marriage is permanent institution where the married couple establish another social institution the family. The live-in-relation is a temporary arrangement which may break up permanently or result in marriage.

The modern society marking ahead equally towards both marriage and live-in-relation as the necessity of the day.

Keywords: Live-in-Relation; Marriage; Institution; Family; Society; Ancient; Modern.

Introduction

Human relationships are complex and fragile. Sometimes, or increasingly of late, after

seeing each other exclusively for a while, they talk about the possibility of co-habiting or living together before even contemplating marriage. However, the marriage is an ancient social institution which is considered as most sacred abode for men and women

to live the full-fledged life. Most of the people in the world consider marriage as a place to stay comfortable and socially recognised relation between the male and female human being.

The reason most couples give for living together is, to check their "compatibility quotient." Others do it because it is convenient; they are anyway spending most of their time with each, so, why not conserve time and energy? Some have even decided to get married and live together in the engagement period, as it cuts their expenses and works out better, economically. Though, it may sound a bit lame, but it has been seen that a small percentage want to live together because most of their friends are in a live-in relationship and they don't want to be considered the odd ones out. And in yet others, there is a basic, deep-rooted fear of a lifelong commitment called 'marriage', either because they have been hurt in the past or are off-spring of traumatic divorces[2].

Why has marriage come up in society? After all, why is it that you want to be with the opposite sex? It is just nature's trick so that you can reproduce. Nature wants you to reproduce, so it is playing a chemical game with you to get you attracted to the opposite.

A man is opposite to a woman only on the physiological level. In no other way are they opposite. But we have made such a big issue of it. It is a simple difference nature has made for the perpetuation of the race but because this need is there within you, and because you have a few more sensibilities and stronger emotions compared to an animal, we institutionalized our sexuality. That is what marriage is. And because we have to nurture our children and bring them up, unless there is a committed atmosphere, it is not going to happen properly. So we created this institution of marriage so that your sexuality and caring for progeny is also handled, and children grow up in more stable atmospheres.

A certain part of the population is trying to demolish the institution of marriage because of how marriage has been misused. The so-called rebellious ones think marriage is bondage, so they don't want marriage. They want free relationships or cohabitation or whatever. Rebellious without any purpose doesn't mean anything. It is just the ego. The ego always wants to break everything and do something new. But if you carry on with this new thing for 10 years, this will also become old and miserable. Even couples who are in a live-in relationship are fighting with each other. So, these problems are not because of marriage. It is because of people's own incompleteness and immaturity [3].

Neither the term marriage nor the expressions live-in relationship is defined in any law for the time being in force in India. Even Hindu Marriage Act, 1955 also not defined the concept of marriage. But section 7 of the Hindu Marriage Act provides essentials of a Hindu Marriage.

Definition of Marriage

Westermarck defines marriage as the 'more or less durable connection between male and female lasting beyond the mere act of propagation till after the birth of offspring'[4]. According to Malinowski marriage is a contract for the production and maintenance of children. Robert Lowie describes marriage as a relatively permanent bond between permissible mates. For Horton and Hunt marriage is the approved social pattern whereby two or more persons establish a family.

Up until very recently, marriage had been universally thought of as consisting of three essential characteristics: conjugality, permanence, and exclusivity. This had been more or less reflected in our laws.

As an institution, marriage is designed to satisfy the biological needs especially the sexual needs of the individual in a legal, customary, culturally defined and socially approved.

Characteristics of Marriage

Based on the definition of marriage, the marriage may have the following characteristics.

1. Marriage is a universal social institution. It is found in almost all societies and at all stages of development.
2. Marriage is a permanent bond between husband and wife. It is designed to fulfil the social, psychological, biological and religious aims.
3. Marriage is a specific relationship between two individuals of opposite sex and based on mutual rights and obligations. Relationship is enduring.
4. Marriage requires social approval. The relationship between men and women must have social approval. Without which marriage is not valid.
5. Marriage establishes family. Family helps in providing facilities for the procreation and upbringing of children.
6. Marriage creates mutual obligations between husband and wife. The couple fulfil their mutual obligations on the basis of customs or rules.

7. Marriage is always associated with some civil and religious ceremony. This social and religious ceremony provides validity to marriage. Though modern marriage performed in courts still it requires certain religious or customary practices.
 8. Marriage regulates sex relationship according to prescribed customs and laws.
 9. Marriage has certain symbols like ring, vermilion, special cloths, special sign before the house etc.
2. It provide better sex satisfaction to both husband and wife.
 3. It promotes better understanding between the spouses.
 4. It minimizes jealousy, hatred and quarrels in the family.
 5. It upholds gender equality and provides equal status to men and women.
 6. It provides stable sex-life and stable family life.
 7. Children are taken proper care by parents.
 8. It facilitates easy rules of inheritance and succession.

Different Types of Marriage

As a universal social institution marriage is found to exist in all societies and at all stages of development. Types or forms of marriage varies from society to society. Types or forms of marriage in different communities, societies and cultural groups differ according to their customs, practices and systems of thought. In some societies marriage is a religious sacrament whereas in others it is a social contract. However, there are several types of marriage which is classified on different basis.

• On the Basis of Number of Mates

On the basis of number of mates marriage may be classified into three types such as Monogamy, Polygamy and Endogamy or group marriage. This can be known from the following:

Monogamy

Monogamy is an ideal, widespread and rational type of marriage. It is found in all civilized societies. Monogamy refers to a marriage of one man with one woman at a time. This type of marriage is normally unbreakable in nature. It continue till death. Today the principle of monogamy i.e. one husband and one wife is practised and emphasised throughout the world. Monogamy is of two types such as serial Monogamy and non-serial Monogamy.

- i. *Serial Monogamy*: In serial Monogamous marriage the possibility of remarriage exists in case of divorce or death. In spite of his remarriage he remains to be monogamous.
- ii. *Non-serial Monogamy*: In case of non-serial monogamy the question of remarriage does not arise by either of the couple. Here a spouse has the same single spouse throughout his life.

However, Monogamy is an ideal or best form of marriage because of its different advantages which are as follows:

1. It is suitable for all society and for all levels of people.

Because of the above advantages Monogamy is considered as the best form of marriage and is practiced everywhere. The only disadvantages of Monogamy is divorce which is resulted due to the monogamous boredom.

Polygamy

Polygamy is a type of marriage in which there is plurality of partners. It allows a man to marry more than one woman or a woman to marry more than one man at a time. Polygamy is of three types such as polygamy, polyandry and endogamy or group marriage.

- i. *Polygamy*: Polygamy is a type of marriage in which a man marries more than one wife at a time. In this type of marriage each wife has her separate household and the husband visits them in turn. It was a preferred form of marriage in ancient Indian society. But now it was not in practice among majority of population.

But it is now found among few tribal such as Naga, Gond and Baiga. Economic and political cause was mainly responsible for polygamy. Besides man's taste for variety, enforced celibacy, Barrenness of women more women population etc. are some of the cause of polygamy. Polygamy is further divided into two types such as Sororal polygyny and non-sororal polygyny.

Sorroral Polygamy

Sorroral polygamy is often called as surrogate. The term surrogate comes from the Latin word 'soror' which means sister. Accordingly it refers to a marriage practice in which a man marries the sisters of his wife at a time or after the death of his wife.

Non-sororal Polygamy

It is just opposite of the sororal polygamy, when a man marries several women at a time who are not necessarily sister to each other it is known as non-sororal polygamy.

ii. *Polyandry*: Polyandry is a very rare type of marriage in present day. In this type of marriage a woman marries several men at a time. In the words of K.M. Kapadia, "Polyandry is a form of union in which a woman has more than one husband at a time or in which brothers share a wife or wives in common. At present it is found among some of the tribes like toda, khasi and nayars. Polyandry is divided into two types such as fraternal polyandry and non-fraternal polyandry.

Fraternal Polyandry

When several brothers share a common wife it is called as fraternal polyandry. Draupadi's marriage to Pandabs is fine example of fraternal polyandry. The determination of father is associated with some rituals. At present time this type of marriage is practised by some tribal like toda and khasi.

Non-Fraternal Polyandry

It is just opposite of fraternal polyandry. In this type of marriage husbands of a woman is not necessarily brother to each other. This type of marriage is found among the Nayars of Kerala, Wife goes to spend some time with each of her husband. So long as a woman lives with one of her husbands, the others have no claim on her. This mainly happens due to scarcity of women.

iii. *Endogamy or Group Marriage*: Endogamy is otherwise known as group marriage. In this type of marriage a group of men marry a group of women at a time. Every woman is the wife of every man belonging to the particular groups. Sociologist, like Dr. Rivers call it as a kind of sexual communism. This type of marriage is found among some tribes of New Guinea and Africa,

• *On the Basis of Choice of Mate or on the Basis of Rules of Mate Selection*

Marriage may be divided into two types i.e. endogamous and exogamous marriages on the basis of choice of mate or on the basis of the rules of choice of mate. Endogamy is divided into four sub types such as caste, sub-caste, varna and tribal endogamy. Similarly exogamous marriage may be divided into four sub-types such as Gotra, Pravara, Sapinda and village exogamy. All this can be presented in the following:

Endogamy or Endogamous Marriage

Endogamy or endogamous marriage refers to the marriage within one's own group such as within

one's own caste, sub-caste, Varna and tribe. In other words there are several types of endogamous marriage such as caste endogamy, sub-caste endogamy, Varna endogamy and tribal endogamy.

Caste endogamy

Caste endogamy is a type of endogamous marriage in which marriage takes place within one's own caste. In a caste based society endogamy is strictly followed. Members of each caste marry within its own caste group.

Sub-caste endogamy

It is another type of endogamous marriage. In a caste based society each caste is divided into many sub-castes. Like caste each sub-caste is also an endogamous unit. In sub-caste endogamy marriage takes place within one's sub-caste only.

Varna endogamy

Varna endogamy is another type of endogamous marriage. In the traditional Indian Society we found the existence of four Varna such as Brahmin, Kshatriya, Vaisya and Sudra. In Varna endogamy the choice of mate is restricted to one's own Varna only.

Tribal endogamy

Tribe is a territorial group. Tribal endogamy is a type of endogamous marriage in which the choice of mate is restricted to one's own tribal group. Like caste tribe is also an endogamous unit.

ii. *Exogamy or Exogamous marriage*: It is just opposite to the endogamy or endogamous marriage system. It refers to a system of marriage in which an individual has to marry outside one's own group such as gotra, pravara, sapinda or village. This is a sound marriage system which leads to the creation of healthy and intelligent children. However there are several forms of exogamy such as:

Gotra exogamy

Gotra refers to clan. Members of a particular gotra or clan supposed to have close blood relation among themselves. Hence according to gotra exogamy one has to marry outside one's own gotra.

Pravara exogamy

Pravara means siblings. People originating from a common saint are said to belong a particular Pravara. According to Pravara exogamy one has to marry outside one's own pravara. Marriage within pravara is forbidden.

Sapinda exogamy

Sapinda means-lineage. People belonging to five generations from father side and three or seven generation from mother side are known as sapindas. They believed to belong a particular pinda. Hence according to sapinda exogamy marriage within one's own sapinda is forbidden. They are supposed to marry outside one's own sapinda.

Village exogamy

According to this principle marriage within one's own village is forbidden each and every society prescribes certain rules relating to marriage. Some societies put several restrictions on marriage among kins whereas some other societies allows marriage between a limited numbers of kins.

Hence in those societies marriage is sanctioned on the basis of preference or priority. Accordingly socially sanctioned marriage among kins is known as preferential marriage. In other words on the basis of preference marriage may be divided into four types such as cross-cousin marriage, parallel cousin marriage, levirate and surrogate.

- i. *Cross-cousin marriage*: When marriage takes place between one's mother's brother's daughter/son with father's sister's son/daughter we called it as cross cousin marriage. The marriage of Abhimanyu with Sashikala is an example of this cross-cousin type of marriage. This type of marriage supposed to be practised in some part of Orissa, Rajasthan, and Maharashtra etc. This type of marriage occur to avoid payment of high bride price and to maintain one's family property.
- ii. *Parallel cousin marriage*: When marriage takes place between the children of either two sisters or two brothers it is known as parallel cousin marriage. This type of marriage is mostly found among Muslims.
- iii. *Levirate*: It is otherwise known as 'Devar Vivaha'. When a woman marries her husband's brother after the death of her husband it is known as levirate. This type of marriage is found among some tribes like the Gond, the Munda or the Santal the Oran and the Toda etc.
- iv. *Sororate*: It is otherwise known as 'Sali Vivah'. When a man marries his wife's sister after the death of his wife or even when the wife is alive it is called as sororate. This type of marriage is found among some tribes like the Kharia and the Gond.

• *Anuloma or Pratiloma*

Sociologist have classified marriage into Anuloma or Pratiloma.

- i. *Anuloma marriage or Hypergamy*: When a man of higher caste or Varna marries a woman of lower caste or Varna it is called as Anuloma or Hypergamy marriage. In traditional Indian society hypergamy is known as Anuloma. This was in practice among the nobles in the past. In Bengal it was found in the form of Kulinism.
- ii. *Pratiloma marriage or Hypogamy*: Pratiloma or hypogamy marriage is just opposite of Anuloma or hypergamy. When a man of lower caste or status marries a woman of higher caste or status it is known as pratiloma or hypogamy marriage. This is not an approved form of marriage. Ancient Hindu law giver Manu denounced Pratiloma is still in practice among the people [5].

Hinduism lays down that sixteen sanskaras (sacraments) shall be performed to make the life of the individual noble and prosperous. The most important of these sanskaras is that of marriage. It is a ceremony whereby two souls are brought into union spiritually, mentally and physically in the sacred bond of matrimony. Marriage enables man and woman to find their partners in life. The institution of marriage is essential for the procreation and continuation of life. The characteristic traits of two individuals are thereby transmitted to their progeny. Whilst disciplining one, marriage enables on to satisfy one's emotional and physical needs in a religions and socially acceptable way [6].

The Delhi High Court in *Ashok Kumar v. Smt. Usha Kumari* [7], has held that if the parties are recognised as husband and wife, there is a strong presumption in favour of the validity of marriage form and ceremony of the marriage and the legitimacy of its offspring. After all, the rites and ceremonies only serve to provide proof of marriage as registration does. It is otherwise very difficult after some lapse of time to all a Pandit to the witness-box to prove that the marriage had been solemnized. No documentary evidence is even possible to find. Many of the witnesses disappear in the meanwhile. No evidence except the hard fact of living together survives.

Marriage is a sacred for Hindus and contractual relationship for Muslims in India. Marriage, as its legal consequences, entitles both the persons to cohabit; the children born out of a legal wedlock have legitimacy as legal heir; the wife is entitled to maintenance during and after the dissolution of marriage. To avoid these obligations and to enjoy the benefit of living together, the concept of live-in-relations has come into picture. Live in relationship provides for a life free from responsibility and commitment unlike as in a marriage.

Marriage is one of the most important “Sanskara” for Hindu. It is the responsibility of parents of a daughter to get her married. It is because of marriage the children are born and where a putra (Putra- Those who die without children go to the hell and he who save one from this hell is called putra) is considered to be necessary to attain the moksha.

In a civilized society, marriage is considered as the basic civil rights of man and woman. It is considered as a basic unit which forms the society. Man and woman as a married unit are known as husband and wife; they are often referred to as spouse. Marriage is a relationship between two souls [8].

Advantages of Marriage

1. Sex is the basic need of all living beings in this universe and more so of men and women. For both men and women, the institution of marriage is the healthiest and most honourable way to fulfil this need.
2. Being married can save you from loneliness which becomes worse in old age. Yes, some marriages are unsuccessful but should one remain unmarried simply for the fear of that happening?
3. Marriage is an opportunity to enjoy different phases of life Marriage is not to restrict your growth, passions or ability – rather it creates mental, economic and physical support for both partners and the joy of sharing are immense.
4. The caring and sharing that comes with marriage gives more strength to families and society.
5. Motherhood is the gift to women and the birth of a child not only gives happiness to her but to the husband, his whole family and her parents. It gives special status to the woman because it is through her that the progeny will carry on. All over the world, women are respected because of their role of motherhood. Every woman feels that a woman is incomplete till she becomes a mother. Motherhood is something a woman really cherishes.
6. Married women have a bigger field of extended family to share their happiness and sorrows.
7. Considering all aspects of life, marriage is a necessity as it ennoble the partners.
8. Your spouse may be an excellent motivation and support for fulfilling your ambitions after marriage [9]. The traditional forms of Hindu marriages as described by Shastrakara Manu such as 1) Brahma, 2) Daiva, 3) Arsha, 4) Prajapatya, 5) Asura, 6) Gandharva, 7) Rakshasa and 8)

Paisacha – are no more in vogue. Polygamy, polyandry and even bigamy are also not found for they are legally prohibited. Only monogamous marriages are universally practiced [10].

Married persons were accorded a higher status in society as compared to the single person, in the past. It was considered a sacramental union and the single most important event between birth and death [11]. It signified the rise to a privileged status, from the earlier juvenile singlehood. It implied a shift from dependency and subordination to the good life of an independent household of love, companionship, economic production and consumption, legitimized sexual relations and children. It was important to the community as well [12]. However, with the rise in the divorce rates, due to various factors, out of which cohabitation is considered one of them, the status of marriage has been assumed to have been declining [13].

The Hon’ble Supreme Court in *S. Khushboo v. Kanniammal and another*[14] has observed that “Even though the constitutional freedom of speech and expression is not absolute and can be subjected to reasonable restrictions on grounds such as ‘decency and morality’ among others, we must lay stress on the need to tolerate unpopular views in the socio-cultural space. The framers of our Constitution recognized the importance of safe guarding this right since the free flow of opinions and ideas is essential to sustain the collective life of the citizenry. While an informed citizenry is a pre-conditioned for meaningful governance in the political sense, we must also promote a culture of open dialogue when it comes to societal attitudes. Admittedly, the appellant’s remarks did provoke a controversy since the acceptance of premarital sex and live-in relationships is viewed by some as an attack on the centrality of marriage. While there can be no doubt that in India, marriage is an important social institution, we must also keep our minds open to the fact that there are certain individuals or groups who do not hold the same view. To be sure, there are some indigenous groups within our country wherein sexual relations outside the martial setting are accepted as a normal occurrence. Even in the societal main stream, there are a significant number of people who seem nothing wrong in engaging premarital sex. Notions of social morality are inherently subjective and the criminal law cannot be used as a means to unduly interfere with the domain of personal autonomy. Morality and criminality are not co-extensive.”

In *Indra Sharma v. V.K.V. Sharma*[15] before the Supreme Court the question involved was whether a live-in relationship would amount to a relationship

in the nature of marriage within the definition of 'Domestic relationship' under Section 2(f) of Protection of Women from Domestic Violence Act, 2005 and the disruption of such relationship by failure to maintain a women in order in such relationship amounts to Domestic Violence within the meaning of Section 3 of D.V. Act. The Supreme Court, after elaborate discussion of the matter and issues involved, held that for the first time, through the D.V. Act the Parliament has recognized relationship in the nature of marriage and not a live-in relationship simplicitor. The Court at Para 55 of the judgment has laid down guidelines as to under what circumstances live-in relationship will fall within the expression relationship in the nature of marriage under Section 2(f) of the D.V. Act. They are as under:

1. *Duration of Period of Relationship:* Section 2(f) of the DV Act has used the expression "at 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.
2. *Shared Household:* The expression has been defined under Section 2(s) of the DV Act and, hence, need no further elaboration.
3. *Pooling of Resources and Financial Arrangements:* Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the name of the woman, long terms investments in business, shares in separate and joint names, so as to have a long standing relationship, may be a guiding factor.
4. *Domestic Arrangements:* Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or up keeping the house, etc., is an indication of a relationship in the nature of marriage.
5. *Sexual Relationship:* Marriage like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring etc.
6. *Children:* Having children is a strong indication of a relationship in the nature of marriage. Parties, therefore, intend to have a long standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.
7. *Socialization in Public:* Holding out to the public and socializing with friends, relations and others,

as if they are husband and wife is a strong circumstance to hold the relationship in the nature of marriage.

8. *Intention and Conduct of the Parties:* Common intention of parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship. A reading of judgment make it crystal clear that if a person lives with another married man it would become illicit relationship. It will not even be called as a 'relationship in the nature of marriage'. It is to be stated that in live-in relationship, both the couple must be unmarried. Entering in to relationship with married man would be concubinage and punishable under Section 497 of the IPC.

Further the Hon'ble Supreme Court in *D. Velu Samy v. D. Patchaiammal* [16] has held that all live-in-relationship will not amount to relationship in the nature of marriage. The Hon'ble Supreme Court at Para No. 35 of the Judgment has held that, "no doubt the view we are taking would exclude many woman who have had a live-in relationship from the benefit of 2005 Act, but then it is not for this Court to legislate or amend the law. Parliament has used the expression relationship in the nature of marriage and not live-in relationship. The Court in the garb of interpretation cannot change the language of the statute". The earliest case in which the Supreme Court of India recognized the live-in relationship as a valid marriage was that of *Badri Prasad v. Deputy Director of Consolidation* [17], in which the Court gave legal validity to 50 year live-in-relationship of a couple.

In *Payhal Katara v. Superintendent, Nari Nitetan Kandri Vihar, Agra and others* [18] the Allahabad High Court held that "a lady of about 21 years of age being a major, has right to go anywhere and that any one-man and woman even without getting married can live together if they wish".

Again in the case of *Lata Singh v. State of U.P. and another*, [19] the Apex Court held that the live-in relationship was permissible only between unmarried major persons of heterogeneous sex. If a spouse is married, the man could be guilty of adultery punishable under Section 497 of the IPC. Since the husband survives, Rangammal cannot invoke presumption of live-in. If so, the children became illegitimate and disqualified to inherit under Section 16 of the Hindu Marriage Act, 1955. Therefore, live-in relationship could be 'a dangerous thing' between a wife and non-husband as it could lead to an offence of adultery, but not to 'marriage'.

But in *Bharatha Matha and Another v. R. Vijaya Renaganathan and Others* [20] it is held that, "High Court ruled in favor of validity of marriage reversing findings recorded by Courts below that parties were having live-in relationship. But the Supreme Court held that a child born of void or voidable marriage is not entitled to claim inheritance in ancestral coparcenary property but is entitled only to claim share in self-acquired properties. The question of inheritance of coparcenary property by illegitimate children, who were born out of live-in relationship, could not arise. In *Madan Mohan Singh and Others v. Rajanikanth and Another* [21] has held that, "the live-in relationship if continued for such a long time, cannot be termed in as walk-in and walk-out relationship and there is a presumption of marriage between them". The decision clarifies that even in case of live-in relationship a presumption of marriage would arise in course of time.

The development of the concept of live-in relationship in the Society is a challenge to institution of marriage and Society shall find a solution to this emerging problem. The society shall change in accordance with the time and no Society remain stand still. The Supreme Court in *Badshah v. Sou. Urmila Badshah Godse and Another*[22] has held as under:

"The law regulates relationship between people. It prescribes patterns of behavior. It reflects the values of Society. The role of the court is to understand the purpose of law in society and to half the law to achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too.

Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs. In both constitutional and statutory interpretation, the court is supposed to exercise direction to in determine the proper relationship between the subjective and objective purpose of law."

This is one face of the social coin. But, there is another face. However over the period of time the concept of marriage has been changed due to corresponding changes in society.

"Marriage is like putting your hand into a Bag of snakes in the hope of pulling out an eel" so said Leonardo da Vinci [23]. As per George Bernard Shaw, "marriage is an alliance entered into by a man who can't sleep with the window shut and a woman who can't sleep with the window open" [24].

The Concept of Live-in Relationship

The legal definition of Live-in-relationship is "an arrangement of living under which couples which are unmarried live together to conduct a long-going relationship similarly as in marriage. "Many people imagine that living together before marriage resembles taking a car for a test drive. However, the definition and ambit of live in relationship is very unclear, there is no specific legislation in India on this subject, and the law are in the form of court verdicts which varies from case to case [25].

Live-in-relationship is a relationship between two heterosexuals where they live as a couple without solemnization of marriage under any law. In common parlance a live-in-relationship is understood as a living arrangement in which an unmarried couple lives together in a long-term relationship. It is considered to be a taboo by the Indian legislation. That is why none of the statutes concerning with personal law has recognized the concept of live-in-relations. The American Law Institute defines live-in-relation as "two persons of the same or opposite sex, not married to one another, who for a significant period of time share a primary residence and a life together as a couple [26]." Today, live-in-relationships are on rise and are subjected to a lot of criticism from several quarters and leads to socio legal tensions. Further it also resultant in to various legal issues like maintenance and succession rights.

The live-in relationship as described in the Webster dictionary is "A living arrangement in which an unmarried couple lives together in a long-term relationship that resembles a marriage". So, basically, living without marriage for purpose to check the compatibility among individuals is live-in. Live-in couples become emotionally and financially unstable when their live-in partner exit from this weak knot. Mortality rate of single are higher than the married one. So, marriage has risk of divorce and live-in has risk of separation which may lead a person to become 'single'. Consequently the risk on health/psyche may increase then [27].

Live-in concept has no barriers. Freeness is the main criteria involved in this concept. The inmates of this relation do not name their relation. In this

concept both male and female live together like husband and wife but they are not husband and wife. The concept of live-in is no more remained western concept. Live-in couple can be seen in the cities like Bengaluru, Mangaluru or Mysuru. Indians are imitating western culture not only in food and clothing but also in live-in relationship.

Lack of bossism and self-dependence are keywords of live-in, most of couple in such relations not only share thoughts and physic but also purse. We cannot find the meaning of the word live-in in any dictionary it cannot be found even in law books as the concept is new one.

The Reasons for Live-In

The life in cities is mechanical. There is pressure in the life. Many do not find time to look after family, wife and children, most spend time in office or workplace. In this background live-in looks to be relief. It is a type of relief to a person who don't want to be in the web of family. For many it is freedom and liberty. The convenience plays vital role here not the conviction. Now-a-day's people prefer live-in to know each other before marriage, freedom in earning and learning is giving way to such concept. Many who are away from home for study or work pursuing such relationship.

Many start being in rented rooms. When a person comes to city in search of a job this leads to enter into such relation since nobody would bother in cities about the other. It gives a license to live-in.

Prohibition of intercaste marriages, interreligious marriages is also prompting one to pursue such relation. The person who is unable to shoulder responsibilities, one who seek liberty and one who has no convictions, pursue such relation as a way of life. Many ask as to why marriage when live-in provides same type of life. It is said that there is no much difference between live-in and customary marriage.

As of now there is no law which govern live-in. Under Article 21 of the Constitution of India, every citizen of India has a right to life and liberty. One can lead the life of his choice. Though the concept of live-in is termed as wrong and unethical in the society, but the concept is held not illegal. The Allahabad High Court in a decision in *Payal Katara v. Superintendent, Nari Nikethan Kalindri Vihar, Agra* and others, has held that it is a fundamental right of a girl, who was major, to go anywhere and live with anyone she wish. A man and a woman even without getting married can live together if they wish, it may be regarded immoral by society, but is not illegal.

Conclusion

Marriage and live-in are distinct concept in themselves. The marriage is accepted institution by the society but live-in is not accepted so far and it is yet to be accepted. Ours is traditional society bound by rules and regulations. The marriage is an accepted norm. Therefore, everyone chose to stay in it but a dispute in marriage would lead to disastrous consequences. If one want to separate and other not, it is very difficult to get separated. Number of rights and obligations raise in the concept of marriage, but these hassles are not finding place in live-in relationship. A signature on a paper does not confirm one's loyalty to his loved once. Even in marriage also many cheat each other. But a live-in relationship work well since it is by choice. A marriage does not give any guarantee of loyalty. Only honesty between the two individual can guarantee that. The High Court of Bombay said that, "instead of live-ins, the institution of marriage should be preserved in India. There should be art of living in family life so that marriage can be saved". It is further held that, "rising divorces were eroding the institution of marriage going by the rate of cases, we are getting, marriages as an institution will be abolished in 10-15 years. The tolerance level of people has gone down". It is further held that, "if traditional marriage is abolished, live-in's get a boost, live-in relationships should not mean the traditional marriage system in India is given the go-bye, marriage is instituted so that people can live in civilised society, or else, it will be rule of the jungle".

Purpose of marriage or live-in is not to waste precious life just for fun or sensual satisfaction. Both are the ways to fulfil the emptiness in life to create a healthy environment for personal growth and development.

Life is like a river and it is impermanent. Marriage institution is also witnessing the change by way of live-in. Live-in relationship is a demand of the super-fast lifestyle of modern era. This change is inevitable and society has accepted it. One should get in to this relationship with full maturity and after considering the legal / social and more importantly personal aspect. It is true that complexities of marriage laws are increasing by every passing day, consequently, people prefer to get in to hassle free live-in but that does not mean that on should be so scared that he/she become prejudice about marriage system. Life is very delicate thing and mistakes in marriage or live-in can cost irreparable losses. The time, energy and trust invested in relationship are most precious thing.

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