CHAPTER-III

LIVE-IN RELATIONSHIP AND ITS IMPACT IN INDIA

3.1 INTRODUCTION

The rise in cohabitation pre-marital, non-marital, represents one of the most significant changes in union formation patterns in many developed countries. Non-marital cohabitation has gained the attention of media and researchers.¹ Demographic transitions i.e. changes in fertility rate, union formation, and family structure are being noticed worldwide as has been explained in Chapter-II of this study. Many scholars frame these demographic changes as indicators of ideational change, concomitant with modernization. From this perspective it is considered that higher or prolonged education and more educated individuals are the forerunners of value change and liberalized attitudes toward new family behaviors, such as non-marital cohabitation. At the same time, a wide range of studies emphasize that understanding the growth of non-marital cohabitation depends on the local context. As non-marital cohabitation emerges as accepted family form, its continued uptake over time may reflect different context dependent upon social, economic or cultural forces. For example, individuals of different educational backgrounds may have different reasons for opting into or out of non-marital cohabitation, which reflects the context specific values, norms, or constraints encountered by different strata of society.²

In the present chapter researcher will explore through various observations and rulings in different cases non-marital relations in India and its impact on society. Various reasons and factors which could be considered responsible for the increase in non-marital union formation have been stated before explaining the different impacts in India. Researcher have tried to explain positive as well as negative impacts of non-


marital relationships on Indian society, culture, institution of family and marriage, impacts on children and aged. The study of concept of live-in relationships in Indian context and its explanation through various judgments followed by impacts of live-in relation in Indian society will be helpful in analyzing the societal response towards the emerging non-marital relationships i.e. live-in relationships and that will lead us to inculcate the social status of live-in relationships in India.

3.2 CONCEPT OF LIVE-IN RELATIONSHIP IN INDIAN CONTEXT

Humans have been the victims of emotional tumbling, succumbing inevitably to the gravitational pull of relationships. Nobody wants to live a lonely life out of personal choice. All humans seem to be bound by one or the other relationship in their life to draw a meaning to it. When we talk about relationships, romance can’t be far behind. India is generally known as a country with strong moral, cultural and traditional values. The union of a man and a woman is considered as one of the most sacred acts in this country. In India there exists only one kind of relationship between an unrelated couple of a male and female which is termed as ‘Marriage’. Marriage is more of a sacrament and divine concept, and is practiced as a ritual since ages; however, for number of reasons this concept is being unfastened from divineness. Love cannot be the only reason to marry; sometimes marriages are forced on couples. Therefore the concept of live-in relationship is introduced in society as an alternative for marriage; however, presently it is no more an alternative but it is having its own stand in society.

Under the practice of live-in relationship a man and women, usually both unmarried, enter into an informal agreement to live together and cohabit without getting officially married. This is common in big cities where man and woman, while working at the same place, think it convenient and beneficial to live together and enjoy the life without taking the responsibility of marriage. The bold exhibitions of romance go for a notice in typical societies, least being something like live-in relationships in India. It isn’t shocking that living together before marriage is a caustic grinch for the fierce ethic upholders. However, the new millennium has heralded in

great changes even within the country that has forever been enshrouded in a blanket of rich culture and heritage. The basic idea of entering a live-in relationship is that the interested couple wants to test their compatibility for each other before going for some commitment. It may also be that couples in live-in relationships find no gain or value offered by the institution of marriage or that their financial situation avert them from being married on account of marriage expenditure and the responsibilities after marriage.\(^5\) Incited by anything from movies and soap opera to lives of Bollywood persons, the younger generation has started leading a very liberal lifestyle. To know their partners, they denounce the marriage and get down to living-together arrangements. With the amount of independence and privacy included in such relations anyone could think it to be an ideal move.\(^6\)

Life in India has changed tremendously, at least in urban areas. Not only do celebrity couples live together without marriage, but they also have children in today’s more open and liberal society. Many recent examples illustrate the increased visibility of live-in couples in the celebrity world. Actor Aamir Khan lived in a live-in relationship with Kiran Rao for a long time before he married her. Tennis ace Leander Paes and ‘Art of Living’ trainer Rhea Pillai had a baby from a live-in relationship. Following this trend set by celebrities, thousands of middle-class couples too choose to live together without marriage.\(^7\)

Law and society are the two faces of the same coin, one needs the other. They are not alien to each other. Transformation in society requires that law should also progress with the time. When this concept has been started to be accepted by new generation of Indian society, then it demands for its meaning in the eyes of law. Different High Courts of the country and the Hon’ble Supreme Court in a number of decisions have tried to explain the concept of live-in relationship. Hence in India concept of live-in relationship is explained in the form of court verdicts which varies from case to case depending on the basis of issues before the court.\(^8\) ‘Live-in Relationship’ as defined in *Alok Kumar v. State*\(^9\):

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\(^6\) *Supra* note 3 at 21

\(^7\) *Id.* at 62

\(^8\) *Supra* note 4 at 3

\(^9\) Alok Kumar v. State and Another, Cr. M.C. No. 299/2009, High Court of Delhi
“Live-in relationship is a walk-in and walk-out relationship where neither any strings are attached, nor does it creates any legal bond between the parties. It is a contract of living together which is renewed every day by the parties and can be terminated by either of the parties without the consent of the other party and one party can walk out at will at any time.”

The ‘live-in-relationship’ is a living arrangement in which a couple lives together in a long-term relationship without marriage. Couple present themselves as husband and wife to the society. 'Live in relationship’ means those relationships where there is no marriage between the parties, in the sense of solemnization of a marriage under any law. Live-in relationship is a relationship which has not been socially accepted in India, unlike many other countries. However live-in relationship between two consenting adults of heterosexual sex does not amount to any offence even though it may be perceived as immoral. There are diverse societal opinions on the growing trend of ‘live-in-relationship’.

In September 2005, India Today a fortnightly news magazine had conducted a survey on the subject of the sexual habits of people residing in the bigger cities of India. One of the issues discussed as part of this survey was the increasing incidence of pre-marital sex. As a part of this exercise, the magazine had gathered and published the views expressed by several individuals from different segments of society, including a well known actress S. Khushboo. She expressed her personal opinion wherein she had noted the increasing incidence of pre-marital sex, especially in the context of live-in relationships and called for the societal acceptance of the same. The publications of these remarks lead to several litigations against the actress for abusing against the dignity of the Tamil women and for grossly affecting and ruining the culture and morality of the people of the state. It was alleged that statements could persuade people to involve themselves in unnatural crimes and that the action of

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11 Khushboo v. Kanniammal, JT 2010(4) SC 478 at para 3
actress amounts to commission of offences punishable under Sections 499, 500, 504, 505(1)(b) and 509 Indian Penal Code read with Section 3 and 4 of Indecent Representation of Women (Prohibition) Act, 1986. However, Court quashed the proceedings and held that the disputed statement was a reasonable and fair comment and fully protected under fundamental right of freedom to speech and expression.

The sanction to live in relationship was granted by judgment of Supreme Court on 23rd of March 2010 in the Khushboo v. Kanniammal. The court, while quashing the charges framed on Khushboo, commented that there is no law that prohibits pre-marital relationships. A three judge bench comprising of Chief Justice K.G. Balakrishnan, Justice Deepak Verma and Justice B.S. Chauhan took note of Lata Singh v. State of U.P. and observed:

“A live-in relationship between two consenting adults of heterogenic sex does not amount to any offence (with the obvious exception of ‘adultery’), even though it may be perceived as immoral. A major girl is free to marry anyone she likes or live with anyone she likes.”

Though this was an observation of the court, it provided a positive impulse to live-in-relationships. The Allahabad High Court, in 2001 (Justice M Katju and Justice R.B. Mishra), in Payal Sharma v. Superintendent, Nari Niketan ordered:

“In our opinion, a man and a woman, even without getting married, can live together if they wish to. This may be regarded as immoral by society, but is not illegal. There is a difference between Law and Morality.”

12 Khushboo v. Kanniammal, JT 2010(4) SC 478 at para 6
13 Khushboo v. Kanniammal, JT 2010(4) SC 478 at para 29
14 JT 2010(4) SC 478
15 AIR 2006 SC 2522
16 Khushboo v. Kanniammal, JT 2010(4) SC 478 at para 21
18 AIR 2001 All. 254
19 Payal Sharma v. Superintendent, Nari Niketan, and Others, AIR 2001 All 254 at 255
Live-in relation between two adults without a formal marriage cannot be defined as an offence and there is no such statute which theorizes that live-in relationships are illegal. So such are the societal responses are in India on issues like pre-marital relations. However courts have ruled that living together before marriage and having physically intimate relationship are not illegal though immoral and hence no offence is committed. Ancient Indian society had rich culture of traditions and moral values and so Indian people consider concept of living together before marriage as moral wrong. Judicial viewpoint over the same has been rather circumspect. In the cases prior to independence like A. Dinohamy v. W.L. Blahamy the privy council laid down a broad rule postulating that,

“Where a man and a women are proved to have lived together as a man and wife, the law will presume, unless the contrary be clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage”.22

The same principle was reiterated in the case of Mohabhat Ali v. Mohammad Ibrahim Khan and court observed that where a child has been born to a father from a woman who has not been in a mere occasional concubinage, but a more permanent connection, and where there is no invincible obstacle to such a marriage, then law makes a presumption in favour of such marriage i.e. law presumes that marriage has taken place. After independence of India the first case that can be reviewed is Badri Prasad v. Deputy Director of Consolidation wherein the supreme court recognized long term cohabitation as valid marriage, putting a stop to questions raised by authorities on the fifty years of life in relationship of a couple. The same proposition was upheld in the case of Tulsa v. Durghatiya where the long term unmarried relationship was recognized as equivalent to marriage.

21 AIR 1927 PC 185
22 A. Dinohamy v. W.L. Blahamy, AIR 1927 PC 185 at 187
23 AIR 1929 PC 135 at 138
24 AIR 1978 SC 1557 at para 1
25 (2008) 4 SCC 520 at para 11, 15
Of course, things have undergone a change after the enactment of Protection of Women from Domestic Violence Act, 2005 (PWDVA). The provisions of the Act also extend to women living-in a relationship in the nature of marriage and by doing so, even though in a screened manner, the legislature has finally undertook to accept the contemporary global phenomena appreciated and attempted by some persons among the new generation.\textsuperscript{26} The Protection of Women from Domestic Violence Act provides:

‘Aggrieved person’ means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.\textsuperscript{27}

The Act further provides:

‘Domestic relationship’ means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.\textsuperscript{28}

Thus Parliament by the Protection of Women from Domestic Violence Act has shaped a difference between the ‘relationship of marriage’ and a ‘relationship in the nature of marriage’, and has provided that in either case the person who enters into either relationship is entitled to the benefit of the Act.

Live-in relationship is not been recognized by the Hindu Marriage Act, 1955, or by the Criminal Procedure Code, 1973, or by the Indian Succession Act, 1925. The expression ‘relationship in the nature of marriage’ which is included within the definition of ‘domestic relationship’ has not clearly been defined in the Protection of Women from Domestic Violence Act, 2005. The question, therefore, arises as to what


\textsuperscript{27} Protection of Women from Domestic Violence Act, 2005, Section 2(a)

\textsuperscript{28} Protection of Women from Domestic Violence Act, 2005, Section 2(f)
is the meaning of the expression ‘a relationship in the nature of marriage’. Unfortunately this expression has not been defined in this Act. In D. Velusamy v. D. Patchaiammal\textsuperscript{29} the Supreme Court considered the definition of ‘aggrieved person’ and ‘domestic relationship’ together and opined that the expression ‘relationship in the nature of marriage’ that is included within the definition of ‘domestic relationship’ has not clearly been defined in the Act, hence, an authoritative decision is required to be taken to elucidate what is and what is not a relationship in the nature of marriage.\textsuperscript{30} The Supreme Court commented in the course of its judgment that the Indian Parliament while establishing the two distinct categories viz. ‘relationship of marriage’ and ‘relationship in the nature of marriage’ intended that the enactment should protect and benefit women in both these relationships. Therefore the Supreme Court held:

“Relationship in the nature of marriage is akin to a Common Law Marriage. Common Law Marriages require that although not being formally married: (a) The couple must hold themselves out to society as being akin to spouses, (b) They must be of legal age to marry, (c) They must be otherwise qualified to enter into a legal marriage, including being unmarried, (d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.”\textsuperscript{31}

Thus the judgment considered the essentials of a common-law-marriage and stated that not all ‘live-in relationships’ will amount to ‘a relationship in the nature of marriage’. Velusamy case accepts a common-law-marriage to be same as a live-in relationship to constitute a ‘relationship in the nature of marriage’. Indra Sarma case\textsuperscript{32}, on the other hand, enlists a criteria on basis of which a subjective analysis of the relationship should be undertaken in order to determine if it constitutes a live-in

\textsuperscript{29} AIR 2011 SC 479
\textsuperscript{30} D. Velusamy v. D. Patchaiammal, AIR 2011 SC 479 at para 20
\textsuperscript{31} D. Velusamy v. D. Patchaiammal, AIR 2011 SC 479 at para 33
\textsuperscript{32} Indra Sarma v. V.K.V.Sarma, AIR 2014 SC 309
relationship under the purview of Domestic Violence Act. The grounds listed were neither strictly binding, nor exhaustive. They, however, provided an insight into the aspects which would bring live-in relationships under the definition of ‘relationships in the nature of marriage’. The grounds provided in the form of guidelines are:

“(1) Duration of period of relationship:

Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 has used the expression ‘at any point of time’, which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation.

(2) Shared household

The expression has been defined Under Section 2(s) of the Domestic Violence Act, 2005 and hence court didn’t feel the need of further elaboration.

Section 2(s) provides: ‘shared household’ means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.
(3) Pooling of Resources and Financial Arrangements

Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the name of the woman, long term investments in business, shares in separate and joint names, so as to have a long standing relationship, may be a guiding factor.

(4) Domestic Arrangements

Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or up keeping the house, etc. is an indication of a relationship in the nature of marriage.

(5) Sexual Relationship

Marriage like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring etc.

(6) Children

Having children is a strong indication of a relationship in the nature of marriage. Parties, therefore, intend to have a long standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.

(7) Socialization in Public

Holding out to the public and socializing with friends, relations and others, as if they are husband and wife is
a strong circumstance to hold the relationship is in the nature of marriage.

(8) Intention and conduct of the parties

Common intention of parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship.”

While interpreting term ‘relationship in the nature of marriage’ under Section 2(f) of Protection of Women from Domestic Violence Act, 2005, in case of Indra Sharma34, the Supreme Court differentiated between ‘live-in-relationship in nature of marriage’ and ‘live-in-relationship not in nature of marriage’. Apex Court ruled that only ‘relationship in nature of marriage’ is covered under the definition of domestic relationship, and women under relationship not in nature of marriage are not entitled to reliefs provided under Protection of Women from Domestic Violence Act, 2005. To make a ‘live-in’ legal i.e. a ‘relationship in nature of marriage’ the Supreme Court said that the couple must hold themselves out to society as being akin to spouses; they must be of legal age to marry; they must be otherwise qualified to enter into a legal marriage, including being unmarried; and they must have voluntarily cohabited for a significant period of time. Making an attempt to iron out certain ambiguous situations, the judges also said that if it is not so, it would not, in our opinion, be a relationship ‘in the nature of marriage’.35 Honorable Supreme Court however itself commented that the view court took in Indra Sarma Case would exclude many women, who are in live-in-relationship other than a ‘relationship in nature of marriage’, from the benefit of the Protection of Women from Domestic Violence Act, 2005.36

Thus it can be extracted from these judgements that Indian courts have differentiated between live-in couples and hence it becomes difficult to say that live-in relationship is granted legality by judiciary in India. Live-in couples who fulfill the criteria of a valid marriage are treated as in a ‘relationship in nature of marriage’ and

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33 Indra Sarma v. V.K.V.Sarma, AIR 2014 SC 309 at para 55
34 Indra Sarma v. V.K.V.Sarma, AIR 2014 SC 309
35 Indra Sarma v. V.K.V.Sarma, AIR 2014 SC 309 at para 65
36 Indra Sarma v. V.K.V.Sarma, AIR 2014 SC 309 at para 68
thus dealt differently from ‘relationship not in nature of marriage’ i.e. those who don’t fulfill the conditions of a valid marriage. Live-in relationship has not been granted legality legislatively. ‘A relationship of a man with women in legal sense is legitimate if is based on valid marriage and illegitimate if not as per Marriage Laws’\textsuperscript{37}. In everyday parlance, it is non-marital cohabitation which may also be termed as concubinage.

From the study of \textit{Indra Sarma} case it is clear that all live-in relationships are not ‘relationships in nature of marriage’ there exists live-in relations which are not in nature of marriage and thus the guidelines given by the honorable court could not be applied to form a definition of live-in relationship. Live-in relationship is a wider concept than that of relationship in nature of marriage. We have the instances of married woman living with her lover leaving her husband. Such a relationship is well included under term live-in relationship though it cannot be a ‘relationship in nature of marriage’. Can a married woman lawfully live with her lover against the will of her husband? In a judgment the Rajasthan High Court allowed a married woman to live with her lover. The Court said that it is improper to pass an order to hand over any unwilling married woman to her husband with whom she does not want to stay. While dismissing a habeas corpus petition filed by woman’s husband the court also said that nobody should consider an adult woman as a consumer product. The court came down hard on the misuse of habeas corpus petitions by people who want to thrust their will upon adult women without their consent. The court said the husband was free to approach the family court for divorce.\textsuperscript{38} Commenting on the judgment, senior Supreme Court advocate and noted women’s rights activist Indira Jaising said, “Though it sounds strange, I am in complete agreement with the high court. At the end of the day an adult woman has a right to decide whom she wants to live with. She can’t be forced to go with her husband against her will. In this case it is clear that the woman was prepared for divorce.”\textsuperscript{39} Since the woman could not be prosecuted for adultery under the law in India it is very much clear that a married woman if enters in live-in relation faces no legal hurdle in that however from the words of Indira Jaising

\textsuperscript{37} \textit{Supra} note 5 at 1
\textsuperscript{39} \textit{Ibid}.
it is also clear that in such situations woman should be prepared for divorce. Thus we
can say that a married woman though can enter in a live-in relation but she cannot
marry one and live-in with another, she must be ready for divorce. However this
liberty is not available to married man as he can be prosecuted for adultery.

Thus it is very much clear from the above study that the concept of live-in
relationship, which has not been defined in India by statute, is extremely difficult to
be explained with universally accepted definition and characteristics. The definitions
we have earlier discussed while exploring the global concept of live-in relations and
guidelines given by Indian judiciary in different judgments can only be accepted for
the term ‘live-in relationship in nature of marriage’. Since all live-in relations existing
at present are not relations in nature of marriage and absence of legal definition to
exclude those relation from the purview of legal live-in relationship the concept of
live-in relationship in India becomes more complicated as persons living in extra
marital relationship sometimes also approach courts as live-in couple especially when
the aggrieved party was kept unaware of the married status of the other.

- Increase in Live-in Relationships in India

Economic liberalization, structural changes and changes in social spheres are
in the process of transforming households and families in India. Creation and
expansion of new economic opportunities for both men and women is the one of such
changes. These transformations have meant that more and more young men and
women are economically independent and less reliant on parents for housing and
other needs, along with the trend of young people moving to urban areas in search of
new opportunities and are reshaping living arrangements. Other changes such as
expansion of mass media has uncovered to wider society ‘different possible lives’ and
have affected people’s attitudes and behaviours. These changes in attitudes and
behaviours include those related to family and living arrangements. Along with
economic liberalization and mass media, other aspects of liberalization, structural
changes and changes in social spheres are bound to have an influence on
households.40 In addition, changes in attitude and aspirations coupled with the

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available at: http://www.demographic-research.org/volumes/vol32/45/32-45.pdf (Last visited on
March 31, 2017)
weakening of the power exerted by parents and families may promote alternative living arrangements. However such changes have not radically altered the Indian social system as they have in many East Asian and Southeast Asian societies. Many key features of the Indian society such as its kinship, marriage, and family systems have not been fundamentally altered, and continue to have impact on household structure. The cultural developments towards individualistic lifestyles indicate that people prefer independent living, and such preferences are much more accepted now than before. The relatively small number of self-arranged marriages is coherent where such a marriage connotes promiscuity and is considered to bring disgrace to reputation of family.

To explain what encourages our young generation into live-in relations, we have to assimilate the psyche of the younger generation. Cohabiting couples unanimously state that they want to have fun while at the same time focusing on elevate their career and earnings. Living together without marriage arrangement perfectly suits such specifications. They share the domestic assignments and expenses with their partner, while at the same time enjoying the freedom facilitated by the status of singlehood. Many of the cohabiting couples also state that without being tied down by marital responsibilities this arrangement meets their physical requirements for intimacy and while a partner gets problems with such arrangement they can easily separate, unlike marriage wherein divorce is an essential legal procedure.

The reasons why people choose to live-in are many. Anish Nair, a research scholar, says, "Some past experiences in my life triggered me to take such a decision. I have a fear of commitment, but I needed a partner to share my thoughts and hopes. If married, it is not easy to walk out of a relationship. A divorce is a costly affair. The entire process is highly traumatic too. In a live-in relationship, the couple has the freedom to breakup mutually without any fights, arguments and legal hassles."

The attitude of younger generations to the age old customs and values is quite indifferent and they are quite detached to our great cultural heritage. They sometimes

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41 Ibid.
42 Supra note 3 at 95
make mockery of traditions, old ideas and ideals and openly defy them. The love of our young men and women for Ray-Ban goggles, Addidas shoes, LeCoste’s T-shirts, Pepe jeans and many other established brands of the West have become a reality. Boys and girls in schools know little about Pandit Ravi Shanker and Pandit Jasraj. They dance to the tunes of Pop stars. We agree that there should be no room for narrow thinking. Culture and ideas know no geographical limits. Liberalization of our economy opened gates for the multinational companies in India. Western corporations are the ambassadors of the western life styles, values and culture. It is the age of globalization. The world has shrunk to a global village. The modern industrial culture is the product of western culture. The younger generations like fun, enjoyment and adventures. Their fascination for the materialistic culture is quite obvious. It is quite natural that it dominates the cultural scenario of the civilized world. Today, cohabitation is a common pattern among people in the western world. People may live together for a number of reasons. Since growing economy and people getting more and more aware of western concepts, the trend of living together has started increasing in India. Live-in relationship does not require any formal commitment from the partner. It is sharing the same house and bed like roommates, satisfying their physical as well as psychological needs and enjoying life together like friends. If she/he finds problem in continuing, either due to boredom or incompatibility, then they have the choice to opt out without any legal hassle. Relationship does not feel as burden which has to be carried whole life even if unhappy. Women becoming more educated have come at par or surpassed their male counterparts in many areas. Awareness of rights and economic independence has aided acceptance of live-in relationships as it provides her an edge as she is not bound by society.

While many live-in couples wish to hide their relationship and pretend to be a married couple however some of the youngsters are quite open about their live-in status. Many hide their relationship because such relationships are considered immoral in society. In fact, if couples reveal the relationship status, it would create more problems for them. A singer from Trivandrum, who is into a live in relationship

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44 Supra note 3 at 104
45 Id. at 103-104
46 Id. at 100
with his childhood friend says, "My partner and I are childhood friends, but we don't want to define our relation with a married tag. But it is easier said than done. Finding an accommodation became the toughest task, so we had to pretend that we are legally husband and wife."  

Owing to the changes in the dynamics of romance and marriage, it seems many young couples are fast embracing a new ‘relationship culture’. And the concept of live-in relationship is no longer a taboo among the youth. For some of them, it's a matter of convenience, and for others it's a compatibility test. A few consider a live in relationship as a testing ground before marriage. Savio, a young doctor from Kochi, says, "It is always better to know your partner before marriage. My partner, who is also a doctor, and I started a live-in relationship as we wanted to see how compatible we are as a couple. Now, even after two years of living together, we are still very much in love. However, we are not planning to get married anytime soon as both of us are busy with our studies."

Thus the people may live together for a number of reasons. These may include wanting to test compatibility or to establish financial security before marrying. It may also be because they are unable to marry legally. Other reasons include living with someone before marriage in an effort to avoid divorce. Some individuals also choose cohabitation because they see their relationships as being private and personal matters, and not to be controlled by political, religious or patriarchal institutions. Some couples prefer cohabitation because it does not legally commit them for an extended period, and because it is easier to establish and dissolve without the legal costs associated with divorce.

3.3 IMPACTS OF NON-MARITAL LIVE-IN RELATIONSHIPS AND ITS SOCIAL STATUS IN INDIA

It is difficult to study the impact of live-in relationships on individuals, family and society for a number of reasons. First, as already highlighted, the meaning of cohabitation is unclear and different groups are likely to understand and be affected differently by it. Second, cohabitation is a moving target with the norms and

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47 Supra note 43
48 Ibid.
meanings associated with it rapidly changing over time. Third, many of the posed impacts of cohabitation may be due to social selection. In other words, the people who enter cohabiting relationships may also be disposed to other kinds of behavior so that, for example, what seems to be an effect of cohabitation on relationship quality is actually caused by the characteristics of people who choose to cohabit. This study will also help us to understand the social status of non-marital live-in relationships in Indian society as the acceptance and impact of a phenomenon go hand in hand. Therefore researcher have tried to explain the impacts of live-in relationship or non-marital relations in India, which are as follows:

3.3.1 Impact on Concept of Marriage

Though the sanctity of marriage is still intensely guarded by the Indian society but in light of the cultural changes it is clear that influence of the west considerably altering age old customs and traditions of Indian society. Our society has been in a state of transition from the old world to the new, and the people are adapting to alternative forms of living arrangements. A live-in relationship is one of these alternative arrangements that are accumulating momentum and acceptance these days. It would be incorrect to state that live in relations are new to our society. Generally speaking, a live-in relationship is defined as a living arrangement in which an unmarried couple lives together in a long term relationship that resembles a marriage. The word ‘marriage’ has nowhere been defined under Indian Laws.\(^49\) Marriage depends on the various kinds of customs and traditions that are present in a society. But a non-ethnocentric definition of marriage is; marriage is a culturally sanctioned union between two or more people that establishes certain rights and obligations between the people, between them and their children, and between them and their in-laws.’ Marriage in India is considered to be a relationship entered into by two opposite genders to stay together forever. Under Muslim Law, marriage is a civil contract which gratifies the parties with various rights and obligations. Under Hindu culture the union is sacred and indissoluble in life and continues even after the death

of the husband. It is treated to be a *samskara* or a sacrosanct bond of seven lives between the couple which is unbreakable.\(^{50}\)

In India, according to traditional Hindu Law, marriage is a sacrament and not a civil contract. It is a ‘*samskara*’ or purificatory ceremony obligatory for every Hindu. Marriage in India is a holy performance of religious rites. The parents are morally obliged to find mates for their children, and the children to accept the parental choice. As such, in Hindu marriage there is no room for romantic love as the basis of marital selection.\(^{51}\) From ancient times, Hindu religion laid emphasis on man and woman to achieve four *Purusharthas* namely- *dharma, artha, kama and moksha*, the ideals of life different from western concept of marriage, where marriage is a personal matter concerned with love and homemaking.\(^{52}\)

The Hindu marriage as contemplated by the Hindu Marriage Act is a ceremonial marriage and it must be solemnized in accordance with the customary rites and ceremonies of one of the two parties. Non-observance of the essential customary rites and ceremonies would amount to failure to solemnize the marriage.\(^{53}\) “Edward Westermark defined marriage as the more or less durable connection between male and female, lasting, beyond the mere act of propagation till after the birth of the offspring. According to Horton and Hunt, marriage is the approved social pattern whereby two or more persons establish a family. H. T. Mazumdar defines marriage as a socially sanctioned union of male and female, or as a secondary institution devised by society to sanction the union and mating of male and female, for purposes of a) establishing a household, b) entering into sexual relations, c) procreating, and, d) providing care for the offspring.”\(^{54}\)

Though not statutorily defined, the concept of marriage stands well understood. Marriage is an institution which admits man and woman to family life. It


\(^{51}\) *Supra* note 49

\(^{52}\) “Increasing Number of Rape Charges in Live-In-Relationship”, available at: http://lexhindustan.com/law-articles/increasing-no-of-rape-charges-in-live-in-relationship/ (Last visited on Sep. 01, 2016)

\(^{53}\) *Supra* note 50 at 53

can be implied to be a permanent commitment between two people who make a responsive effort to live harmoniously and cooperatively and in which they are socially allowed to have children entailing the right to sexual relations.\textsuperscript{55} It is seen as imperative to maintain the continuity of a family life which is the basic societal unit. People marry because they lived in a family as children and cannot get over the feeling that being in a family is the only proper way to live in society. They do not marry just because they think that it is their social duty to perpetuate the institution of marriage or because the scriptures recommend it or because they have fallen in love with each other. In almost all societies one or the other form of marriage exists. ‘According to sociologists John Levy and Ruth Munroe people get married because of the feeling that being in a family is the only proper, indeed the only possible, way to live. A family life requires commitment and it is precisely the lack of this aspect that either attracts or repels individuals from cohabiting’.\textsuperscript{56}

Marriage as an institution is very old and popular in most parts of the world but recent trends show that many people are opting out of it and prefer the less committed form of living-in, in India too it has become a common thing, not yet popular while marriage in India still remain a strong institution so far but still we hear of more people live-in unmarried with each other.\textsuperscript{57} Today’s India is developing at a pace that was socially unimaginable. The concept like non-marital relationships that was taken up by the western society is gradually filtrating into our social norms. Marriage is just another commitment. If people are heading away from marriages, one reason could be that people are afraid of commitments and are worried of inherent responsibilities of marriage. Every relationship has its own advantages and disadvantages. The law and society were traditionally biased in favour of marriage. Public policy supports marriage as necessary to the stability of the family; the basic societal unit. To preserve and encourage marriage, the law reserves many rights and privileges to married persons.\textsuperscript{58}

A non-marital relationship threatens the notion of husband and wife and the institution of marriage that enjoys high level of sanctity when it comes to India. It also

\textsuperscript{55} Supra note 49  
\textsuperscript{56} Ibid.  
\textsuperscript{57} Supra note 3 at 24  
\textsuperscript{58} Supra note 4 at 6-8
tends to increase the instances of adultery, as there are no such statutory constraints that live-in partners should be unmarried. Thus, a person might be married and be lived with someone else under the garb of live-in relationship. If the rights of a wife and a live-in partner become equivalent it would promote bigamy and it would arose a conflict between the interests of the wife and the live-in partner. This encourages bigamy, as the person who is getting into live in relationship might be already married. The position of the wife is disadvantageous in such situation. While the right of legally wedded wife remains at stake, the right of live-in female partner too does not become secure.59 Non-marital relationships confer none of those rights and privileges. Though it can be said that non-marital cohabitation has all the headaches of marriage but it has its own benefits, such as, live-in relationship is without mutual statutory obligations towards each other and both parties enter into such relationship with full understanding of the situation. Providing maintenance or recognizing rights out of such relation will be not less than equating them with husband and wife. Further long non-marital cohabitation leads to presumption of valid marriage. These couples face some of the same legal issues as married couples, as well as some issues that their married friends never acquainted.60

With shifting social norms of legitimacy in modern societies, including ours, what was illegitimate in the past may be legitimate at present. Though our country, which has strong cultural roots, adherence on morality and social ethics but with changing times, we have commenced to pursue the Western culture, which is totally in contrast to Indian culture. A certain section of India too seems to have followed the Western culture i.e. of live-in relationship. Change in law for a small section would surely affect the country’s whole population. Chances are fair that the coming generations might forget the importance of marriage and follow illegitimate relationships. Live-in relationships directly affect the status of wife, children, family and whole country. Our society has to play important role of supervisor to deny concept of live-in relationship and misinterpretation of marriage, failing to do so our identity, humanity and our rich ancient culture, tradition will be tarnished heavily.61

59 Ibid.
60 Ibid.
‘Our generation of 21st century wants to delay the age of entering marriage and having children. The liberation process is consisted in sexuality outside marriage and experiencing a love relationship before institutionalizing it. Pregnancy was generally considered to be an imperative reason to marry before the birth of a child. It took almost ten years to realise that this phenomenon was not merely a simple postponement of entering marriage and institutionalizing a family, but was for a growing number of couples a new way of life. In the 1980s and 1990s, non-marital cohabitation became increasingly prevalent, which was connected to the deterioration of marriage. Thus, increasing numbers of couples decided to begin their conjugal life without marriage, and even to have first or subsequent children out of wedlock. Nowadays the unmarried cohabitation is normal way to begin a relationship’.62 However, these transformations of marriage do not mean there has been a rejection of family life or of children. So non-marital cohabitation is growing steadily and compensating for the delayed marriages. This postponement in the setting up married partnerships may be a key transformation, linked to the social and economic conditions of young people, including a trend to enhance the time for studies, delay in access to a first job, the pervasiveness of unemployment in the younger generations and new intergenerational links between them and their parents.63

Marriage leads a man and woman to bonding between them and this bonding ensures welfare of children. Marriage is a social union or legal contract. Such a union often formalized via wedding ceremony. Marriage is a social union or legal contract between people that creates kinship. It is an institution in which interpersonal relationships, usually intimate and sexual, are acknowledged in a variety of ways, based on the culture or subculture in which it is found. Such a union, often entered into via a wedding ceremony, may also be called matrimony. Therefore, it would be easily mentioned that live-in relationship is tarnishing the value of marriage which is recognized as social union unlike live-in relationship where there is only well of two persons.64

63 Id. at 4
64 Supra note 61 at 5
The major differences between non-marital relationships and marriage involve the socio demographic attributes and personal approach that define cohabiting individuals and a lesser degree of social acceptance for non-marital unions. Age and socio-economic status are important circumstance in the union formation process and further, non-marital cohabitation is particularly related to younger generations and people with either fewer economic resources or from elite class. On most socio-economic specifications, never married cohabiters feature like single adults more closely than they resemble married adults. Differences in approach and expectations regarding family life and relationships form another major distinction between cohabiting and married couples. In general, cohabiters have more liberal attitudes toward traditional gender roles and place a higher value on individual needs and goals than married people. These attitudinal differences suggest that cohabiting couples organize their daily lives differently than married couples, including following equality in gender division of labor, and these organizational roles could include assigning family responsibilities different than that in typical marital relationships.

Weaker social endorsement along with fewer social benefits further distinguishes cohabitating-couple unions from marital unions. Whereas marriage creates strong kin affinity and likelihood for familial support and cooperation, the delicate individual and social endorsement of non-marital unions appears to dilute commitment between cohabiting couples and discourages regular social and economic exchanges between their respective families. The awareness of uncertainty of relationship status among non-married partners decrease their incentives for pooling individual time and financial resources as in marriages generally because the economic interdependence among non-marital couples is lower than among married couples. The delicate commitment between non-married cohabiters and scanty social support for non-marital unions can comprise an undermining effect on non-marital cohabitation. Even though many couples divorce, marriage being a formal social contract is grounded by specific obligations and behavioral standards, and most

66 Id. at 6
67 Ibid.
people expect that marriages constitute permanent unions. Marriage creates the interrelationship between couple and wider kinship network that is essential for establishing and maintaining both union coherence and practical familial relations. On the other side, the normative vacuum around non-marital relationships slowly leads to conflict in the relationship and destabilizes union because non-marital relations are not formal and permanent relationships like marriage. These relationships lack mutual obligations, behavioral norms, and relationship security, couples living together unmarried find lower satisfaction and happiness with their unions than the married couples, and resultantly experience more union conflict and breakdown. Relationship stability is a remarkable difference between non-marital cohabitations and marriages.68

Non-marital cohabitation intimidates the concept of husband and wife and the institution of marriage that cheers the high level of sanctity when it comes to India. It also contributes in increasing adultery. The mammoth gap that existed between Indian marriage system and western concept of living together is slowly diminishing. Our society slowly but actively has started accepting living-in relationships. Live-in relationships are definitely more alluring and easy but marriage has its own advantages over such relationships as well.69 Through following points researcher will discuss that marriage is far superior to non-marital cohabitation at connecting people to others, work acquaintances, in-laws who are a source of support and benefits:

a) Those who live together before marriage generally put the bedrock of distrust and lack of respect. A cultured relationship is built on the security of exclusiveness, knowing that one’s love is exclusionary and there is no one else. But premarital intimacy causes one to suspect that if he or she has this little control with me now, there had been others before me and there will be others in the future too. This suspicion and distrust escalates slowly and one loses respect in the eyes of the other person. This trust factor is also an important and essential component in a healthy marriage. The knowledge that each partner can relax and be him/herself at the most intimate level without

68 Id. at 7
69 Supra note 3 at 26-27
the fear of doing something that will drive the other away, is missing from the living-together arrangement. Premarital sex lays the groundwork for comparisons, suspicions, and mistrust. Real trust grows in the context of the life-long commitment within a monogamous relationship of marriage.  

b) Those living together have frivolous and extremely weaker relationships. Couples who live together before marriage have weaker marriages. Anyone can make love, but not everyone can carry on a meaningful conversation. A good relationship is much more than physical intimacy. Beauty is more than skin deep; there is a deeper intimacy of the mind and spirit that takes the time and commitment of a marriage to develop to the fullest. Physical attraction is not sufficient to build or maintain a lasting relationship. A more recent study at Johns Hopkins University, again confirmed that couples who cohabit have quite different and significantly weaker relationships than married couples. They determined that men and women looking for someone with whom they could cohabit search for characteristics such as education which can reflect a short-term ability to contribute to the relationship. While cohabitors anticipate time together, married persons anticipate a lifetime.  

c) Those who live together often have a ‘marriage of convenience’ or a ‘marriage of compatibility’ rather than a marriage of commitment. ‘Marriages of convenience’ are disposable; marriages of commitment are lifelong and not to be dissolved. Commitment means being determined that the both of partners will stick it out. When there is an agreement without commitment it is easy to give up. ‘A lack of commitment in the real sense and a dangerous level of liberty loom over the relationship to topple it over anytime. And for those who prefer it as a prelude to the real act of tying the knot, the pros and cons of living together before marriage shape up as even greater challenge, more so because of the social issues involved in it.’ When there is a commitment for life, partners remain tough together in good times and the bad but do not run away from responsibilities by foresee tough times. Commitments are made  

71 Ibid.  
72 Supra note 3 at 21
and kept ‘before God’ to be the half of the other, accompanying families of both partners. A lifetime commitment, provided by marriage, is needed in order for a relationship to be a sacrament.\textsuperscript{73}

d) Those who live together have no life-long commitments or responsibilities. Non-marital cohabitation engages no public commitment, no pledge for the future, no official pronouncement of love and responsibility. There is essentially a private arrangement based on an emotional bond. The 'commitment' of living together is simply a month-to-month rental agreement. As long as both partners feel happy they remain together. Marriage, on the other hand, is much more than a partnership of two people; it is a relationship between two families. It is a public event that comprises legal and societal responsibilities. It brings together not just two people but also two families and two communities. It is not a monthly agreement but a commitment for life. Jessie Bernard in ‘The Future of Marriage’ states: "One fundamental fact underlies the conception of marriage itself. Some kind of commitment must be involved...Merely fly-by-night, touch and go relationships do not qualify. People who marry ‘till death do us part’ have a quite different level of commitment, therefore a quite different level of security, thus a quite different level of freedom, and as a result a quite different level of happiness than that of walk-in and walk-out relationships".\textsuperscript{74}

e) Here it is worth noticing about love marriage and arranged marriage that love marriages are much more fragile than arranged marriages; those who have ‘trial’ marriages do not have better marriages. Trial runs or half steps, to test whether the relationship ‘works’ are not successful; in fact quite the opposite is true. Couples who live together before marriage have significantly lower marital satisfaction than those who do not cohabit and they have weaker marriages, not stronger ones, which itself counters the argument that premarital relationship helps in finding compatible partners.\textsuperscript{75} Premarital cohabiters who eventually marry are more likely to divorce or separate than

\textsuperscript{73} Ibid.
\textsuperscript{74} Supra note 70
\textsuperscript{75} Supra note 3 at 34
persons who do not cohabit prior to marriage.\textsuperscript{76} In most industrialized countries the growing legitimization of cohabitation has made it almost an expected stage in the marriage process. Among the young cohabitation is being increasingly viewed as a substitute for marriage. One important observation in virtually all of the research on this subject is that premarital cohabitation is usually associated with marital instability. Cohabiting couples that marry are more likely than non-cohabiting couples to end their marriage in separation or divorce.\textsuperscript{77} The incidence of non-marital cohabitation has increased among young adults. Premarital cohabitation is associated with an increased risk of later marital dissolution. Beyond an increased risk of divorce, cohabitation has also been found to be associated with negative relational outcomes such as lower relationship satisfaction, interpersonal commitment, and an increased frequency of conflict.\textsuperscript{78}

Thus this study of impacts of non-marital relationships on the marriages studied including a brief comparison between non-married unions and married unions makes it clear that though marital rates are not decreasing in India like observed in western countries, however, delayed marriages, child birth or pregnancies before marriage, marital dissatisfaction, increasing divorce rate, extra-marital affairs are some of the indicators of impact of non-marital relationships in Indian concept of marriage. Though according to present situation live-in relationship cannot be said to be a threat to institution of marriage in India, however, same might have been thought in western countries couple of decades ago. The increasing rates of cohabitation over the last few decades in Western countries have been well noticed. Its increasing pervasiveness is, in part, a phase in the contemporary social transformation of the Western family, followed by decreasing rates of marriage and fertility, delay in marriage, and increasing rates of divorce. Non-marital cohabitation may in fact be a


\textsuperscript{77} Id. at 71

reaction to the delay in marriages rates and rising rates of divorce, and also to the sense that marriage is becoming a fragile union and it is no more a relationship for seven lives.\textsuperscript{79} Cohabiting without marriage is a feasible alternative for couples that do not feel confident about fulfilling the responsibilities by creating an enduring marital relationship. Some features of marriage are also present in non-marital cohabiting unions, such as sharing of home, economic resources, sexual intimacy and sometimes childbearing. However cohabitation is generally much easier to dissolve than legal marriage; but for many modern couples it presents the benefits of both being remaining unmarried and at the same time taking the advantages of married life to provide; the freedom and independence associated with singlehood, and the emotional, sexual, and economic advantages of marriage. However at the same time it has been highlighted in literature that non-marital cohabitation tends to be unstable and temporary unions that may dissolve by separation or by marriage of the couple, but even when these unions result in marriage, the marriage often remains unstable, with a higher possibility of marital breakdown.\textsuperscript{80}

Conventional prudence says it is acceptable to try the shoe on first to see if it fits or to test drive a car before one buys it. However, for marriage, just the opposite is true. A newly married couple makes a deliberate effort to accommodate each other because they know their relationship will be for life. They don’t test it rather try to build compatibility. Sex is no test of love, for it is precisely the very thing that one wants to test that is destroyed by the testing. Laura Schlessinger, the host of the nationally syndicated \textit{Dr. Laura radio show}, scolds people nearly every day for hooking up with their partners. Mrs. Schlessinger, listing cohabiting as one of the Ten Stupid Things Women Do to Mess Up Their Lives in her book of the same name, feels it the ultimate female self-delusion. She says, dating, not living-in, is supposed to be about learning and discerning about a prospective mate.\textsuperscript{81}

\subsection*{3.3.2 Impact on Family Relations and Institution}

The first and the most important social surroundings to which a child is exposed is the family and hence is the basic unit of society. Family applies a regular

\begin{itemize}
  \item \textsuperscript{79} Supra note 76 at 71
  \item \textsuperscript{80} Id. at 72
  \item \textsuperscript{81} Supra note 70
\end{itemize}
influence from the time of birth till the last moment of life. It equips one with the most enduring relationship in one or other form. It is in the family a child learns language, the behavioral patterns and social norms in his childhood. Be it any religion, culture, tribe or community, institution of family exists among the followers of all religions, cultures, among people of all tribes and communities, in rural as well as in urban areas. Though the family is universal group but in spite of the permanent and universal nature of the family the institution of has vast differences in its structure in different societies. In tribal, agrarian and rural societies people of several generations live together in one family and one household. These societies have large and ‘joint families’. In the industrial societies the family is limited to husband, wife and their children. These families are known as nuclear families. The family is formed with number of members who live together in a joint household. In this sense the family is a group. There are certain rules and procedures at the roots of the family and definite purposes in living together that makes the family an institution.82

The institution of family has crossed through many stages to reach its present form. The family, marriage, economic system and succession are inter-related. With the changes in socio-economic order the structure, behavioral patterns and functions of the family have also been changing. The structure of the family can be understood on the basis of followed characteristics; the structure of the family is mainly based on the husband-wife relationship; another basis of the familial structure is procreation; the third basis of this structure is common residence. The structure of the family is also depends on economic system. The present nuclear and individualistic structure of family has been encouraged by the urban industrial system and the occupations.83

The human inception is an extended one. The child which is in need of help at the time of birth is provided the required protection of the family. Individual own its life to the family because it is the family that gives the individual his life and a chance to survive. Family is an institution; no other institution can as efficiently bring up the child as can the family. This can also be referred to as the function of ‘maintenance’.84 The family ensures the basis for the child’s formal learning. In spite of great changes, the family still gives the child his basic training in the social attitudes and habits

83 Id. at 18
84 Id. at 20
important to adult participation in social life. When the child grows up, child extends
its interests to other groups where he learns to deal with situations outside the home
and family. With all this his intelligences his emotions and his social habits develop
until he wears himself from the original dependence on the mother, father and other
family members.  

Joint families were the oldest intuitions of family structure in India. The nature
and ethos of joint family were glorified in the past and these families were considered
as ideal institutions in Indian society. But the growth of an industrial economy had led
to many changes in this traditional family setup. Further, these traditional values have
undergone changes in the wake of modern society in India. Many of its traditional
beliefs, for example joint property, common kitchen, role of Karta(Patriarch) etc.
could not continue due to large scale migration and development of modern notions of
individualism. The modern society has further aggravated the situation by providing
new meanings to the notion of family. Indian culture and tradition is no longer
reflected in joint family ideals as for them joint family is a thing of the past. With
modern day popular notions like live-in relationships, individual family, one man/
one-woman family, etc. gaining ground, joint family seems to be lost in these diverse
groups of families. An interesting fact that was revealed is that co-habitation without
marriage also prevailed among youths in metros, which is popularly called ‘live-in
relationship’. Young generation thinks that before marriage it is very important to
know each other, if possible they would not hesitate to stay together without marriage.
In case they are unable to adjust with each other they can always discontinue their
relationship.

Younger generations of societies that continue to place a very high value on
the institution of marriage are also likely to follow contemporary lifestyles of world.
In countries like India where non-marital cohabitation is not popularly accepted,
entering non-marital cohabitation as a living arrangement may lead to a disintegration
of familial ties in a young person’s family. While keeping one’s family happy is

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85 Id. at 22
86 Manoj Kumar Jena, Information Society and Changing Family Relationships: A Case Study of
Bangalore, (2009) (PhD, Thesis, Jawaharlal Nehru University) available at:
http://shodhganga.inflibnet.ac.in/bitstream/10603/18135/10/10_chapter%204.pdf at page 206 (Last
visited on June 26, 2016)
87 Id. at 207
among the most important sources of happiness, the non-institutional partnerships among family could potentially lead to a decrease in life satisfaction and further, parent–child conflict may reduce considerably the well-being among parents and adult children.\textsuperscript{88}

There is a long-standing debate about the impact of adult children’s life styles and union formation on the quality of family relations and family members’ life satisfaction, particularly, the role of the traditional norms and values that adult children are expected to follow in order to maintain a healthy relationship with their parents. When young people choose union formation that is in clash with social attitudes and traditional norms, deterioration in their relations with their parents is likely to occur. In order to be considered as an adult a person is expected to achieve the required status after reaching some specific age. The general social expectations from an individual such as the following of norms and traditions regarding union formation may be of consideration. In many societies, generally, young people are usually expected to complete their education, find a stable job, to become a potential source of support for their parents. These social expectations may also include getting married according to traditional values and forming their own family. This norm applies specifically to the countries like India where marriage is very strongly valued. In such countries, young adults who remain unmarried may be regarded as avoiding responsibility and commitments, and their unmarried status may have a negative impact on their relationship with their parents and other family members.\textsuperscript{89}

The norms that put condition of adulthood and maturity on marital status may overlap with social attitudes towards living arrangements that are an alternative to marriage, such as non-marital cohabitation. These norms can be related to religious influences, such as the belief that living in a non-marital relationship is a sin. In societies where, marriage is recognized as the only moral way of family formation and living together without marriage is considered as prohibited, the non-marital cohabiting couple is surely to be ridiculed for not following the societal values and traditional norms including disrespecting the parents. However, the disparity between


\textsuperscript{89} Ibid.
social expectations of parents and the relationship choices of young adults does not automatically affect the family attachment. In other words, the choice of being in non-marital cohabitation may not itself result into a decreased numbers of meetings or a lack of family support, even though it may yield some hesitation in relationships. However the behavioural aspects of family members will not expose any split or hesitation in the relationship between adult children and their parents. Yet, deciding to be in non-marital cohabitation may adversely affect the scale of happiness and satisfaction young couples derive from their relationship with their parents, and may thus have an impact on their quality of life.\(^90\)

In a country like India where the extent of societal approval of non-marital cohabitation is less and the value conferred on status of marriage is high, deciding to cohabit without marriage may lead to a reduced amount of emotional and material support from the family. Non-marital cohabitation reduces the satisfaction and guidance received from the parental relationship. In modern societies the demographic changes in union formation patterns may result in devaluation of the quality of intergenerational relationships, particularly when non-marital cohabitation is progressively becoming a common living arrangement, but has not yet been completely approved as a union equal to marriage.\(^91\)

### 3.3.3 Impact on Partners

As already mentioned, cohabiting relationships tend to be fragile compared with marital relationships. One way in which the uncertainty is correlated with non-marital relationships affects quality of available resources to cohabiters from the kinship networks. There is also a great possibility that young adult non-married cohabiters receive lesser benefits from parents compared to married young adults. The relationship termination impacts also differ from married adults to living together without marriage couples. Although formerly married men tend to be better off after a divorce, formerly cohabiting men experience little financial change after termination of relationship and formerly cohabiting women suffer about the same financial loss as formerly married women.\(^92\) Cohabiting relationships also tend to be more violent than

\(^{90}\) Ibid.

\(^{91}\) Ibid.

married relationships although this is likely the result of the least violent cohabiting couples choosing to marry and the most violent married couples choosing to divorce. Some foreign studies find that non-married cohabiters are comparatively less healthy than married couples, possibly because unmarried partners have lesser resources and lower relationship quality. For example, among older unmarried partners men experience considerably poorer mental health compared with married men, but cohabiting and married women have similar levels of mental health. Scholars contemplate that, among older couples, a population for whom care giving roles are highly gendered, married men benefit from the security of having a care giving wife, whereas cohabiting women may benefit from having fewer care giving obligations. So overall, although some of the differences between non-marital cohabitation and marriage in adult outcomes appear to be due to selection, the fragile nature of non-marital relationships may also contribute to some negative outcomes.

Dr. Ahalya Raghuram, Assistant Professor of Clinical Psychology in Bangalore, says that a couple in a live-in-relationship is especially vulnerable as the partners are under pressure to make the relationship work and also cope with an unsympathetic society and parental disapproval. Alienation from one’s family, coupled with the insecurity of the relationship, can play havoc with a person’s psyche. A women in a relationship who suddenly discovers that she wants to marry, puts her in a perilous position if her male partner does not wish to marry, and she unconsciously places him on a position of power, thus negating at one stroke the power equation a live-in-relationship is supposedly based on. Many couples start to cohabitate with the purpose of marrying after a long time. But cohabiting couples tend to prolong their marriage or end up breaking.

3.3.4 Impact on Child born out of a Live-in Relationship

As family structure is an important institution in children’s behavioral learning. There are reasons to admit that non-marital households represent a different constructive atmosphere in comparison to marital households. The new patterns of family formation presents new issues and concerns because non-marital cohabitation

93 Ibid.
94 Ibid.
is fragile and instable than marriage, and children living in unmarried-parent households are much likely to experience a family transition than those living in married-parent households.\textsuperscript{96}

Living in a non-marital family influences child’s experiences in a manner different from living in a marital family, and children living with unmarried parents face more deprivations than those living with married parents. Normatively it is expected from married parents to devote to the childrearing process but non-married parents follow different parenting behaviors than married couples, such as, mostly the male cohabiting parent invest less time in formal activities with children, which raises concerns about insufficiency of the parental resources available to children in non-marital relationships. Compared to other family structures, non-marital relationships appear to represent inconvenient or inadequate surroundings for ensuring child development and well-being. In India we do not have specific studies which compare between children from married and unmarried relationships, however, a recent United States study demonstrates that children from cohabiting families have more behavioral and emotional problems than children living with married biological parents. Other studies observe that children living in non-marital households also exhibit lower academic results, increased school misconduct problems, and worse creative performance than children from other families.\textsuperscript{97}

Corinnie Reczek, an assistant professor in the department of sociology at the University of Cincinnati, advocates that children of unmarried cohabiting couples don’t do as well as those of married couples in terms of education and health, but these disparities have been attributed to the insecurity and financial struggles of couples, rather than their status of being unmarried parents. It is not cohabitation that is causing worse child outcomes, but the social conditions within which cohabitation takes place that may matter for child outcomes.\textsuperscript{98}

In western countries an increasing number of children live part of their childhoods in households headed by unmarried cohabiting couple. Social scientists

\textsuperscript{96} Supra note 88
\textsuperscript{97} Ibid.
have developed a modest literature investigating how children fare in cohabiting households. Cohabitation seems to be a compelling source of instability in the lives of some children; this is exclusively true when a child’s mother or father moves in and out of several cohabiting relationships while the child is living in the parental home. Several studies indicate that children and adolescents living with unmarried couple exhibit more behavioral, health, and educational problems than children living in married households.\(^9^9\) It is less clear correlation that the presence of two adults in a cohabiting household is better for children than a single-parent. However, it has been suggested that factors such as instability, lower socio-economic status and poor mental health among mothers in cohabiting relationships may negate any potential gains that children may accumulate from having a second adult in the household; and further the research on stepfamilies has shown that the presence of an adult who is not a biological parent may be a stressor for children. Selection is undoubtedly responsible for many of the differences between child outcomes in cohabiting households versus learning in married households. Instability, however, may also contribute to poorer childhood outcomes in cohabiting households.\(^1^0^0\) Though these studies have taken place in western scenario but the impact on the child’s psychology might remain same throughout regions.

When it comes to the right of child born under live-in relationships, we again find the law to be exploring in the dark. The Hindu Marriage Act, 1955 gives the status of legitimacy to every child, irrespective of birth out of a void, voidable or valid marriage.\(^1^0^1\) There is no such presumption of legality of child in any other personal law, in such cases, legality of the child born out of such relationship is doubtful. Marriage leads to a bonding between a man and woman and this ensures security for children. Let us also caution the exponents of live-in relationships that parting of ways, for one reason or the other, will leave behind deep scars of being used and rejected. Progenies of such relationships will also end up as misfits in society.\(^1^0^2\)

Everyone has the moral responsibility to comply the life-enriching norms to facilitate the future generations to be proud of their birth, cultural traditions and national identity. Children should not be left to bear the results of irresponsible

\(^9^9\) Supra note 92 at 58  
\(^1^0^0\) Ibid.  
\(^1^0^1\) Supra note 61 at 5  
\(^1^0^2\) Ibid.
behaviour of their parents. Responsible forefathers will leave a valuable legacy and not vicarious liabilities to their future generations. Another important question that needs to be taken note of is the future of the child when the unmarried live-in parents of child desire to get out of the relationship. The future and rights of the child must be secured through provisions, where none of the parent wants to keep the child with him/her.

3.3.5 Live-in Relations and Aged People

A group of senior citizens under the banner of 'Jyeshtha Nagrik Live-in Relationship Mandal' Nagpur, led by a former banker Arvind Godbole has formed an organisation for helping those seeking a partner at the far end of their lives. Vina Mulya Amulya Seva (VMAS) Ahemedabad, the charitable trust which had organised this 'Senior Citizen Livein Relationship Samellan', seven couples who met at this alliance meet have decided to enter into a live-in relationship.103 The concept has gathered the attention of social media circles for the openness with which various aspects of taking up a live-in partner by those who are alone in their old age. This initiative is to reduce the loneliness, the neglect and isolation that many such single senior citizens face in the later years of their lives. This is a welcome move by the seniors.

3.3.6 Impact of Live in Relationship on Society

The concept of live-in relationship is considerably different from that of marriage. Live-in relationship is an arrangement entered into by individuals who do not want to enter into a relationship of responsibilities whereas marriage is a lifetime commitment. Thus those people, who just want to live life in companionship but free from responsibilities that come along with committed relationship of marriage, go for live-in relationships. They aspirate the emotional and physical security of a relationship as well as the freedom and independence of the single status.104 The increase in cohabitation pre-marital, non-marital and post-marital highlights one of the most important changes in union formation patterns beside, other related major demographic shifts, including; increasing rates of divorce, postponement of entry into

103 Supra note 4 at 6
104 Supra note 3 at 52

- 109 -
marriage and childbearing, and a growing proportion of births taking place outside marriage. The analysis of cohabitation continues to unfold the expanding and changing nature of living arrangements in general and non-marital cohabitation in particular. Both, as a demographic process and an event, non-marital cohabitation is fuzzy, ambiguous and diversified. Union formation in general and non-marital cohabitation in particular is portrayed by growing in numbers and complexity and the duration of cohabiting unions appears to be lengthening.

The model of live-in relation has overwhelmed all the youth of the society for various reasons. No doubt this relation provides two partners the greatest possibility of individualism, liberty and at the same time an intimate relationship. But nothing escapes without leaving drawbacks and the negative point has to be considered as well. People who choose to have a live-in-relationship cannot complain of infidelity or immorality because live-in relationship is an agreement of living together which is renewed every day by the parties and can be terminated by one without the consent of the other. However it is a relationship of personnel enjoyment but even if partners think about family formation, as such relationships are choice of two individuals wish to make their own family without the will of their parents, there is always likelihood of fragile relation between couple and the parents of the spouse’s family. Therefore it is indisputable that there is always possibility of conflict of views and arguments in the family which ultimately lead to weaken the relation between other members of the family.

The relationships like live-in relationships are weak relationships that can be terminated at any moment without any obligation or requirements; legal position of live-in relationships does not depict a distinguishable stand. The couples in live-in relationships do not enjoy the same social status and privileges as enjoyed by married couples. Disagreements are the part and parcel of any relationship. Live-in relationship is against the settled norms of Indian society. Live-in relationship, on the one hand, if it is assumed true as believed by some people, decreases the numbers of

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105 Supra note 1
106 Id. at 2
107 Supra note 61 at 6
108 Id. at 9
divorce then on the other hand it will increase the chances of unwanted premarital pregnancies also. If it will give both the partners equal rights and space in a relationship then it will increase the chances of suspiciousness. Non-marital relationship results in negatively affecting the mental status and physical health of live-in partners and other family members also especially when a couple starts cohabiting together without caring about the family and society.109

A few decades ago, middle-class Indian families were almost unaware of concept of non-marital relationships. Even if any couple indulged in it, it was without public knowledge. If in such incidents the involved people were unveiled to public, they were subjected to a lot of taunting and censure. Men or women with suspicious character and reputation had far and fewer chances of finding a suitable marriage partner. Their families also agonized because of such behavior.110 However, with the increasing significance of urbanization and cultural influences from the West has changed the situation in the last decades. Now the young people have many channels to communicate; through mobile phones, text messages, emails and social networks without being noticed by their parents. As a result, premarital relations in Hindu society is now said to be an increasing practice, and more prevalent among the urban youth who are also indifferent to religious teachings but in the rural areas parents still have some authority over their children.111 Thus, Indian society is presently vertically segregated into two major segments. On one side there are the progressives who want to throw the old order out of the window and live in a free society which they see in Hollywood movies or read in the Western fiction, and on the other side there are the traditionalists who advocates that they must return to those traditional eternal values that distinguish India from the rest of the world.112

Sexual abstinence before marriage is required in Indian society by norms and considered a part of chastity. As we have already discussed in Chapter II that in most ethnic and religious contexts, sex within marriage is not considered to be contrary to

111 Ibid.
112 Ibid.
notions of chastity, however, sexual activities outside marriage are grave sin. Such laws are mostly tied to religion and the legal and political traditions. Most of the religions encourage young people not to indulge in intimate relationship before marriage because it promotes promiscuity and may also lead to emotional scarring, may result in unwanted pregnancies, and most important, tarnishes the sanctity of marriage. The negative effects of premarital sex do not impact only couples. Even the safest sex can result in unwanted pregnancy as birth control works only most of the time and not all the times. Such pregnancies may then lead to the tragic decision to end the unborn child’s life through abortion; something a woman carries this suffering for the rest of her life.

Thus, in our society where physical relations are also considered under religious contexts, live-in relations would definitely portray negative impression. Moreover, divorces, multiple marriages, pre-marital relationships, unwed mothers are now becoming common in India. These developments cause enormous damage to the fiber and fabric of the society.

3.3.7 Impact on Legislations

No wonder the live-in relationships hamper the ethical and traditional norms and values of the Indian society, but Indian law has not considered it illegal. To live in a non-marital relationship is a very personal selection of a male and female, and in India no legislation invalidates this personal affair. As per Article 21 of Indian constitution we all have got right to live and living together is a form of living, then there are no pointing fingers from legal perspective in this regard. The increase in the number of couples living in relation and the issues related thereto has also been taken into notice by Law Commissions, governments and Legislatures. This has resulted in recommendations of Law Commissions and initiative by legislatures to take notice of live-in couples while drafting statutes. The Maharashtra Government in October 2008 approved a proposal suggesting that a woman involved in a live-in

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114 Ibid.
115 Supra note 3 at 60
relationship for a ‘reasonable period’, should get the status of a wife. Whether a period is a ‘reasonable period’ or not is determined by the facts and circumstances of each case. However the proposal was not carried forward in the direction of enactment through legal provision.116

The Commission to the Ministry of Women and Child Development recommended that, the definition of ‘wife’ as described in Section 125 of Code of Criminal Procedure must include women involved in a live-in relationship.117 The aim of the recommendation was to harmonise the provisions of law dealing with protection of women from domestic violence and also to put a live-in couple’s relationship at par with that of a legally married couple. There was a Committee set up by the Supreme Court for this purpose, called the Justice Malimath Committee, which observed that if a man and a woman are living together as husband and wife for a reasonable long period, the man shall be deemed to have married the woman. The Malimath Committee had also suggested that the word ‘wife’ under Code of Criminal Procedure be amended to include a ‘woman living with the man like his wife’ so that even a woman having a live-in relationship with a married man would also be entitled to alimony.118

Under the Hindu Marriage Act, 1955, there is no provision for a second wife among Hindus. Hence, enabling the mistress to get the status of a legally married wife in all matters, including share in property, inheritance, and maintenance is contrary to the Act as well as Hindu customs. When the Maharastra Government approved a proposal suggesting that a woman involved in a live-in relationship for a ‘reasonable period’, should get the status of a wife, the Government on one hand is in favour of banning dance bars because they are spoiling the social atmosphere, while on the other it is promoting illicit relationships through such proposals.119

116 Id. at 179-180
119 Supra note 61 at 6
In India live-in relationship is considered against the public policy and portrayed as a threat to the institution of marriage. The Law Commission’s 132nd Report and Report of Malimath Committee on reforms of Criminal Justice System recommends to recognize a woman as wife in case of living in relationship for reasonably long time. This promotes bigamy, as the person who is getting into live in relationship might be already married. The position of the wife is disadvantageous in such situation as court on the one hand is giving all the rights of wife to live-in female partner, while on the other hand it prohibits bigamy. Law is ambiguous and disadvantageous for the weaker sex and not being beneficial to anyone neither wife nor live-in partner of married man. Thus giving judicial recognition to live-in partners and legitimacy to their children has given rise to requirement of several amendments in relevant statutes concerning women and child.

3.4 SUM UP

If a social phenomenon in the perception of an individual grows more and more common it means that former negative norms against that phenomenon will be less effective. As seems to be the case with non-marital relationships, the norms have changed, the stigma associated with non-marital cohabitation and pre-marital relationships existing fifteen or twenty years ago have changed. Everyone has the moral liability to appreciate and follow life-enriching norms to facilitate the future generations to be proud of their birth, culture, tradition and national identity. Why should children be made to bear the effects of the skewed behaviour of their parents? Responsible parents will leave a valuable legacy and not vicarious liabilities to the progeny. Even when parents normatively raise their children, many precautionary measures are required to insulate them from the ill-effects of the unsanctioned societal deviations and the vicious projections of modernity. India cannot afford to throw its proven and time-tested merits of its custom to the winds.

In India among middle economic class of the people, as this class is scrutinized more in the society, one find that live-in relationships is less prevalent. In

121 Supra note 61 at 6
contrast to middle class, both the high income group and the lower income group are in position to freely accept newer kinds of relationships. A girl from family with low income that is in need of shelter without much hesitation can consider living-in a relationship with a man of slightly higher financial status without marrying him. In changing situations even parents have slowly started giving consent to living arrangements for the sake of happiness of their children. The busy lives do not allow us to look into background of couple if they decide to live in a new place or city. The cities in India are examples of faith in marriages on one hand and attraction towards non-marital living arrangements on the other. A live-in relationships that is not in the nature of marriage and where the couples do not act as spouses are completely outside the purview of legislations today. Indeed, if a legal framework were established to regulate all live in relationships it would defeat the purpose of both, live-in relationships and marriage. If the same rights and obligations are accorded to live-in relationships and marriages, it will promote people to just live together unmarried and not getting married; and if that will happen, the sanctity of marriage and requisite of getting married to form family would begin to diminish and that would tear the cultural fabric of our society.

Every country has its own understanding of term cohabitation and its acceptance. The concept which is considered of western origin is now accepted under different levels in most of the civilized countries. Researcher discussed the present concept of non-marital cohabitation in different countries and its acceptance level in these countries and after that discussed in detail the non-marital cohabitation in India i.e. Indian concept of live in relationship and from that researcher concludes that concept is global, however its acceptance, regulation differs from country to country. Due to much regulation of interpersonal relations in India through various laws sometimes non-marital relations creates challenges in protection of woman and child voluntarily or unwontedly involved in these relations. The Indian understanding of non-marital relationships has various aspects; it ranges from pre-marital non-marital relationships to adulterous relationships, it is evident from the cases, discussed in this
Chapter III, where court has discussed about relationships in nature of marriage and relationships not in nature of marriage.

Further, it is clear from the discussion of impacts of non-marital relationships that it impacts the individuals, family and society severely. These institutions are interlinked and interdependent; the failure of anyone will paralyze our entire social fabric, however, the present scenario in India is not that alarming.