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Live-in Relationship: A taboo or the new normal?

Authored By: Ankita Bhardwaj
& Yuvraj Singh Rathore

ABSTRACT: -

India is home to people accommodating incredible cultural diversity between social stratifications, languages, religious traditions, and geographic regions, but having a common thing in every culture i.e., the attachment to their culture. Likewise, marriage is one of the most sacred cultural ceremonies which are being performed in India since the Vedic Era. There are numerous beliefs and faith attached to the marriage ceremony here whether it is the blessing of Demigods or the formation of a spiritual unbreakable bond. But what happens if a person skips this ceremony to avoid the legal consequences attached to this sacred institution i.e., the presumption of legitimacy of children, conjugal rights, rights related to succession, dowry, maintenance, domestic violence, adultery, bigamy, etc, or for any other reason, and start living together with another person as a couple, it is called live-in relationship. In other words, “a course of action in which the couple who is unmarried lives together to lead a long-standing relationship like in marriage.” This is a social pattern derived from western ideology and lifestyle. Although, in India, people consider it as a taboo therefore, at present time, India does not have any statute in respect of such relationships and relies upon the orders passed by the Judiciary. But at the same time, there is no restriction by law on people to come into a live-in relationship.

To answer these questions and to have an interesting look at the arguments in favour and against live-in relationships, this study will be focusing on the legality of the live-in relationship in India and their consequences while considering recent cases. Moreover, the paper also gives a brief outline of current perceptions of the population via a survey.

Key words: - Live-in relationship, Society, Culture, Marriage, Conjugal rights.

INTRODUCTION: -

In very simple words, Live-in relationships are walk-in, walk-out relationships with no strings attached and are free from any legal bond between the parties.

A live-in relationship is a western concept where a couple lives together like a married couple without being married with the motive to check compatibility and experience love throughout the relationship. Love is a charming emotion that brings two people together irrespective of their sex, colour, caste or class, and to explore this, the couple may need to spend some time with each other or live together. Live-in is a type of relationship that is still considered taboo in India. Society in India does not accept couples who are living together without getting married. In legal terms, the legitimacy of a couple depends upon their relationship through a valid marriage done under the concerned marriage laws that prevail, otherwise considered illegitimate. But with the changing times, it has been seen in many parts of the world that such types of relationships are being accepted.

As of now, there is no specific law available on this issue in India, and to deal with the matters related to this, the court relies upon the previous judgments which vary from case to case. Not only in India but all over the world as well, the laws regulating live-in relationships are unclear.

Research Purpose

The purpose of this research is to provide a clear view of the legal status of the Live-in relationship in India as well as to compare the same worldwide. Furthermore, the paper will focus on giving a critical examination of some recent cases and the opinion of the population concerning the live-in relationship.

Research Problem

There are no articulated laws available in India to deal with the cases of Live-in relationships, so how can the Judiciary deal with such matters?

Research Objectives

There are three objectives of this research paper, i.e.

1. To provide a clear view of the legality of Live-in relationships in India
2. To identify the challenges faced while dealing with the case of Live-in Relationships.
3. To analyze the opinion of the population.

Research Questions

There are 3 questions raised here, which are: -

1. As there is no statute available, then how the Indian Judiciary is dealing with cases related to Live-in relationships?
2. What is the effect of such type of relationship on Indian culture?
3. What is the current scenario of India regarding the acceptance of the concept of a Live-in relationship?

Research Methodology

A mixture of Doctrinal, Comparative & Empirical Legal Research Methodology is used. The data for the doctrinal research was mostly collected through internet information databases since there is very minor data available on this issue in books. However, regarding the basic issues concerning a legal marriage, books were referred to. The comparative research methodology includes vetting of different bodies of each discipline for examining the outcome of an issue. The process of empirical research involves four steps: design a data collecting mechanism, collect and code the data, analyze the data, and finalize the best method of presenting the results. In furtherance, a survey was also conducted to check the ideology of the people by collecting quantitative and qualitative data.

STATUS OF LIVE-IN RELATIONSHIPS IN INDIA: -

Socio-Cultural and religious aspects-

Marriage is a sacrament followed through the ages, in which a man and woman are bound in a lasting relationship for physical, mental, social, and spiritual purposes of dharma, procreation, and sexual pleasure. In India marriage is considered a sacred custom that binds personalities spiritually, whereby, an unbreakable bond is established with the blessings of God. Moreover, the concept of marriage assimilates duties over the couples via different vows taken during the marriage ceremony to take care of each other in every situation from the scintillating times to the period of the debacle. The motive of marriage in India is to foster self-restraint and love for the entire family instead of self-interest which keeps the family united and prevents its breakdown while keeping an accord of interests between the person and the family. Therefore, marriage is not just a contract between the couple.

India is gradually getting familiar with these kinds of relationships, however, in the areas like Gujarat, Rajasthan and Madhya Pradesh same kinds of relationships were in practice in the ancient era. Like a system of contracts friendship existed in Gujarat, viz 'Maitri Karar', wherein, people of two opposite sex enter into a written agreement to be friends while looking after each other and living together. Similarly in Rajasthan and Madhya Pradesh 'Nata Pratha' was prevalent which permits a man to come in a live-in relationship with a already married woman.

Society scrutinized, stifled, and often smothered the unsanctioned love among couples, friends and long-time live-in partners. This practice of live-in relationships is still considered forbidden in India, an expansive and clear picture of India along these lines will be substantiated by provincial India and not a bunch of metros. An increasing number of live-in relationships in Indian culture represents tremendous danger to the very idea of marriage and the whole texture weaved out of qualities and ethics on which Indian culture stands. It additionally will in general prop up adultery, as there is no surety live-in couples are unmarried. Such a relationship additionally supports bigamy. The rights of female accomplices are also unstable. Besides, no law of succession and upkeep ensures the rights of such live-in couples. Or above all, such relationships are delicate and can be broken down anytime¹.

Legal Aspect-

As of now, there are no laws available in India on such relationships which permit or restrain it or enforce any duty to the person involved. In some former cases, the court presumed the marriage relying upon the number of years of cohabitation. At present, Marriage is considered legitimate if it is conducted under established statutes, precedents and most importantly customs. Like Muslims marriages are directed and guided by their law of Shariat, the rest of Indians follow two marriage laws i.e., Hindu Marriage Act, 1955 and The Special Marriage Act, 1954.

Unavailability of legal provisions in this area sets forth lots of issues including the legitimacy of a child born through such a relationship, disputes regarding the custody of the child, violence

¹Live-In -Relationship: In A Marriage Centric India; available on <http://www.legalservicesindia.com/article/1618/Live-In-Relationship-in-A-Marriage-Centric-India.html>, Last visited on dated 26.12.2022 at about 11:15 A.M

between the couple and succession-related difficulties etc. In furtherance of the endeavours made by the state and the judiciary to discover the answer of these issues, the live-in relationship has been included in the meaning of Domestic Relationship given under section 2(a) of the Domestic Violence Act, 2005, which provides “Oppressed Person’ signifies any ladies is, or has been, in a residential association with the respondent and whose charges have been exposed to any demonstration of aggressive behaviour at home by the respondent”, whereby, the duty of the state to protect women in a live-in relationship from domestic violence was recognized.

In the case of *A Dinohamy v. WL Blaham*², the Privy Council set out a wide guideline proposing that “Where a man and a lady are demonstrated to have lived respectively as a man and spouse, the law will assume, except if the opposite be demonstrated, that they were living respectively in a result of a substantial marriage and not in a condition of concubinage.” This was supported in the case **Mohabhat Ali v. Mohammad Ibrahim Khan**³.

Moreover, the Supreme Court in the case of *Badri Prasad v. Director of Consolidation*⁴, has observed that “Law leans in favour of legitimacy and frowns upon bastardy”. Also, in *Payal Sharma v. Superintendent, Nari Niketan*⁵, it was opined that “There is a difference between law and morality”.

Furthermore in the case of *D. Velusamy v. D. Patchaiammal*⁶, the court stated certain conditions which require common-law marriages while vetting section 2(f) and section 2(s) of The Protection of Women from Domestic Violence Act, 2005. These conditions are as follows: -

1. They must be of legal age to marry.
2. They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period.
3. They must be otherwise qualified to enter into a legal marriage, including being unmarried.

The court opined in the same case that a relationship like marriage is akin to a common-law marriage and it must fulfil the abovementioned requirements in addition to this, the couple

²[1928] 1 MLJ 388 (PC)

³[1929] AIR 135 (PC)

⁴[1978] AIR 1557

⁵[2001] AIR 254 (All)

⁶[2011] AIR SC 479

must have lived together in a shared household. Based on the one-night stand or spending weekends together cannot be considered as domestic relationship.

The Apex Court in the case of *Shakthi Vahini v. Union of India and others*⁷ observed that “where a boy and a girl major and they are living with their free will, then, nobody including their parents, has authority to interfere with their living together. As the right to life is a fundamental right ensured under Article 21 of the Constitution of India in which it is provided that no person shall be deprived of his right to life and personal liberty”. The same was supported in the case of *Kaminidevi v. State of UP and others*⁸.

The Malimath Committee: -

A Committee was established by the Supreme Court with the name Justice Malimath Committee and the motive behind this was to pointed out that, if a couple is in a live-in relationship for a sensible significant duration of time, such couple will be considered to have married to each other. The Committee had additionally proposed to alter the term ‘wife’ under Cr.P.C. to include the ‘woman living with the man like his wife’ so that even a lady leading a live-in relationship with a man would likewise be qualified for legal support.

Supreme Court in the case of *Abhijit Bhikaseth Auti v. State Of Maharashtra and Others*⁹ noted that it isn't vital for a lady to carefully build up the marriage, to seek her rights regarding maintenance under Section 125 of Cr.P.C. Hence, a lady in a live-in relationship may raise her voice to get legal support by Section 125 Cr.P.C.

Status of Child –

The legitimacy of the child born out of a live-in relationship often becomes a concern as no matter in what type of relationship the couple is living (married or unmarried), the rights of the child are an issue. The Supreme Court held in the case of *SPS Balasubramanyam v Sruttayan*¹⁰ that if a man and a lady are cohabiting for several years, the presumption under Section 114 of the Evidence Act shall be applied and the children born out of such relationship shall be deemed legitimate. The court observed the rights of such children under Article 39(f) of the Constitution of India which lays down the responsibility on the State

⁷[2018] 7 SCC 192

⁸[2020] WP-C No. 11108

⁹Criminal Writ no. 2218 of 2007

¹⁰[1994] AIR 133

to provide the children with adequate opportunity to develop in a normal manner and safeguard their interests.

Status of Women –

Although there are no specific laws available regarding the live-in relationship, there are some provisions available in different Acts which deals with the rights of women falling under the purview of live-in relationship. Some of the major rights are entailed as under: -

1. Maintenance rights-

On suggestions of the **Malimath Committee** in the year 2003, the meaning of 'wife', provided under *section 125 of CrPC*, was extended to include women who were in a live-in relationship. It was guaranteed thereby to provide financial support to the partner in case she is not able to maintain herself or if the relationship got alienated. Likewise, **the Domestic Violence Act, of 2005** provides protection against all types of abuse just like married women.

2. Right to Property

After the amendment of 2005 in the Hindu Succession Act, of 1956, the rights of women in ancestral property are secured. This step levelled up the status of women, making it equivalent to the rights of a son concerning the division of ancestral property, regardless of her marital status. So, irrespective of the fact that the woman is married or in a live-in- relationship, the right to parental property will accrue to her by birth.

INTERNATIONAL SCENARIO AND A

COMPARATIVE STUDY: -

- 1. France:** In France, there is a Pact of Civil Solidarity (PAC) which permits two adults (same sex or opposite sex) to be qualified for similar rights as wedded couples. Legally PAC is a contract drawn up between individuals, which is stamped and registered by the court clerk.
- 2. Philippines:** Here, the property rights of a live-in couple are recognized by the co-ownership rule. Under Article 147 of the Family Code of the Philippines, when a man and a lady who are capacitated to wed one another, live only with one another as a

couple without the advantage of marriage or under a void marriage, their wages and compensations will be claimed by them in equivalent offers.

3. **Canada:** The live-in couple is considered as in a common law relationship here giving them the same right as the common law couple. All such couples enjoy legal sanctity if they have lived together for a minimum of 12 consecutive months, or they give birth to/adopt a child.
4. **Scotland:** the live-in relationship falls under the umbrella of the Family Law (Scotland) Act, 2006. Section 25(2) of the act postulates that the cohabitation of two people can be checked based on the following three factors:
 - The length of the period during which they lived together,
 - The nature of the relationship during that period and
 - The nature and extent of any financial arrangements.

Also, from the year 2006, in Scotland, if a child is born out of a live-in relationship, then, that unmarried father has the parental obligation if his name is on the child's birth certificate.

5. **United Kingdom:** The concept of a live-in relationship is recognized by the civil partnership act of 2004 to a great extent. Both parents are financially responsible for the children whether they are married, cohabiting or separated. The live-in couples are not legally obliged to support each other financially even if they are sharing a house or raising a family together. The LGBT (Lesbian, Gay, Bisexual and Transgender) community can also enter into a civil partnership although they don't have marriage rights. With regards to inheritance, even if there is no will, the children of unmarried or married parents have a legal right to inherit from both parents and their families. Also, if either of the married couples dies then the other will inherit all or some of the estate and in the case of cohabiting couples if one of them dies then the surviving partner won't be automatically entitled to own the property unless the couple owned the property jointly. In addition to all these concerning tax assessment purposes, the couples are treated as detached.

All this depicts an overview of the various laws and policies in different nations regarding live-in relationships and helps in the comparison of foreign laws with that of the Indian point of view. Contradictory to foreign laws, India does not have any well-defined law specifically for such relationships.

THE RECENT CASES OF SHRADHHA WALKER AND

NIKKI YADAV MURDER: -

In recent times, the topic of live-in relationships was also in limelight because of the Shraddha Walker murder case which sparked fresh murmurs and suspicions among the people. Why this case became a matter of discussion for people at large? Why people who were already sceptical of pre-marital cohabitation have started questioning live-in relationships? How orthodox society got a fresh excuse to vilify couples who choose to live together out of wedlock while ignoring the fact of existence domestic violence between the married? and how this topic of live-in relationships relates to a gruesome murder case. To find the answers to all these questions, we have to make perusal of the events of these cases.

Shradha Walker Murder case -

- The accused and the victim Shraddha Walker met on a dating website. They were in together since 2019 and in 2022 moved to Delhi. She has not been in contact with her family as they were against this relationship, thus she started to live-in with the accused.
- According to reports, Walker was strangled to death on 18 May 2022 in New Delhi, a few days after she rented accommodation with her live-in partner. With the afflux of time, the series of conflicts among them increased. One day the two were quarrelling about something, and the accused lost his temper which subsequently led to the gruesome killing of the victim.
- The police report reflects that the body of the victim was chopped by the accused into 35 small pieces in the refrigerator, and was disposed of for consecutive 18 days at different spots in the jungle. The chronology makes it quite apparent that the act was not a result of the heat of the moment, but done in pursuit of a premeditated conspiracy. Later on, it was revealed that the accused was influenced by the Dexter show which is based on the life of Dexter Morgan, an American serial killer.
- The galling fact here is that the complaint regarding the offence of murder was lodged, 6 months after she get murdered. The main reason behind the delay in complaining was the fact that she was not in contact with her family because of the glitches that arose due to her relationship with the accused.

After the perusal of the aforementioned facts, one can dogmatically say that whether it is about the delay in complaining or about, her being subjected to domestic violence, somehow the fact of a live-in relationship is affecting the matter adversely. It is of utmost negligence of the victim to choose someone like the accused over her parents. She left her parental house, her parents whom she knows from birth, who brought her up to the age where she can take a wise decision, but still she decided to go after someone whom she barely knows. This matter sets an example for the live-in couples who go against the will of their parents, who separates from love of almost decades to live with someone to check their compatibility which can even be worth their life.

Nikki Yadav Murder Case -

Earlier chopping and now stuffing the body in the refrigerator, after the heart-wrecking case of Shraddha Walker's murder, there has come a new case of Nikki Yadav's Murder. The case depicts the complicated relationship and its disastrous outcomes.

- In this case, the accused allegedly murdered Nikki Yadav and stuffed her corpse inside a refrigerator of his dhaba to marry another woman.
- Prima-facie it appears that both of them were in a live-in relationship but the accused's statement, later on, clarifies that both married at a temple in 2020.
- They Fell in love and took admission to the same university and moved in together. They, later on, told their families about their temple marriage. The accused's family expressed their displeasure for accepting Nikki.
- The accused then wanted to marry a girl of his family's choice which was not appreciated by Nikki and subsequently led to her gruesome killing.

As of now, the accused along with the co-accused are under judicial custody. This case gives a clear picture of the fact that how can a live-in relationship turn out to be a journey from dreams of Marriage to Murder.

SURVEY: -

Since live-in relationship is a shimmered issue in our country so being acquainted with the people's opinions is placed at a higher priority to proceed with any development in this area. So, we conducted a survey in the month of February,2023 through a questionnaire.

Sample

We used convenience sampling for this survey. It is a sampling procedure where the researcher selects the person according to their convenience. We sent the google form link containing the questionnaire to respondents who fulfilled the required criteria for the sample. The overall sample size is 117 consisting of people from the age group of 18-25 years (78.6%), 25-35 years (9.4%) and 35+ years (12%) including both males and females. The respondents belong from remote villages to metropolitan cities all over India and are comprised of college students, professionals of various fields and housemakers. The anonymity of the respondents has been maintained throughout the study.

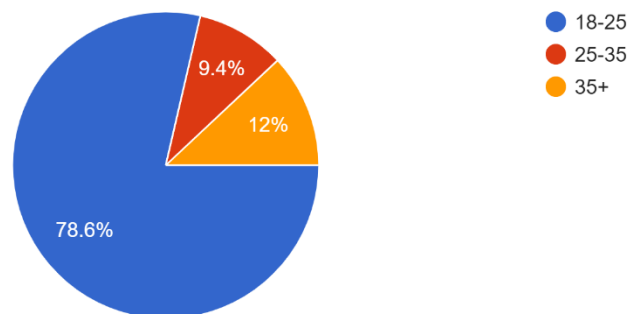
Measures

We constructed a questionnaire for assessing the attitude of the people of India towards live-in relationships. The questionnaire asks for the basic demographic details of the respondents. It includes both open-ended and close-ended questions which assess the perception of the respondents towards live-in relationships.

Procedure

The survey method was used for this research study. The questionnaire was sent to the respondents via various social media platforms including Whatsapp, Facebook and Instagram. We interpreted the data after analyzing the answers of each respondent and got to know their preference and aversion towards live-in relationships.

Age
117 responses

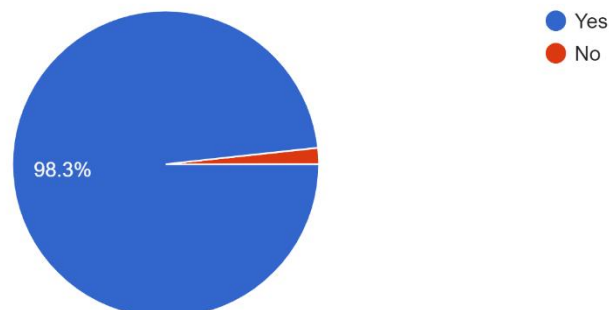


The survey was filled by a population comprising 78.6% (between the age group of 18-25 years), 9.4% (between the age group of 25-35 years) and 12% (above 35 years).

QUESTION 1:

Are you aware about the concept of live-in relationship?

117 responses



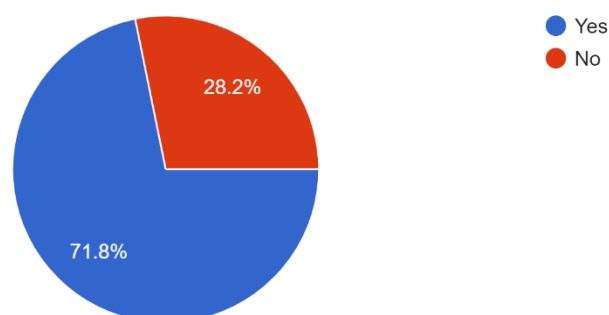
It was indeed a good response as the majority of the population i.e., 98.3% is aware of the concept of live-in relationships. This made us conclude that the concept is quite well-known among the people and not alien to the people of the country.

QUESTION

2:

Are you aware about the legal provisions regarding the live-in relationship?

117 responses

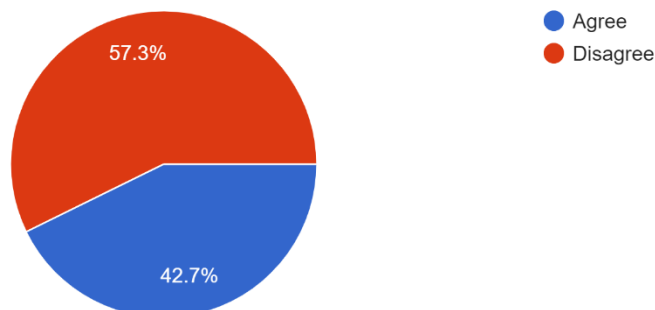


When asked about legal awareness i.e., the knowledge of the laws related to live-in relationships, we found that 71.8% of the population is acquainted with the aforementioned provisions and 28.2% population didn't know the same which led us to the conclusion that most of the people are aware of the laws and legal angle of such relationships.

QUESTION3:

Live-in relationship is an alternative to marriage

117 responses

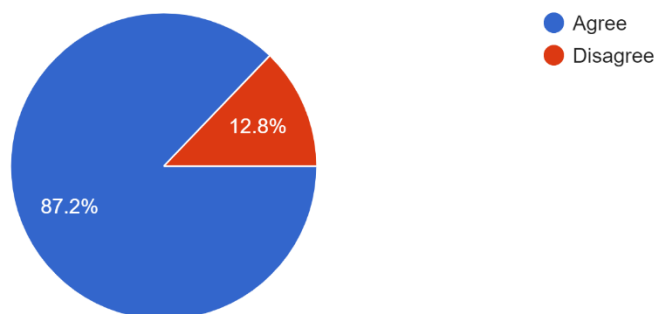


To this close-ended question stating live-in relationship as an alternative to marriage, the majority of the population comprising of 57.3% disagreed with this point of view while 42.7% of the mass agreed to this conception resulting in an almost equal distribution of the sample.

QUESTION 4:

Live-in relationship lacks social approval

117 responses



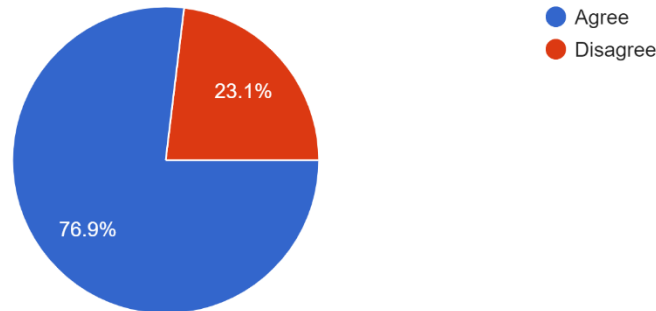
The response to this one more close-ended question was quite interesting as the majority population comprising of 87.2% believed that such relationships lack social approval and only 12.8% people believed that such relationships don't lack social approval and are acceptable. Both sides gave their inquisitive responses to the further open-ended questions.

QUESTION

5:

Live-in relationship leads to better understanding between the couple before marriage

117 responses



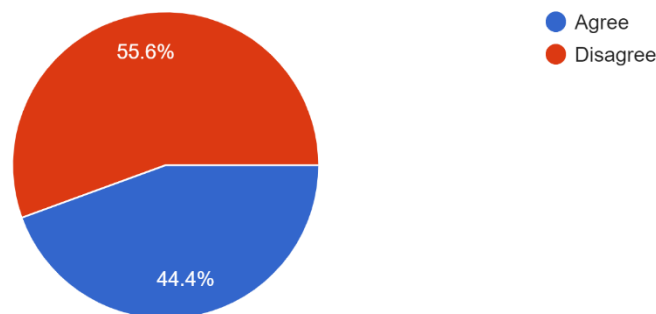
When there comes to the major reasoning behind choosing live-in relationships over marriage, one of the major contentions put forward in the favour of live-in relationships is “Understanding between the couples”, this study brought forward that 76.9% of the population agrees that such relationships lead to a better understanding between the couples.

QUESTION

6:

Do you think that the emerging trend of live-in relationship is leaving a bad impact on youth?

117 responses

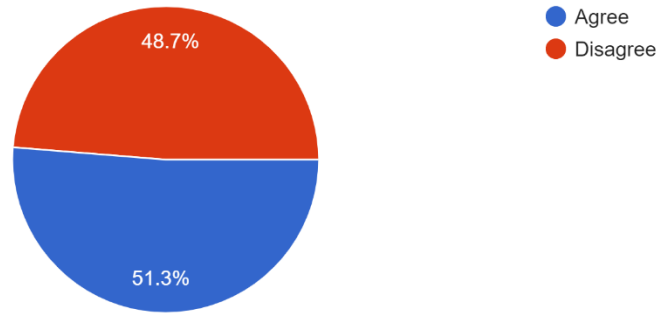


Youth is surely the future of the country and relationships are indeed a major part of one’s life, so when asked about the impact of this emerging trend of live-in relationships, the opinions of the sample were more or less equally scattered as 55.6% of the respondents disagreed with the notion while 44.4% agreed with it.

QUESTION 7:

Do you think that the western culture of live-in relationship will end up doing a irreparable harm to the core culture of India ?

117 responses



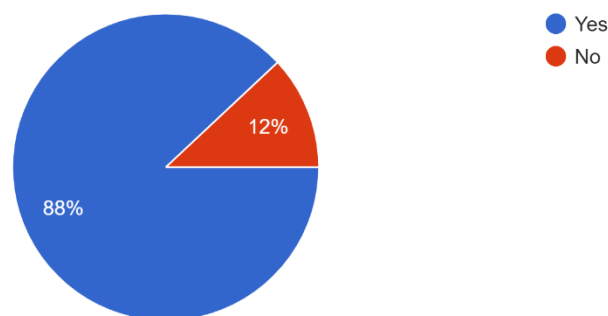
The culture of any country holds great value to its people. So, when questioned about the impact of this western culture on the Indian culture, 51.3% of the population agreed that it will cause an irreparable loss to the core culture of our country while 48.7% of the mass didn't support this point of view.

QUESTION

8:

Do you think there is a need of a law governing the live-in relationships?

117 responses



As our country is a democracy thus knowing the people's point of view becomes a crucial thing. When asked about framing a law to govern the live-in relationship, the majority of the people i.e., 88% voted in the favour of such a step thus, giving it a green flag to take some initiatives in this domain.

QUESTION 9:

What according to you is the biggest reason behind the increasing preference for live-in relationships over marriage?

This question brought up the grounds and reasons behind all the above answers. Most of the people's opinions were quite similar to each other with some variation. Following are the main highlights/ takeaways:

- It enhances the understanding and compatibility as to the similarities, differences, common likings and disliking, etc
- The increasing inclination towards western culture among the youth
- Don't want any kind of obligation and want a free entry and exit into the relationship
- The process of separation after marriage is quite complicated in India
- Irresponsibility and immature mentally
- Increases chances of successful married life
- To avoid the toxic long-term relationship
- Due to late marriages
- Symbolizes liberal ideology with no post-relationship liabilities
- Lack of knowledge of Indian culture due to overindulgence in social media
- Live-in gives a trailer for married life
- It symbolises freedom, privacy, profession, education and globalization.
- Youths consider marriage a burden
- Development of both individuals

The overall response laid us to the conclusion that this concept is no more alien to the population and also, we got an insight into the beliefs and ideologies of the people.

Conclusion and Suggestion

The small sample size is one of the biggest limitations of this study since due to this, no concrete generalization can be drawn. Moreover, it was a youth-led survey since the majority of respondents were youth. The present study attempted to explore the age-based differences among people regarding their perception of live-in relationships.

CONCLUSION AND SUGGESTIONS: -

As per the research made and empirical data collected, it can be concluded, that though Indian society is not that open to live-in relationships, still such relations exist and shortly the number of live-in relationships shall increase, and to deal with it, there will be a crucial requirement of legislations in this respect. For the time being, there are no statutes pertaining this. Judiciary deal with such matter keeping in mind the pre-decided cases of such matter by higher courts. But mere precedents will not be enough to tackle such issues. It has been seen around the globe that various countries are considering the rights of parties in such relationships, even if there are no legal obligations of the parties towards each other, the parties are bound by the responsibility of their children and the rights of the children have most certainly been protected.

The cases like that of Shraddha Walker and Nikki Yadav have set an example that how harmful such a relationship could be if you have not chosen your partner wisely.

But after the survey, it becomes very clear that the perspective of the society has changed *pari passu* with advancement in the level of education. It depicts that half of the respondents were denying the assumption that the live-in relationship is a harm to the core culture of India. Thus, after analysing the whole paper and the survey specifically, it is suggested by the researchers that some steps need to be taken for the betterment of society via initiatives like providing a system of check and balance governing the cases of live-in relationships.

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