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LIVE-IN-RELATIONSHIP AND ITS LEGAL IMPACT ON THE RIGHT OF WOMEN: AN EMPIRICAL STUDY CONDUCTED IN HNLU CAMPUS

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ABSTRACT

A "live-in relationship" is a long-term relationship between two people who are not married but live together like they are married. "The Hindu Marriage Act of 1955, the Criminal Procedure Code of 1973, and the Indian Succession Act of 1925 do not recognize live-in relationships. The Protection of Women from Domestic Violence Act of 2005 doesn't give a clear definition of "relationship in the nature of marriage," which is part of the definition of "domestic relationship" (PWDVA). But a child had born from a "relationship that is like marriage is not allowed to claim its share of ancestral coparcener property. Instead, it can only claim its share of property that its parents bought with their own money. This research is divided into 6 chapters: chapter 1: Introduction, chapter 2: Concept of Live-in relationship and laws in different country related to live-in, chapter 3: Rights of women in Live-in-relationship, chapter 4: Judicial Approach on Live-in-Relationship in India, chapter 5: Analysis of data gathered through Questionnaire, chapter 6: Conclusion and Suggestions.

CHAPTER-1

1.1 INTRODUCTION

Traditional Indian society has looked down on people who live together without being married, but the growing number of live-in couples shows that this is changing. “Live-in relationships” are when a heterosexual couples (a man and a woman) or a homosexual couples (usually both single) lives together without getting married. It means living together without having any legal responsibilities or obligations to each other. There is no law that makes the two people stay together, so either one of them can leave the relationship whenever they want. This is common in big cities, where most people who work at the same place find it convenient to live together as a married couple and enjoy life without taking the risk and obligation of getting married.

India is a growing country. Younger people are slowly getting used to western ideas and ways of life, like living together without being married. This is one of the most important changes in the way people think about relationships. Because of this idea, there have been many court cases about whether or not these relationships are legal and what effect they have on Indian society. Since there are no clear laws about this subject, it is not clear how to define and limit this kind of relationship. But if we look at how the courts work, we can see that they have always been active and played a big part in protecting the rights and interests of people in these kinds of relationships through different judgments. But the main question in these kinds of relationships is how much legal recognition they should get. When legal recognition seems to be needed for some part of a relationship, it can lead to other legal problems and affect the rights of third parties who are involved directly or indirectly.

The status of the wife, children, and family is directly changed by a “live-in relationship.” If a child is born from a live-in relationship, there could be problems with the child's legal status, custody, and inheritance. The Indian courts are trying to use the laws that are already in place to solve these problems. So, the researcher will look at the social and legal status of women in live-in relationships in India, as well as the rights of the women involved. The researcher will look at different judicial pronouncement on these kinds of relationships and talk about important things like the rights of children born from them and whether or not they are legal. The researcher will take a balanced approach and make some suggestions so that the rights of everyone involved are met and justice is done.

1.2 RATIONALE OF THE STUDY

Increased live-in partnerships, especially in Indian society, have led to many issues/problems in the previous decade. Female live-in partners have sued male partners for maintenance, conjugal rights, domestic violence, and succession rights. Several men have been accused of rape because their relationships terminated without marriage.

Although the courts have recognized a few rights of the female partners in these relationships, e.g.: protection against domestic violence, etc., when these relationships end or the couple or either partner (especially male partner) decides to end this relationship, the female partner's situation becomes extremely vulnerable, especially if she was financially dependent on her male partner. Even in cases where the courts have recognized live-in relationships and provided rights towards the partners (female), there are some requisites which must be present for a relationship to be acknowledged as a live-in relationship. If a particular case did not feature such requisites, it would not be regarded a live-in relationship, and no rights would be accessible, again to the prejudice of the female partner in the relationship.

The fundamental concern is the lack of rights for female partners in a live-in relationship compared to the male partner, as well as the doubts raised by court decisions about the status of live-in partnerships and the rights flowing from them.

1.3 Literature Review:

1. “Perception Of Youth Towards Live-In Relationships In India” By Vinita Ghosh Is A Research Paper In The International Journal Of Indian Psychology.

It gives a well-rounded analysis of live-in relationships, addressing Indian society's polarization over their legitimacy notwithstanding progressive judgments and regulations. It reports a rise in cohabitation while pointing out that concerns about cultural values and sanctity, familial pressure, and social expectations remain. It also describes severe incidents of moral policing. The author analyzes past data and conducts their own survey to measure young perceptions about live-in relationships.. The paper focuses on the personal values of the respondents but does not analyze how bigger socio-legal narratives, such as legal or logistical difficulties, affect live-ins. Based on a small sample, draws gendered conclusions. While acknowledging a growing acceptance of live-ins, it fails to analyze why.

2. Live-In Relationship (Cohabitation): More Challenging Than Marriage? Is A Chapter In The Book Art Of Psychiatry: Relationship Matters Published By The Indian Association Of Private Psychiatry?

- The author lists the pros and cons of live-in relationships and compares them to marriage. This research aims to differentiate between marriage and live-in relationships and provide a basis for deliberate choice.
- While dealing with whether marriage is outdated and the benefits of marriage, any analysis of live-in relationships in this research effort has been done through the lens of comparative analysis with marriage. There is not only a lack of social scrutiny of live-in as a standalone but also an absence of empirical research evidence to support multiple claims.

3. Live-in relationships in India- Legal and Psychological Implications by Choudhary Laxmi Narayan, Mridula Narayan and Mridul Deepanshu.

- It explores the legal and psychological ramifications of live-in relationships in India. The latter portion of the study report has some social analysis, but it lacks depth and focus.
- In their 'Psychological Implications' section, the writers gave social and psychological examples but failed to infer or deduce anything from them.

4. Socio-Legal Dimensions Of Live-In Relationships In India By Swarupa Dholam Is A Research Article.

It discusses the validity of live-in relationships based on Supreme Court precedents, their international standing, and a parallel to marriage. The researcher discusses live-in partnerships and provides explicit contrasts from marriage, but it fails to identify social perceptions of such a relationship.

1.4. RESEARCH QUESTIONS

- What does "live-in relationship" mean to you?
- What is the legal position of cohabitation in India?
- What is "live-in relationship" mean in other countries?
- What is the current scenario about "live-in relationships" in India?

1.5 HYPOTHESIS

- 1) Live-in Relationships should be legislated.
- 2) Women should get the same rights as married women in respect to certain rights- such as inheritance, monetary support, etc.

1.6. RESEARCH OBJECTIVE

- To explain what a live-in relationship is.
- To find out what the law says about living together in India.
- To look at the status of live-in couples in different countries.
- To study judicial approach towards “Live-in-Relationships”.

1.7. RESEARCH DESIGN

Empirical methods like sampling and a single questionnaire for each participant were used to get the data for the study. -**Primary Data**. Mostly qualitative research would be used in this project, however back up by quantitative data.

And for the doctrinal method, information about the social standing of live-in relationships and the rights that come with them was gathered from a variety of cases, articles, Indian and foreign judgments, and statutes -**Secondary Data**

1.8 RESEARCH METHODOLOGY

1. The approach began with a literature review, or evaluating and assessing existing empirical data and identifying gaps by reading and researching diverse research studies.
2. Researcher found few studies on social perceptions of live-in relationships in India, thus understanding them were vital to our secondary study.
3. Researcher then prepared a questionnaire for an online empirical survey.
4. The questionnaire asked both factual and opinion-based questions about live-in partnerships in theory and reality. The questions were written with India in mind.
5. The questionnaire was created using Google Forms. Next, the survey was shared on Instagram, WhatsApp, and LinkedIn. And researcher response rate was highest among young adults, notably college students.
6. Next came data analysis and trend inference. This was done using visual graphs and charts, averages, and comparative analyses.

7. The next step was applying the empirical study's implications to secondary research to draw more complete conclusions.

1.9 UNIVERSE

According to the proposal, only HNLU undergraduate and post-graduate students, both male and female, who are at least 18 years old, may participate in empirical research. But because the researchers were able to gather information from some PhD students also, now, the study included both males and females over the age of 18 -32 from HNLU.

1.10 RESEARCH LIMITATION

1. Because the researcher is unknown to anyone who is in a live-in relationship, the study's universe is restricted to students of HNLU who are not currently engaged in a live-in relationship and are over the age of 18.
2. A legally recognized marriage gives birth to a number of privileges and duties. However, the study is solely focused on the rights that have been demanded in numerous cases and are also recognized by Indian courts.

1.11 CHAPTERIZATION OF THE STUDY

The research has been categorized into different chapters briefly described below:

Chapter 1: Introduction

Chapter 2: Concept of Live-in relationship and laws in different country related to live-in.

Chapter 3: Rights of women in Live-in-relationship

Chapter 4: Judicial Approach on Live-in-Relationship in India

Chapter 5: Analysis of data gathered through Questionnaire.

Chapter 6: Conclusion and Suggestions

CHAPTER- 2

2.1. Concept of Live-in relationship and laws in different country related to live-in.

In this chapter, explains in detail the meaning of live-in-relationship and explores the legal rights and obligations of live-in couples all over the world. A LIVE-IN RELATIONSHIP is a long-term relationship that is very similar to marriage in which a man and a woman share the same residence but are not married to each other. In cities, this kind of partnership has started to replace marriage as a real alternative.

Live-in relationship in other words, cohabitation is when two individuals decide to live together long-term or permanently and are close emotionally and/or sexually. Usually, the term applies to couples who are not married. In Western countries, living together is now very common. People live together for many different reasons. Some of these include wanting to make sure they are compatible or have enough money before getting married. It could be because they are the same gender and can't get married legally. Also, some marriages between people of different cultures or religions are illegal or not allowed. People who think their relationships are personal and private and shouldn't be controlled by the government, patriarchal institutions, or religion can also choose to live together.

In view of the SC's decision that the right to live with someone is part of the right to life, it is important to look at the legal rights and obligations of live-in couples all over the world. In the **Philippines**, co-ownership laws govern the rights to all types of property, both movable and immovable. "Article 147 of the Philippine Family Code", deal with the right of women who is in live-in-relationship. In order to protect the rights of children born out of live-in relationships, people who choose to do so in **China** are required to sign a contract. In **France**, live-in relationships are governed by the Civil Solidarity Pact, also recognized as the PaCS. The Family Law Act of **Australia** says that a "de facto relationship" can be between two people of the same or different sexes. A person can be in a de-facto relationship even if they are legally married to someone else or in a de-facto relationship with someone else. However there are other countries also who has provided rights to women who are in live-in-relationship which we will discuss in this chapter.

CHAPTER-3

RIGHTS OF WOMEN: LIVE-IN RELATIONSHIP

People's perspectives have evolved over time, particularly in how judges of the courts now view those in live-in relationships and as a result of the decisions made in various cases, such as **Lata Singh v. State of UP**¹, in which the courts acknowledged live-in relationships between two unmarried persons.

However, the Indian judiciary accords some rights to women who are in live-in relationships i.e.

- **Rights to maintenance**

After the **Malimath Committee's** recommendations, **Section 125** of the Criminal Procedure Code (CrPC) was added in 2003. This amendment expanded the definition of "wife" to include women who were in live-in relationship². This ensured that her financial needs would be met if she were unable to support herself or if the partnership became estranged. Similar to married women, protection from all forms of abuse is guaranteed by the Domestic Violence Act, 2005.

- **Right to property (Inheritance Rights)**

According to **Section 10 of the Hindu Succession Act 1956**³, the deceased's widow is included in the distribution of property among all live heirs. However, parties to a live-in relationship do not automatically inherit their partners' property, and there is no law that addresses this issue specifically.

- **Protection under domestic violence act, 2005**

The Protection of Women from Domestic Violence Act, 2005, or PWDA, was made into a law to protect women who live with abusive family members or intimate partners. The term "**shared household**" is defined in **Section 2(s) of the PWDV Act**⁴, so there is no need to explain it further. **Section 2(f) of the PWDV Act** also says that it applies not just to married couples but also to people in relationships

¹ Lata Singh v. State of UP, Writ Petition (crl.) 208 of 2004

² "Committee on Reforms of Criminal Justice System", *Government of India, Ministry of Home Affairs*, Mar. 2003, vol. 1, p. 189, available at: https://www.mha.gov.in/sites/default/files/criminal_justice_system_2.pdf (last visited on: October 3, 2022).

³ <https://revenue.tripura.gov.in/sites/default/files/hindu-succession-act-1956.pdf> (accessed on October 3, 2024).

⁴ http://chdsla.gov.in/right_menu/act/pdf/domviolence.pdf (accessed on October 3, 2024)

that are like marriages.

The main goal of the Domestic Violence Act (DV Act) was to protect the wife or female live-in partner from abuse by the husband or male live-in partner. Whether a woman is married or not and has a domestic relationship with a man, the focus of a DV Act violation investigation is on the actual harm done to the woman and the protection that comes as a result. If the women in trouble were not given protection, it would be a very bad thing.

In this chapter, the rights of women in live-in-relationships have been thoroughly studied with case laws that dealt with it.



CHAPTER-4

JUDICIAL APPROACH ON LIVE-IN-RELATIONSHIP IN INDIA

This chapter studies through various cases the approach of Supreme Court and High Court on live-in-relationship. It's not clear what a "live-in relationship" is. India doesn't have specific laws on this subject. Instead, the country's laws are based on the decisions of the country's Supreme Court and High Court judges. Their legal rights will be upheld by the court. Laws like the Protection of Domestic Violence Act of 2005 say that a woman has economic rights. The child(ren) born from such a relationship have the same rights as the child(ren) born from a legally binding marriage.

In **2008**, the National Commission for Women asked the Ministry of Women and Child Development to add live-in female partners to **Section 125** of the Criminal Procedure Code. This would give them the right to maintenance.

In its **2003 report**, the Malimath Committee suggested that women who have lived with their partners for a long time should get maintenance. In October 2008, the Maharashtra Government agreed to a proposal that said a woman who lived with her partner for a "**reasonable period**" should be called his wife. Whether or not a period is a "reasonable period" depends on the facts and circumstances of each case.

In **S. Khushboo v. Kanniammal & Others**,⁵ the Supreme Court said that it is not against the law for a man and a woman to live together without getting married. "What's wrong with two adults wanting to live together?" Does it constitute a crime? Cohabitation is not illegal. It can't be a crime, said the Court. Folklore says that Lord Krishna and Radha lived together, and the court agreed. Also, it was said that living together is a Right to Life.

In the case **Revanasiddappa v. Mallikarjun**,⁶ the Hon. Justice A.K. Ganguly said, "What was illegal in the past may be legal today because social norms of right and wrong change over time in every civilization, including ours."

The Indian court system has stepped up to fill the gap left by the lack of a law about live-in relationships. Even though society might think it's wrong, the law does not consider it "criminal." The Indian legal system wants to help people in live-in relationships who have been

⁵ S. Khushboo v. Kanniammal & Others, CRIMINAL APPEAL NO. 913 of 2010

⁶ Revanasiddappa v. Mallikarjun (2011) 11 SCC 1.

hurt by their partners. Until now, these people had no legal protection against abuse. The judiciary has to consider a lot of things, such as societal standards and constitutional ideals. Under the **Protection of Women from Domestic Violence Act of 2005**⁷, women who live with their partners have economic rights, but only under the conditions set out by the Honorable Supreme Court of India in the case of **D. Velusamy vs. D. Patchaiammal**⁸:

- a) The couple must act like they are married to the rest of the world.
- b) They have to be old enough to get married by law.
- c) They must also be single and meet all the other rules for a valid marriage.
- d) They had to have lived together voluntarily for a long time while acting like they were married.

In **Indra Sarma v. V.K.V. Sarma**⁹, the Supreme Court laid out several ways to decide if a live-in relationship is "in the nature of marriage" for the purposes of **Section 2(f) of the Protection against Domestic Violence Act**¹⁰. These requirements can be summed up as follows:

- 1) Length of the Relationship
- 2) Living Together
- 3) Resources and financial plans are placed together.
- 4) Domestic Agreements
- 5) Sexual Relations
- 6) Children out of that relation
- 7) Public Socialization
- 8) The parties' intentions and actions

From the above rulings of different High Courts and the Supreme Court of India, it is clear that the Indian judiciary has often used interpretation of the law to protect the rights of women and children in live-in relationships. But at the moment, the Indian legal system doesn't have any separate laws that deal with live-in relationships and offer codified laws, punishments, and other important provisions. One reason India doesn't have these kinds of laws is that its complex culture has a lot to say about what is right and wrong. But as time goes on, it becomes more important to make new laws, so the government needs to pass a law on the subject. This chapter deals with case laws in details.

⁷ http://chdsla.gov.in/right_menu/act/pdf/domviolence.pdf (accessed on October 3, 2024)

⁸ D. Velusamy vs. D. Patchaiammal (2010)10 SCC 469

⁹ Indra Sarma v. V.K.V. Sarma (2013) 15 SCC 755

¹⁰ http://chdsla.gov.in/right_menu/act/pdf/domviolence.pdf (accessed on October 3, 2024)

CHAPTER-5

5.1. ANALYSIS OF DATA GATHERED THROUGH SURVEYS

In conclusion, most of the people who took part in the study understood about live-in relationship. In fact, 95.9% of them did know about live-in. This shows that the idea of a live-in relationship is no longer being ignored. India is a very conservative country, so most people don't agree with this idea. However, 92% of the respondents were between the ages of 18 and 27, which shows that the people who are young is much more aware of this issue and that the idea is gaining support. More than 68% of the respondents said that movies, print media (like books and newspapers), and social media were their most important sources of information. When people were asked what they thought about live-in relationships, most of them said that they think live-in relationships are not socially acceptable right now. However, most people don't have a problem with the idea itself. Researcher is of opinion that many people may be wary of live-in relationships because they have never been supported by institutions or dealt with in a formal way.

There were various alternatives given to respondents for determining why women choose live-in relationships over marriage, but the participants ranked the following as the most important: to avoid legal obligations, to enjoy the benefits of living together, to escape the responsibilities of married life, and Lack of Commitment.

When asked if they would ever choose a live-in relationship for themselves, almost 45.9% of the participants said no. However, more than 30.6% of the participants agreed that such relationships should be regulated by law. Those who said yes gave reasons why a live-in relationship would let them live freely without any relationship ties and why it was a good idea to try a live-in relationship with a person before getting married to them. Those who said "no" said that they wouldn't choose a live-in relationship because they had a traditional mindset and thought that marriage was a sacred institution. Also, it was said that these kinds of relationships are wrong, hurtful to society, and bad for the institution of family.

Concerning the question of what gets in the way of these relationships, it's clear that the biggest problem is the social stigma that comes with live-in relationships in our society and the next thing on the list is legal trouble. However about half of the people who took part in the study were sure that their parents wouldn't approve of this kind of relationship.

Also, it was said that these kinds of relationships are wrong, hurtful to society, and bad for the institution of family. About 49.2% of the people who took the survey said that there are no laws or rules about live-in relationships. Still, the same number of people said that people in live-in relationships have legal rights and agreed that the same legal rights that come with marriage should also come with live-in relationships.

When asked if a certain amount of time should be set to give rights to people in a live-in relationship, more than 40.8% of the people who took the survey said no. And it was also agreed that if such a period was set, it would make it harder for people who haven't lived together for that set amount of time to get married.

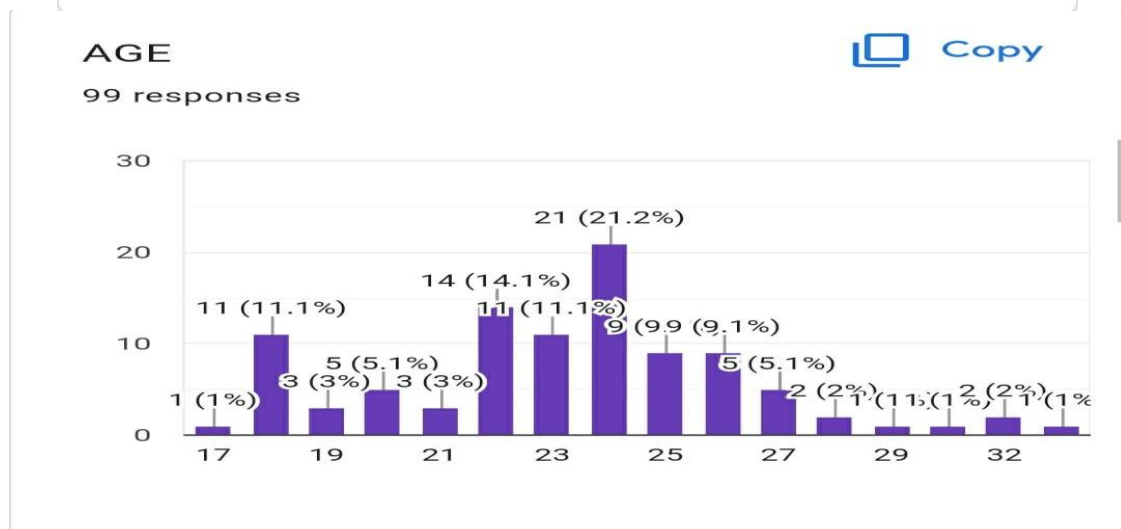
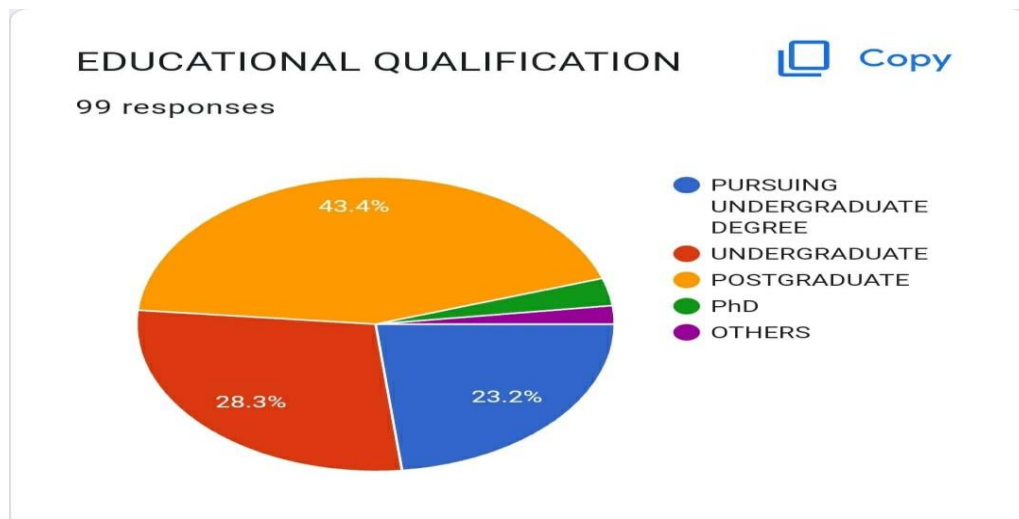
More than 49% of the people who took the survey said that live-in relationships in India should be required to be registered. This would make sure that the people involved are at least old enough to get married and give some sense of protection regarding the same.

However when researcher asked them if social welfare programs (made for families and married couples) should be open to live-in couples, 60% of the people who took part said that they shouldn't be, because then there would be no difference between marriage and live-in relationships, and people would choose live-in relationships over marriage.

When asked if giving the female partner the right to maintenance, the right against dowry and domestic violence, etc., would take away from the rights of the male partner, most of the participants said "no," saying that these rights should be given to protect women from being taken advantage of.

Also, since this idea of being in live-in-relationship is becoming more popular in India, it is the job of the Parliament to make laws and rules about it, as well as decide who is right and who is wrong. It was also said that giving these rights would be legal because Art. 15(3) of the Indian Constitution say that women should be treated differently (and children).

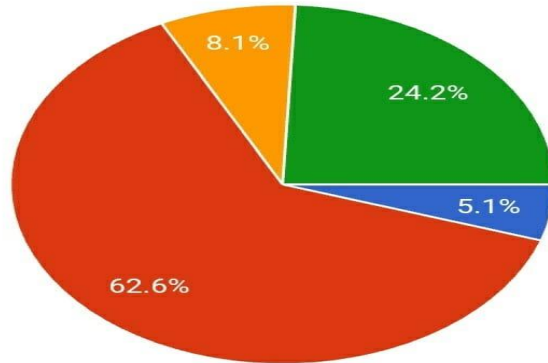
5.2. Here in below the researcher has attached the pie chart which depicts the summary of the responses received in the questionnaire:



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What is your perception of Live-In relationships?

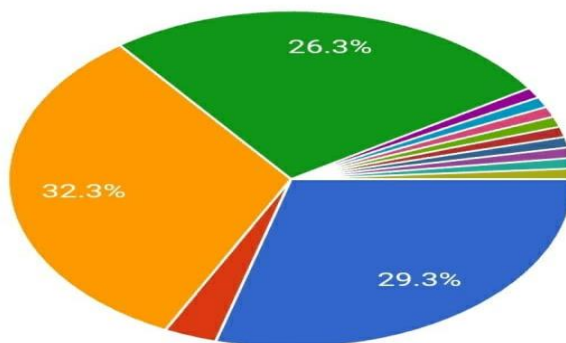
99 responses



- Socially not acceptable and personally opposed
- Socially not acceptable but personally in favour
- Socially acceptable but personally opposed
- Socially acceptable and personally in favour

Where did you come to hear about this term?

99 responses



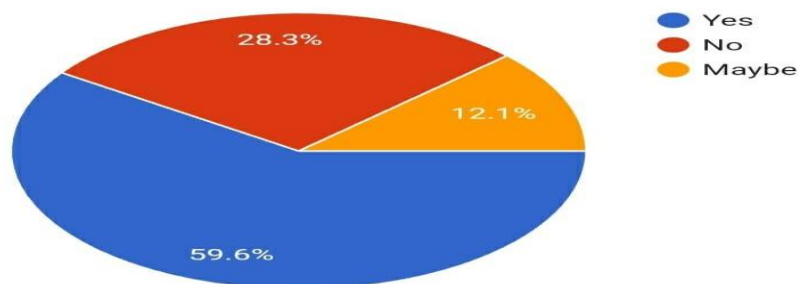
- Friends
- Family
- Movies/ TV
- Social Media
- Social
- Books
- I was in live in rela...
- Literature
- Nikita told me. I m...
- By the global issu...

▲ 1/2 ▼

A legal married couple is entitled to some socio-legal benefits (like income tax deduction, housing, etc). Should a couple in Live-In Relationship also be entitled to such benefits?



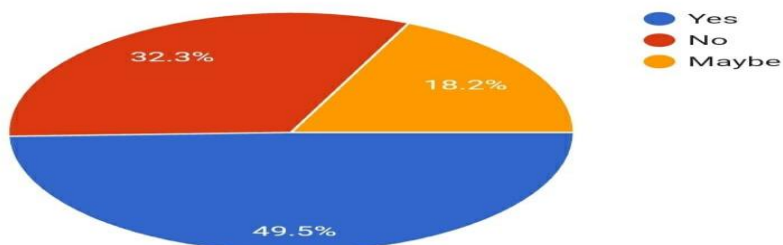
99 responses



If the period of time is fixed, then do you think that, it would limit the scope of rights of those women who have not been living together with their partners for that fixed period of time?



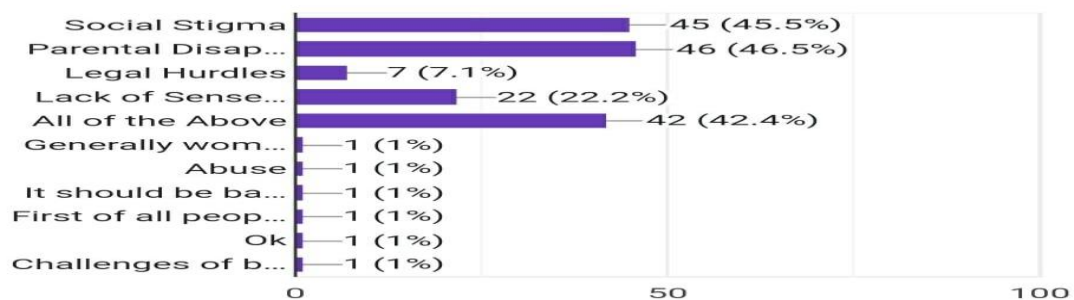
99 responses



What are the hindrances women can face while in Live-In Relationships?

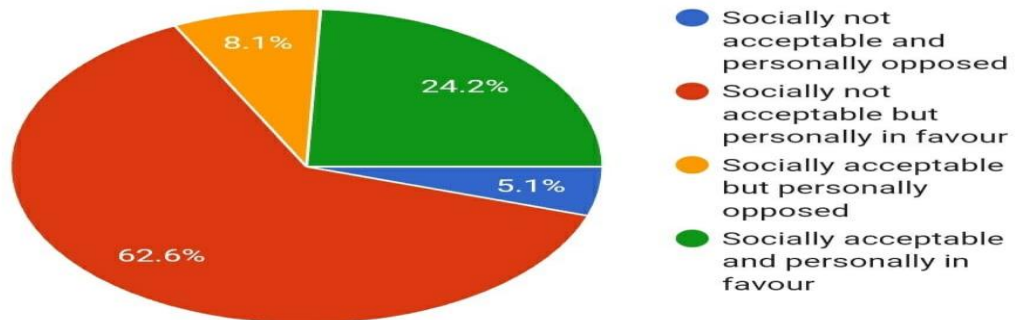


99 responses



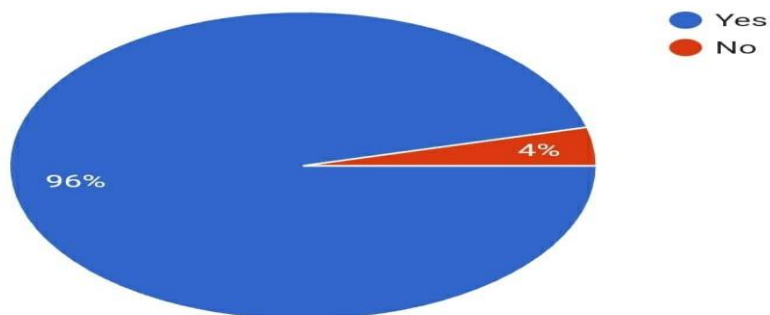
What is your perception of Live-In relationships?

99 responses



Are you aware of the term "Live-In Relationship"?

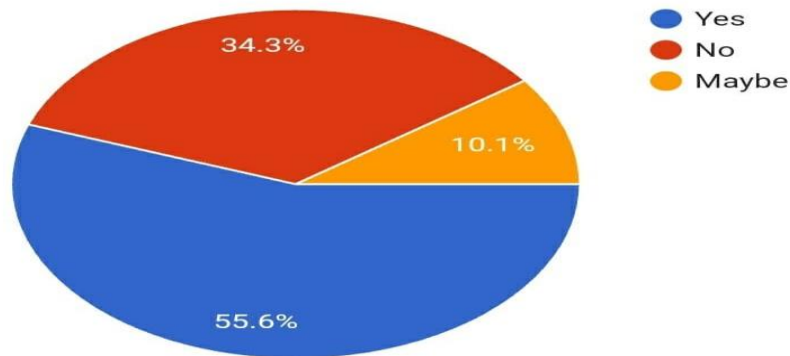
99 responses



Do you know law or legislation governing Live- In Relationships?



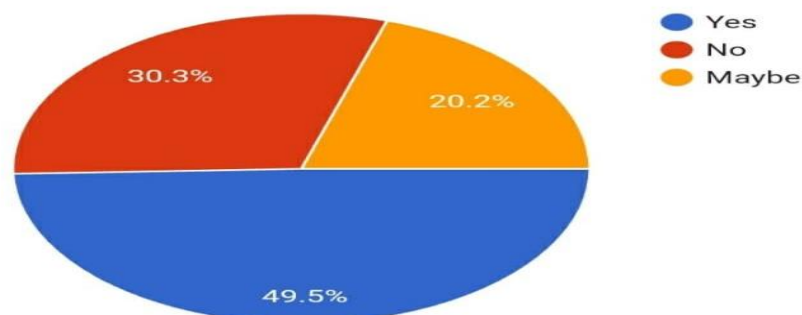
99 responses



In several jurisdictions worldwide Live-In Relationships require registration, for legal rights to ensue. Registration requires the person to be of legal capacity to marry. Do you think that registration of Live-In Relationships should be make mandatory in India also?



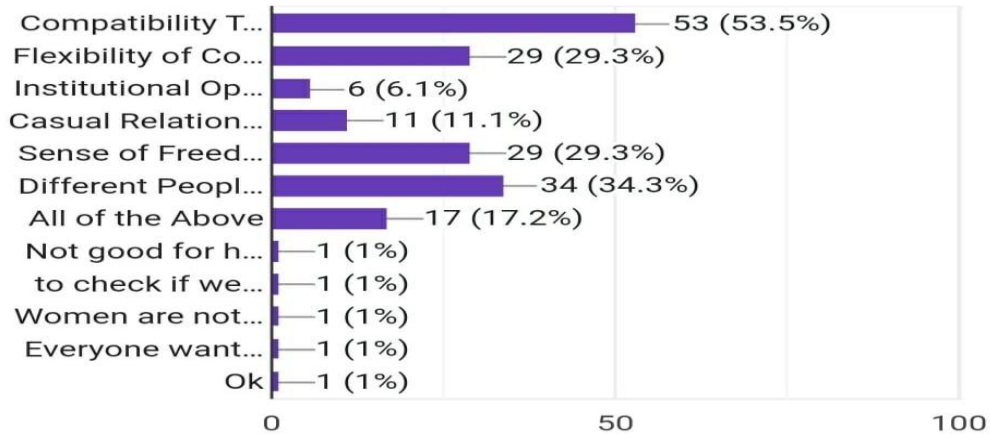
99 responses



Why do you think women prefer Live-In Relationships?



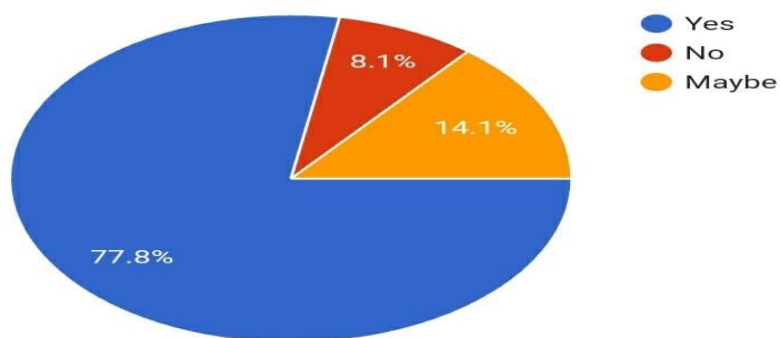
99 responses



Should any legal right ensue for women from Live-In Relationships as it does from marriage?

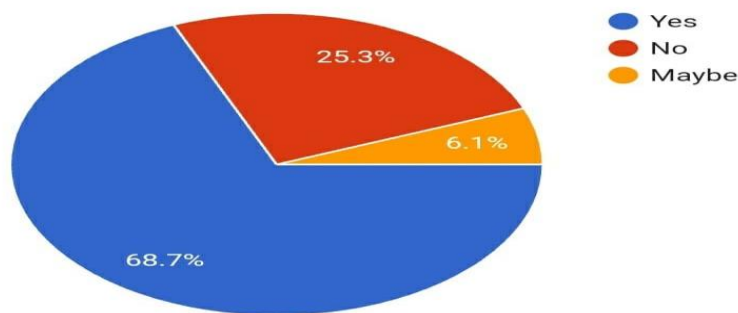


99 responses



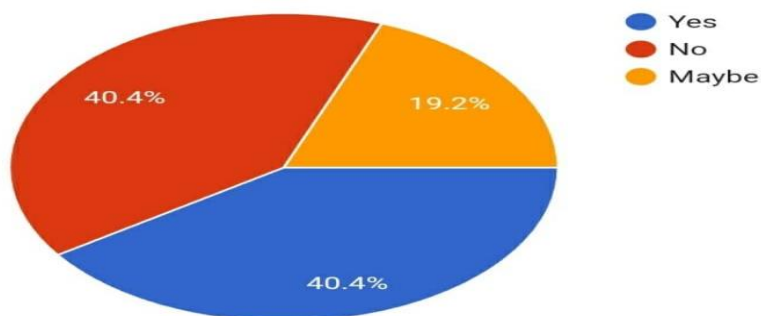
Do you know of any legal right which arises for women from Live-In Relationships?

99 responses



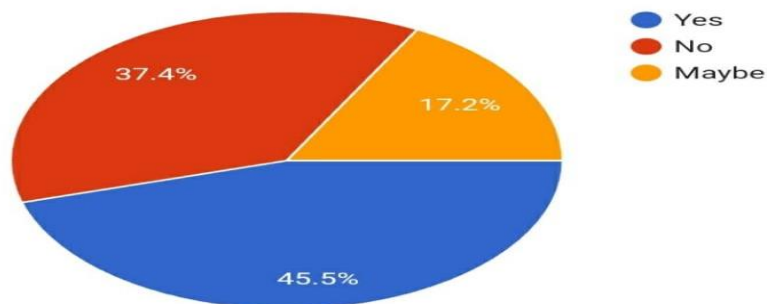
One important characteristic of a relationship to be in the nature of marriage as held by court is "reasonable period of time" in cohabitation. Should this period of time be fixed for the availability of legal rights to the partners in Live-In Relationships?

99 responses



If all these rights are made available to the female partners would it be an unreasonable encroachment upon the male partner's rights, as they both have decided to opt for a Live-In Relationship instead of marriage, so as to avoid legal obligations?

99 responses



CHAPTER-6

CONCLUSION AND SUGGESTIONS

6.1 CONCLUSION

The decisions of the Indian Court are thoughtful. In some cases, the Courts have said that a live-in relationship shouldn't have any ties between the couples since the sole reason for making such agreements is that the couples have no obligation to follow them. In other cases, the Court has taken the opposite view, saying that if a relationship based on cohabitation lasts for a long enough time, the couple is legally married. It also seems strange to put the idea of a live-in relationship under section 125 of the Criminal Procedure Code, which says that the husband has had to pay alimony and succession, since the whole point of a live-in partnership is to avoid all the responsibilities that come with being married.

The promotion of bigamy and the emergence of a dispute between the interests of a wife and a currently reside partner are both possible outcomes if the privileges of a wife as well as a live-in partner remain equivalent. Aside from not being legal, these relationships only exist in the metros. Even so, when we look at the masses that make up India, there is no link between live-in relationships and acceptance by the Indian society. It doesn't get any help from the law, and society also kicks out such relationships.

Instead of trying to include live-in relationships in the laws that are already in place, the Parliament could perhaps try to create a separate branch. Trying to include live-in relationships in the laws that are already in place would be a waste of time and would only make the judicial system more complicated.

6.2 SUGGESTIONS

- Based on what the study found, researcher suggests the following: The Parliament should make a law about "live-in relationships," which should cover the following things about the people involved:
 - 1) What a live-in relationship is and its characteristics.
 - 2) The Parties' Rights to Maintenance.
 - 3) Issues relating to children's rights to custody and inheritance as well as legitimacy.
 - 4) Defense against domestic violence and dowry demands.
- For the law to work properly, it should also require that live-in relationships be registered. This would give the people involved a true record of the relationship and allow them to seek legal redress.
- The Agreement should spell out how the couple will split costs and own property. It should also say whether they will keep separate or joint bank accounts and how assets will be split if one partner dies or leaves the relationship. When a couple decides to split up or one of them dies, the property they bought together, like a house, furniture, valuables that can be moved, etc., can be questioned. To avoid legal trouble, the agreement must be clear about who gets what.
- If a married man or woman moves in with another man or woman without getting a divorce and says they are in a live-in relationship, this shouldn't be legal. There should be some reasonable limits in the law that protect the rights of the people who will be affected.

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