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## The Emerging Marital Trends in Indian Scenario

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### Abstract

'Live in relation' is whereby two people decide to live together. The Hindu Marriage Act 1955 does not recognize 'live-in-relationship'. Nor does the Criminal Procedure Code 1973. The Protection of Women from Domestic Violence Act 2005 (PWDVA)<sup>1</sup> says that an aggrieved live-in partner may be granted alimony under the Act.<sup>2</sup> The increasing incidence of divorce in modern India, has become a cause for concern and accordingly, social scientists are engaged to find out the causes and consequences of divorce, the young India is finding live-in relationship as a substitute. The live-in relationship is nothing but a trial and error process.

**Key Words:** Marriages, sacramental union, divorce, live in relations

### Introduction

There is a popular adage that, "Marriages are made in heaven". This means that in ancient time it was considered that marriages are decided by God and some sort of divinity was associated with them. This old dictum however does not hold well in the present context in the modernized social scenario. The general outlook of the youth towards marriage is changing. But whether this changing trend will be welcomed by the society, considering the stage of social development is still a big question mark.<sup>3</sup>

Unfortunately due to pressures of modern living, a visible slackening of moral standard and an inability to cope up with the responsibilities attendant upon a permanent relationship inherent in the institution of marriage especially among the Hindus in India, youth is drifting away from the age old institution of marriage and prefer live-in relationship, which they can continue till such time as they find it meaningful but can end it at their own sweet will as soon as they perceive pain from their companion. It is simply a mockery of the long established custom and social institution of marriage. Thus live in relationship is as an 'act of escapism' wherein one can easily abandon his partner when he finds that the

relationship has turned sour. But this attitude never forms a part of Indian culture which only eulogizes moral values like love, compassion, understanding, trust, patience and tolerance.<sup>4</sup>

Live in relation i.e. Cohabitation is an arrangement whereby two people decide to live together on a long term or permanent basis in an emotionally and/or sexually intimate relationship. The term is most frequently applied to couples who are not married. This (the 'live-in-relationship') is a living arrangement in which an unmarried couple lives together in a long-term relationship that resembles a marriage. The Hindu Marriage Act 1955 does not recognize 'live-in-relationship'. Nor does the Criminal Procedure Code 1973. The Protection of Women from Domestic Violence Act 2005 (PWDVA)<sup>5</sup> on the other hand for the purpose of providing protection and maintenance to women says that an aggrieved live-in partner may be granted alimony under the Act.<sup>6</sup>

"Merely spending weekends together or a one-night stand would not make it a domestic relationship," said a bench of Justices Markandey Katju and TS Thakur, cautioning that in future, claims for financial

relief arising out of live-in link-ups would increase in India. The Supreme Court of India has noted that just any 'live-in relationship' does not entitle a woman to alimony. To make a 'live-in' legal the Supreme Court says 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 a man has a 'mistress' whom he maintains financially and uses mainly for sexual purpose and/or as a servant it would not, in our opinion, be a relationship "in the nature of marriage."<sup>7</sup> Conscious that the judgment would exclude many women in live-in relationships from the benefit of the PWDVA, the apex court further said it is not for this court to legislate or amend the law. Parliament has used the expression 'relationship in the nature of marriage' and not 'live-in relationship'.<sup>8</sup>

This changing trend in the society has affected the 'institution of marriage', which coincides with the history of civilization of man. The institution is till date considered to be sacramental indissoluble union of parties to the marriage. However, with the globalization and industrial revolution incompatibility between the partners of the marriage, as mentioned above, has become inevitable. The best part of the youth of somebody's life, being very limited, the indissoluble nature is not in consonance with the modern time, where Courts are very hesitant in dissolving marriages, even if it amounts to irretrievable break down of the marriage. By the time if any of the parties gets the relief, it is too late in life. These things also affect the children born out of such a wed lock, which has led to the deteriorating moral values of the society due

to psychological and sociological reasons arising out of such circumstances. Hence, in western countries live-in-relationship is being looked upon favourably in place of the concept of marriage. The reason is that it is easy to get in the institution of marriage, but very difficult to get out of it, in contradiction to the live-in relationship.

### **Sacramental character of marriage has been considerably diluted**

Importance of the institution of marriage under the Indian laws is unparalleled and can be judged by the fact that any attempted deviations / alternations are looked down upon as unethical, immoral and by and large totally unacceptable. However of late, the sacramental character of marriage has been considerably diluted and with judicial permissibility of its dissolution during the lifetimes of the parties, marriage has lost its traditional divinity. In addition, the era of globalization, with inherent human instinct of experimentation and the visible frustration of people trapped in unhappy marriages, emanating from a failure to convince the judiciary to bring an end to their misery attenuated matrimonial bond, has opened up new avenues of relationships resembling marriage, but do not have the marital building force. A relationship that gives sexual pleasure and companionship, but ensures a freedom to bring it to an end with complete privacy, and at will of either party, is increasingly attractive to the young, economically active and independent people in the age group of 25-35, predominantly living away from their families in big metros/cities. A uniqueness of these relationships is its totally private character yet the complete absence of community or statutory involvement has its share of drawbacks. Since it is like matrimony but not a marriage, there is total negation of matrimonial rights / obligations including security, stability and respectability.

**The effect of socioeconomic and demographic factors on divorce:**

Divorce Rate	High		Medium		Low		Total	
	Nos.	%	Nos.	%	Nos.	%	Nos.	%
High	35	47	20	31	11	18	66	33
Average	30	40	35	54	24	40	89	45
Low	10	13	10	15	25	42	45	22
Total	75(38)	100	65(33)	100	60(30)	100	200(100)	100

High: 0-5 years; Average: 6-10 years; Low: 10-15 years<sup>9</sup>

The observation of the above mentioned data reveals that there is a relation between the income status of the spouses and Divorce Rate (in short DR). Data with regard to the respondents of high income status show that 47% of them had high DR, that is, they sought divorce within five year of marriage and the high income might have been a cause for divorce. But 40% with an

average DR, sought divorce six years after marriage. This perhaps gives a clue to the intervention of non income factors. It could be stated that the high income status of spouses does appear to influence their divorce proneness. But income status of the spouses is not the only factor associated with divorce.

Similarly, yet another statistical study of employment factor reveals the following mentioned results:-

Divorce Rate	High		Medium		Low		Total	
	Nos.	%	Nos.	%	Nos.	%	Nos.	%
High	40	47	20	31	6	12	66	33
Average	40	47	35	54	14	28	89	45
Low	5	6	10	15	30	60	45	22
Total	80(43)	100	65(33)	100	50(25)	100	200(100)	100

The above mentioned data reflects that of the respondents with high employment status, 47% have high DR, which means these respondents sought divorce within five years of marriage. It also means a greater proportion of respondents could not maintain an optimum level of confidence with their spouses.<sup>10</sup>

Though, the increasing incidence of divorce in modern India, as mentioned above, has become a cause for concern and, accordingly, social scientists are engaged to

find out the causes and consequences of divorce, the young India is finding live-in relationship as a substitute. The live-in relationship is nothing but a trial and error process. For example, one goes to the shop, try different clothes, select the one which suits him and reject the rest. In this illustration it is pertinent to note that the clothes would not get hurt after rejection as it is material thing, but a human being will, as he / she is an embodiment of emotions. As one philosopher says, 'human beings are

the greatest victims of emotions', so one should comprehend the gravity of the pain separation and the mental trauma suffered by the couple of a live-in relationship after they break up. On the other hand even the institution of marriage is no more sacrosanct and the incompatibility between the couples is increasing day by day, which is apparent from the divorce rate. It is easy to get into the marriage but very difficult to get out of it due to the stringent laws in this regard, in contradiction to the live-in relationship, where it is not so. Further the concept is purely an imitation of the West. India has not reached the stage of recognizing casual relationships such a live-in relationship on par with the institution of marriage.

Therefore, how far it is necessary to give the stamp of legality to the live-in relationship. In other words, how far the drawbacks of the institution of marriage can be overcome by such a casual relationship.

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#### Conclusion

The institution of marriage is a reverence in India, then why the live-in-relationships are increasing sharply, which obliges the legislature and judiciary to come forward and fill in the void in this particular field of legal arena. The demerits of the institution of marriage, which have cropped up, due to socio-economic and demographic factors in today's society, are being overcome by the concept of live-in relationship and as to, it's not to be accepted at all, keeping in view the sacramental values of the institution of marriage. This article would further say that it is necessary to legislate a piece of legislation in this regard, which would on one hand protect the rights of the vulnerable party in live-in relationship and on the other hand would also maintain the respect for the institution of marriage.

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