

“Live-In Relationship- Legitimacy of Children and their Inheritance Rights”

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Abstract

Under all societies in the world, the status of a child i.e. whether it is born legitimate or illegitimate has great consequence. The inheritance rights of child are majorly associated and dependent upon the tag of legitimacy and illegitimacy in Indian laws. There is the present need of the time to explore and throw light upon the legitimacy and inheritance rights of the children born from the relationship other than the marriage. The research paper aims to explore the status of the legitimacy of the children and their inheritance rights who are not born in the legal marital wedlock, instead are born from a live-in relationship.

The research paper throws light on the legitimacy status of children born out from the live-in relationship under Indian laws, i.e. under personal laws of Hindu, Muslim and Christians. Also, the paper explores the rights of inheritance of those children who are born out of the live-in relationships. The section 16 of Hindu marriage act confers the legitimacy status on the illegitimate child but does that legitimacy conferred by legal fiction would also be applicable in the situation of live-in relationship or not, the question is well explored through the research. Additionally, the research paper also throws light upon the situation in the other major western countries of legitimacy and rights of inheritance of children born from live in relationships. The research paper also suggests the reform in the existing legal framework to remove disabilities and to remove the unreasonable classification of children as legitimate and illegitimate under the personal laws of the Hindus and other personal laws.

Keywords: Live-in relationship, Hindu marriage act, Legitimacy, Illegitimacy, Inheritance, Rights, Muslim, Christian.

INTRODUCTION

India is the most diverse nation whether it comes to religious, cultural or ethnic beauty. One of the interesting points to note is that the notion of live-in relationship is not a new one, although people are being more open about it in the recent times. Earlier it was referred as *Maitri Karar* in few areas of Gujarat which means friendship agreement. Live-In Relationship has now become an alternative to marriage in the metropolitan cities, no one wants to get involved in to the typical major responsibilities of the married life and the top priority of the youth is their individual.

The lawful meaning of live-in relationship is a course of action of living under which couples who are unmarried live together to direct a long-going relationship same as marriage. It has been found that the younger generation are broadly accepting the concept or the notion of live in relationship than the older generation. The more youthful age beliefs that it's better to have

a live-in relationship instead of failed marriages. The Relation is not binding on any of the Live-In Partners. Usually the couples in Live-In Relationships are not given houses and flats for rent, their parents also disagree with the idea of Live-In Relationship because in India Live-In Relationship is considered as a taboo.

Under all social orders on the planet, the position of a child for example regardless of whether it is brought into the world legitimately or illegitimately has extraordinary result. The rights of inheritance of a child are majorly associated and dependent upon the tag of legitimacy and illegitimacy in Indian laws. There is the present need of the time to explore and throw light upon the legitimacy and inherent rights of a child born from the relationship other than the marriage. There are no particular laws regarding the matter of Live-In Relationships in India.

THE LEGAL STATUS IN OTHER COUNTRIES

In some countries these types of relationships are valid but in some countries live-in relationships are strictly prohibited. In India Live-In Relationship is still considered as the taboo.

Canada

Living together in Canada is generally known there as 'Common law marriage'. A precedent-based law relationship gets legitimate holiness if the couple has been living in a marital relationship for in any event 12 persistent months, or the couples are guardians of a youngster by birth or selection, or one of the people has authority and control of the kid and the kid is completely reliant on that individual for help. In many of the cases the couples have the identical rights from what the married couple has¹.

United Kingdom

No legal status is given to the couples in live-in relationship. The right of ownership of the unmarried couples is not granted on the parting ways of the live-in relationships, according to the note given to the Home Affairs Section to the House of Commons, 2010. The Court has no discretion to divide the property as done at the time of Divorce of the married ones. The couples in Live-in Relationships are treated as the independent individuals for the motive of the taxes. The Civil Partnership Act, 2004 covers the notion of Live-In Relationship. The privileges of the child conceived out of the live-in relationships are protected by the laws.

Philippines

The law suggests that the rule of co-ownership is applied to the entitlement of the property of the live-in partner. It provides that the couples in Live-In Relationship are capable of marrying each other but prefer to live as wife and husband without marriage or the void

¹Live in Relationship: A Socio-Legal Perspective, 23 ALJ (2015-16) 366 at page 369.

marriage. Their salaries and wages shall be possessed by them equally and if any property owned through their work shall be as per the ownership rule.

United States

In US, cohabitation was not given a legal status until 1970, but after that it was given (subjects to certain requirements in the common law.

The laws of us do not give the same rights to the live-in couple as the married couples but they can enter into a cohabitation agreement which includes stipulations with respect to the rights and the liabilities. It can be noticed that the latter have left behind the former far away and are not parallel to each other and because of which the law needs to speed up, when one compares these laws to the present statistics of the people under these types of relationships (Live-In Relationship).

Scotland

Family Law Act (2006) Scotland, first time identified and in the process by failure, they legalized Live-In Relationships more than 150000 living together couples in the nation.

The Section 25(2) of the demonstration expresses that the court can consider an individual as co-habitant of another by keeping an eye on 3 variables: right off the bat, the length of the period during which they lived respectively, furthermore the nature and the degree of any monetary courses of action and the idea of the relationship during that period.

France

In France, Live-In relationships are administered by the Civil Solidarity Pact of PACS (pacte civil de solidarite), which was passed by the French National Assembly in October 1999.

Under the pact relationships are defined as the contract, and the live-in partners were involved as contractants. This agreement ties the two grown-ups of a similar sex or of various genders so as to sort out their normal life. For a legitimate agreement to exist the contractants might be bound by another settlement likewise like marriage, kin or genealogy. The agreement additionally characterizes Cohabitation as a "true steady and nonstop relationship" between two people of various genders or of a similar sex living respectively.

Ireland

The concept of living together is legally recognized in Ireland but during the past few years public is protesting against the government demanding that the rights of "separated" live-in couples be recognized such as demand of maintenance or the share of property with their partners. The scheme so implemented will apply equally both on homosexual and heterosexual partners living together for a period of more than 3 years and in case of couples with children more than 2 years. The government with passing this legislation aims at

providing legal and financial protection for financially dependent and vulnerable partners in case of death of a partner or end of relationship.

Legal status of live-in relationship in India

In a country like India live in relationship was considered as a taboo. However, the conditions are changed now in respective of big cities but still in the rural areas or country side it is still treated as threat to civilized society. As far as the legal recognition is considered it is to be noted that in the year 2008 the government of Maharashtra approved the proposal which suggested of giving the status of wife to a women living in live in relationship for a 'reasonable period'. And what would be the reasonable period would be determined by the facts and situations of the case. On 30th June, 2008 the national commission for women recommended to the ministry of women and child development that a women in a live-in relationship must be included within the definition of 'wife' given in Section 125 CrPC. For the motive of proper study and legal recognition of live-in relationship a committee was also set up by the supreme court of India named 'Malimath committee'. This council saw that "If a man and a lady are living respectively as a couple for a sensible extensive stretch, the man will be regarded to have hitched the lady". Also the committee suggested that the section 125 of CrPC should be amended and includes 'Ladies living with the man like his better half' so a ladies living in a live in relationship would likewise get qualified for alimony'.

The principal case in which the Supreme Court Of India previously perceived the Live-In Relationship as a legitimate one was on account of Badri Prasad versus Delegate Director of Consolidation, for this situation the Court gave legitimate legitimacy to a multiyear Live-In Relationship of a couple and expressed that "A solid assumption emerges for wedlock where the accomplices have lived respectively for a long spell as husband and spouse. In spite of the fact that the assumption is rebuttable, an overwhelming weight lies on him who tries to deny the relationship of legitimate inception. Law inclines for authenticity and frowns upon bastardy. If men and women who live as a married couple in society are compelled to prove, half a century later, by eyewitness evidence that they were validly married, few will succeed. The dispute has the right to be negative and we do as such decisively."²

After that, in *Payal Sharma v. Superintendent, Nari Niketan Kalindri Vihar*³ case, the Allahabad High Court recognized the status and the notion of Live-In Relationship, wherein it was held that Live-In Relationship is not illegal. The court expressed that a lady and man can live respectively according to their desire without getting hitched. The court additionally expressed that it might be shameless for the general public however it isn't unlawful.

Supreme Court in *Gokal Chand v. Parvin Kumari* saw that consistent living together of (sic man and) lady as a couple and their treatment in that capacity for various years may raise the assumption of marriage, however the assumption which might be drawn from long dwelling

²Ibid.

³AIR 2001 All 254.

together is rebuttable and if there are conditions which debilitate and obliterate that assumption, the court can't disregard them.

The Supreme Court of India in the case of *S.Khushboo vs. Kanniammal and anr*⁴, held that living together is a right to life. According to the conservative Indian Society the live-in relationship might be indecent however it isn't unlawful according to law. Every one of the charges against the south Indian entertainer Kushboo, who supported pre-marriage sex and live-in relationship, were dropped. For this situation, the court held that how it very well may be unlawful if two grown-ups live respectively, in their words living respectively can't be illegal. In another case Supreme Court of India held that a major girl is free to live with anyone she wants to and there is no bar from law⁵ also in the same case the court held that live-in relationship is allowed only in unmarried major persons of heterosexual sex⁶. On account of *Madan Mohan Singh v. Rajni Kant*, it was held that the live-in relationship whenever proceeded for so long can't be named as "stroll in and exit" relationship and there is an assumption of marriage between them. The High Court Of Delhi has held in one of the judgments *Alok Kumar verses State* that live-in relationship is walk and walk out type of a relation where no strings are attached to it. These kinds of relationships do not create any bond which is legal in nature between the couples. It was also held by the court that in the case of live-in relationships, the partners cannot express dissatisfaction of immorality or infidelity. For another situation the Supreme court held that if a man and lady are living under a similar rooftop and living together for various years, the court will understand that they cohabit as a couple and that the youngsters destined to them will be genuine as per area 114 of the Indian Evidence Act.

The Supreme court has again offered acknowledgment to the live seeing someone for the situation *D. Velusamy v. D. Patchaiammal*, where it was held that a relationship in the idea of marriage under the 2005 demonstration must satisfy some fundamental criteria. The court in this rank expressed "As we would like to think a "relationship in the idea of marriage" is likened to a precedent-based marriage. Custom-based law relationships require that in spite of the fact that not being officially hitched:

- (a) The couple must hold themselves out to society as being likened to companions.
- (b) They should be of lawful age to wed.
- (c) They should be generally able to go into a lawful marriage, including being unmarried.
- (d) They should have intentionally lived together and held themselves out to the world as being much the same as life partners for a noteworthy timeframe.

A relationship which is "in the idea of marriage" which can be perceived under the 2005 demonstration must check all the above boxes, and likewise the gatherings more likely than not lived respectively in a "common family unit" as characterized in Section 2(s) of the Act.

⁴MANU/SC/0310/2010.

⁵*Lata Singh v. State of U.P.*, (2006) 5 SCC 475.

⁶*Ibid.*

A domestic relation cannot be construed to include a “one-night stand” or simply spending weekends together. Further it cannot be construed that all kinds of live-in relations can be accommodated by the 2005 act. To get the benefit of the 2005 act all the above-mentioned conditions must be satisfied which shall further be proved by evidence. On the off chance that a man has a "keep" that he keeps up monetarily and utilizes essentially for sexual reason as well as a hireling it would not, as we would like to think, be a relationship in the idea of marriage." Just going through ends of the week together or a one-night stand would not make it a residential relationship. On the off chance that a man has a keep whom he keeps up monetarily and utilizes for the most part explicitly purposes or as a worker it would not as we would like to think, be a relationship in the idea of marriage.

The court clarified that neither one of the partners can case advantages of a legitimate marriage if the man has a live-in course of action with a lady just for sexual reasons. The peak court said that a relationship must consent to specific conditions so as to be qualified for palimony. The accompanying conditions were set somewhere around the pinnacle court: right off the bat, the couple must have deliberately lived together for a noteworthy timeframe; besides, they should hold themselves out of society as being likened to life partners and finally, they probably qualified the lawful age to wed or they should be generally able to go into a lawful marriage including being unmarried. In *Malti v. State of U.P.*⁷, the Allahabad High Court held that a woman living with a man could not callas his “wife”. For this situation, the lady was a cook in the man's home and she remained with him and shared a personal relationship. The Court anyway wouldn't expand the importance of "spouse" as indicated in Section 125 of the Code of Criminal Procedure to incorporate such a live-in accomplice's support claims.

RIGHTS OF CHILD BORN OUT OF LIVE IN RELATIONSHIP

Legitimacy

The very first and crucial right of a child is right to legitimacy and it becomes of more crucial importance when the children are born from the live-in relationship. The right of legitimacy conferred on children forms the very basis of all other rights available by the law to the children.

Since there is no particular law that acknowledges the status and the rights of couples living in a live-in relationships and so it is clear that there is no very clear law which defines the position of children who are born from the live-in relationship partners.

➤ Who is a legitimate/ illegitimate child?

In India the court decides⁸ that a child is legitimate or illegitimate depending upon the criteria given below

⁷2000 Cri LJ 4170 (All).

⁸ In *JiniaKeotin v. Kumar Sitaram Manjhi*, (2003) 1 SCC 730, 733, para 4, the Supreme Court has said:

- A child born to a lawfully married couple is a legitimate child.
If the child is born at the time when his or her parents were legally married then the child would be a legitimate child.
- A child born outside a lawful marriage is an illegitimate child.
If the child is born and at the time of birth if the father and mother of so concerned child are not legally married to each other then the child be an illegitimate child.

This conventional way of determining the status of legitimacy of a child has seen a drastic change under almost all the laws of the countries, and this is because of the fact that most of the countries in the world are blurring the line between the legitimate and illegitimate children.⁹

Initially, under English Common Law a child who was illegitimate was referred as *filius nullius*.¹⁰ Then with time the Law changed its stand on the illegitimate children with passing of the family law reform act in 1969, the difference between the legitimate and the illegitimate children was eroded. The child who was illegitimate was almost put on equal footing with the legitimate children whenever the property rights were concerned. Then by the children act 1989, the prevailing concept of illegitimacy was affectively eroded.

In India, section 112 of the Indian Evidence Act 1872, provides that legitimacy of a child is proved only if he or she was born during the continuance of a valid marriage between his mother and father.¹¹

Under Indian laws the legitimacy status of the person depends upon the personal laws of the concerned persons through which he/she is governed. According to Muslim law a person who is illegitimate is a child of nobody i.e. *filius nullius*. Under Shia law a child who is not born inside a lawful wedlock and hence is the outcome of the wedlock which is not lawful then the so concerned child belongs neither to the father nor to the mother. "A bastard child belongs, legally speaking to neither of the parents and is in every sense *filius nullius*."¹² However, the Hanafi school of Muslim law is somewhat lenient towards the illegitimate child. The Hanafi School of law declares that it is the duty of a mother of an illegitimate child to take care of him till he attains 7 years of age, however such practice does not exist in Shia law.

As indicated by Tyabji "Mohammadan law seems to force no weight upon the father of an ill-conceived child.... It would, in this manner, be seen that an ill-conceived child isn't qualified for upkeep from either parent under Shia law; and just from its mother under Hanafi law." The authenticity of a child must be built up by the evidence of substantial marital connection between its folks, regardless of whether normal or unpredictable at the hour of its origination.

4. ... Under the ordinary law, a child for being treated as legitimate must be born in lawful wedlock. If the marriage itself is void on account of contravention of the statutory prescriptions, any child born of such marriage would have the effect, per se, or on being so declared or annulled, as the case may be, of bastardising the children born of the parties to such marriage.

⁹Legitimacy of Bastardisation Law — A Critical Overview, (2011) PL November S-8 at page S-8.

¹⁰Filius nullius means "a son of nobody".

¹¹Live-In Relationship: Impact on Marriage and Family Institutions, (2012) 4 SCC J-19 at page J-29.

¹²Paras Diwan and Peeyushi Diwan, *Muslim Law in Modern India* (2004 Edn.).

The proof of marriage can be established by either direct or indirect proof which further can be established by the facts and the circumstances of the case.¹³ Under Muslim law even if the father admits that he is the father of the child and it is proved that the child is illegitimate then the admission done by father would be irrelevant and it would be of no consequences. There are no provisions under the Muslim law through which a tag of legitimacy can be conferred on a child of illegitimate origins. But this can be compensated with the fact that other forms of marriage such as polygamy or irregular marriage are permitted therefore children born in such marriage are considered legitimate.¹⁴ If the court comes to a clear finding on evidence that no marriage at all took place between the begetter and the bearer of the child, the presumption of legitimacy which results from acknowledgement cannot be raised.¹⁵ It makes it clear that in the traditional Muslim law there was no way a person can be made legitimate if no marriage took place ever. It has been proven through various court judgments that the children born in a live-in relationship would not be illegitimate.

Under Hindu law child born to a legally married couple is a legitimate child. However, if the child is illegitimate due to the section 11 of Hindu marriage act, 1955 or is illegitimate due to section 12 of the same act then the act provides for conferring the legitimacy status to the child through *fictio juris*. The same power has been conferred by the legislature under section 16 of the Hindu marriage act, 1955. Hence, the children under Hindu law who can be so called illegitimate would fall under the following category:-

- Children who are born out of void marriage;
- Children who are born of annulled/voidable marriage;
- Children who are born of illicit relationship;
- Children born to concubines;
- Children born to, married couple whose marriage is not valid due to lack of proper ceremony.

So, it can be said that under the Hindu law the legitimacy of the children born is dependent upon the status of marriage of their parents. If the parents have entered into a valid marriage, then the children would be said to be legitimate but if the parents have not done valid marriage or have not done marriage at all then the children would be considered as illegitimate. However, to provide some protection to the so unfortunate children the Hindu marriage act, 1955 confers certain rights on the children. Section 16 of the Hindu marriage act can confer legitimacy on those children who are termed as illegitimate due to section 11 and 12 of the act. However, this section has limitation on its application as it is only applicable in the case the child is said to be illegitimate due to the deficiency in marriage caused by section 11 and 12. It does not confer the legitimacy by the way of *fictio juris* on the children who are born out of live in relationship.

¹³The Legal Status of a Child under Muslim Law, (1994) 5 DULJ 87 at page 92.

¹⁴Habibur Rehman Chowdhury v. Altaf Ali Chowdhury ILR (1921) 48 Cal 856.

¹⁵Ghazanfar v. Kaniz Fatima., I.L.R. 32 All 545 (P.C.).

However, through various judicial pronouncements the Supreme Court of India have changed the current scenario a little bit. In the case of *S.P.S. Balasubramanyam v. Suruttayan*,¹⁶ it was held that “What this court construes is that if a man and a lady are living together for an extended period of time as a husband and wife then presumption appears in the nature of law that they are legally married” so it can be concluded that if a couple is living together and cohabiting for some years then it would be presumed under section 114 of the evidence act that the couples live as a married couple and the children born out of them would not be considered as illegitimate. But it is to be noted that the presumption is rebuttable.¹⁷ So it can be made out from the above that the child is only safely legitimate until and unless a dispute arises concerning the ever happening of the marriage. And if at any point of time the happening of the marriage is rebutted or questioned and it is proved that the marriage never took place then the child would not be safe and he may be called as illegitimate.

However, in the recent case of *Tulsa v. Durghatiya*¹⁸ the Hon’ble court held that “if the couple live as a husband and wife for an extended period of time then it will be construed that they are a married couple. Such presumption in the nature of wedlock is rebuttable but the burden of proof lies on the person who is arguing against the legality of the marriage. The law favors legality and not bastardy.¹⁹” Also it is construed from this judgment that if a person is living in live-in relationship and a child is born during the relation then the child would not be considered as illegitimate. But it has a precondition to be fulfilled that the parents of the child must be living together in the same house and cohabited for a considerable and substantial long period of time so that the society recognizes them as husband and wife, also the relationship of the parents and the child should not be ‘walk-in and walk-out’ relationship.

So, the apex court has tried at many times to safeguard the rights of children born in live-in relationship through many cases but the complete protection from illegitimacy has not been provided yet to the children who are born through live-in relationship.

Inheritance

Under Hindu law in the Hindu succession act, 1956 a child which constitutes a son or a daughter or both constitute class 1 heir for the joint family property. According to the Hindu personal law an illegitimate child inherits the property of his mother and not of the potential father; in contrast to this an illegitimate child under Shia law has no right to inherit either his father’s or mother’s property.²⁰ If the children who are born out of the live-in relationship would be still considered illegitimate then the so children would be barred from inheriting the property. However, in the scenario of an illegitimate child whether son or a daughter, the child only inherits from the mother and not from the father of the child as illegitimacy itself makes

¹⁶(1994) 1 SCC 460 at page 462.

¹⁷Gokal Chand v. Parvin Kumari AIR 1952 SC 231.

¹⁸(2008) 4 SCC 520.

¹⁹Badri Prasad v. Dy. Director of Consolidation (1978) 3 SCC 527.

²⁰Live-In Relationship: Impact on Marriage and Family Institutions, (2012) 4 SCC J-19 at page J-31.

it difficult. For inheritance rights legitimacy is the prerequisite under the Hindu law. However, in the past the courts have made many attempts that the child born out of the live in relationship is not denied from his/her inheritance rights. Also the court tried to keep those things in consonance with the Article 39(f) of the constitution of India. In the case of *Vidhyadhari v. Sukhrana Bai*,²¹ the apex court of India i.e. Supreme court of India passed a landmark judgment the children born in from the live in relationship were given the status of 'legal heirs' and also granted them with the inheritance rights which was in question.

So in the cases where the live in relationship is not been subsisted for a prescribed reasonable time so that to presume it a marital relationship the children born would be barred by the court to inherit the parents property, however if the conditions are met by the parents of the child and the live in relationship subsists for a reasonable long time then the court may allow to inherit the children born out of such relationship.

MAINTENANCE RIGHT OF LIVE-IN PARTNERS

“Maintenance” is defined in Section 3(b) (i) of the Hindu Adoptions and Maintenance Act, 1956 and includes: “in all cases, provisions for food, clothing, residence, education and medical attendance and treatment”²² on the contrary section 18 of the Hindu Adoptions and Maintenance talks about the duty of Hindu man to maintain his wife, but there is no such provision for maintenance of husband by his wife.

Under the Shastric Hindu Law for maintenance (1925-1926), the concubines who came under the category of an avarudhstri were eligible. But the concubines were not included in the Act of 1956 to be maintained. The Muslim Women (Protection of Rights on Divorce) Act, 1986 provides the right to maintenance to all the Muslim women. There are no specific maintenance law which are provided to the Christians and the Parsis. The Christian and the Parsi women's are just provided with the provisions in case of interim and permanent alimony (divorce cases).

Under the Criminal Procedure Code, the Section 125 provides with all uniform provisions for maintenance which are provided to all the married persons. The major question that has been pondered over by lawyers, jurists and social workers is that the duty of Hindu man of maintenance of a woman during the validity of the first marriage. The decisions which are passed by the courts are quite conflicting in nature.

In the *SavitabenSomabhaiBhatiya v. The State of Gujarat*²³ the Supreme Court observed the fact and stated that “it is really inconsequential that whether the respondent was treating the appellant as his wife as the intention of the legislature has to be considered and not the intention of the party.

²¹(2008) 2 SCC 238.

²²The Hindu adoptions and maintenance act, 1956, act no. 78, acts of parliament, 1956

²³(2005)3 SCC 636.

In the case *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*²⁴, the court held that Hindu Adoptions and Maintenance Act, 1956 gives right to the second wife to demand maintenance from her husband. The facts of this particular case were that the appellant maintained a relationship in the nature of marriage for 14 years without informing his wife of his first marriage.

In the case of *Suresh Khullar v. Vijay Kumar Khullar*,²⁵ the husband took divorce from his first wife and married another woman who is in this case appellant. Later on, the man ousted his second wife (appellant) from the matrimonial home and also filed a divorce petition for the second marriage. However, in the meantime when the second divorce petition was pending before the court, it was found that the divorce decree against the first wife was not set aside by the court of law. So, in this case the Hon'ble court held that the respondent who is in this case the husband have committed fraud with the second wife by not disclosing the fact of his first marriage and thus, the Court considered the second wife as a legally wedded wife of the respondent and so, the maintenance was granted to the second wife by the Hon'ble Court.

In the case of *Rameshchandra Rampratapji Daga v. Rameshwari Ramesh Chandra Daga*,²⁶ the Hon'ble Supreme Court made an attempt to establish the difference between legality and morality of the marital relationships. So in this case the Hon'ble Court acknowledged that a bigamous marriage is untenable and can be declared as illegal in the present and established law because bigamous marriage is in contravention with the Hindu Marriage Act, 1955 but the same cannot be stated as immoral and the right of alimony or maintenance to the wife cannot be legally denied. A very unorthodox decision was given by the Hon'ble Court in the case of *Vidhyadhari v. Sukhrana Bai*²⁷, the Hon'ble Court did not decide the legal status of the second wedded wife and left her status in ambiguity who was misled into the bigamous marriage. The Second wife was granted a partial relief by the Hon'ble court and provided her with the 'certificate of succession' and was also ordered that the second wife would be taking care of the share of the first wife which was considered as legally wedded wife by the Hon'ble court.

Malimath Committee gave its report on "reforms in criminal justice system" in 2003. It gave the suggestion to amend the word "wife" which is given under Section 125 of CrPC. So that, the word wife also includes the class of woman who is cohabiting with the man under the same roof for a reasonable period of time. Accordingly, the Maharashtra government approved such suggestion and amended the word wife as recommended. However, the amendment is still pending because it is waiting for the assent of the President of India because the matter herein before given comes under the concurrent list of the Constitution of India. The Hon'ble Supreme Court in the year 1985 held in the case of *Sumitra*

²⁴AIR 2008 Del 7.

²⁵AIR 2008 Del 1.

²⁶(2005) 2 SCC 33.

²⁷(2008) 2 SCC 238.

Devi v. Bhikan Choudhary,²⁸ that where the couple cohabits or lives for a long reasonable time under the same roof and are accepted by the society as legally wedded couples then they are presumed to be married for the purpose of awarding maintenance. However, this principle does not include live in relationships. The protection of women from domestic violence act, 2005 was the first statute to recognize and give protection to the live in relationships but the protection and recognition under this act does not apply to the personal laws.

CONCLUSION

In India Live-in relationships are considered a modern phenomenon and so a taboo too because it is generally taken as an invasion on the culture of different religious groups. A law to be well implemented needs also the sanction of the general public and most of the times it has to be in the nature so that it is in consonance with the majority's idea. We all know that there is no illegality in live-in relationship if we talk about the law and the Hon'ble apex court have time to time also recognized the validity of live-in relationship through different cases that came. Customs play a very major role in reflecting the general will of the public and marriage is one of the custom cum institution that is inscribed as a very essential element in mostly all the religions. It seems very crystal clear that the concept of marriage and the live-in relationships are contrary to each other. So in India this is the reason that live-in relationship is still considered as taboo in the society. The courts in India have only gave the legal validity to the live-in relationships but there is no statutory provisions which acknowledge live-in relationships except the protection of women from domestic violence act, 2005.

There are no statutes in Indian legal system which defines the rights and responsibilities of the couples living in live-in relationship. Also, there is no defined framework of the status and rights of the children born out of such relationship. With the growing culture of live-in relationships there is a need to redefine the practice in terms of law. There is a very urgent need to acknowledge the problems developed in the live-in relationship so that the rights of women's can be protected not only this the status of the child born out of live-in relationship is very ambiguous and thus to protect the rights of the children born from these relationships and for protect them from the title of illegitimacy a proper law and formal law is needed in the framework of statute. The children born out of these relationships must be given the title of legitimate children. And the couples living under these relationship for a quite long reasonable time must be provided with the absolute title of legally wedded couples and should not only be presumes as legally wedded couples because both the thing are different from each other. This must be done because in the earlier case the first case the happening of marriage would not be material but in the latter case the marriage is presumed to be done and if it is rebutted then the relationship would be having no rights that are given in the marriage. So in the simple words there is a need of the law which can give the rights and confer all the responsibilities as far as possible at par with those given in marriage.

²⁸(1985) 1 SCC 637.