

**Marriage vis-a-vis Live-in Relationship: A Socio-Legal Study with
Special Reference to the State of Uttarakhand**

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DECLARATION

I declare that the thesis entitled "Marriage vis-a-vis Live-in Relationship: A Socio-Legal Study with Special Reference to the State of Uttarakhand" has been prepared by me under the guidance of Dr. Gagandeep Kaur, Associate Professor, School of Law, UPES, Dehradun. No part of this thesis has formed the basis for the award of any degree or fellowship previously.



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CERTIFICATE

I certify that Mrs. Saloni Narula Khanna has prepared her thesis entitled "**Marriage vis-a-vis Live-in Relationship: A Socio-Legal Study with Special Reference to the State of Uttarakhand**", for the award of Ph.D. degree of the UPES, under my guidance. She has carried out the work at the School of Law, UPES.

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ABSTRACT

History is a memoir of significant events. Progress is an inherent attribute of societies. Societies down the memory lane have maintained the pace with growth. Law is a tool to maintain discipline in societies. Marriage as an institution has witnessed major setbacks through the emergence of new patterns of family formation. Live-in relationships are one among those new patterns of family formation. Live-in relationships as a phenomenon are booming. Global influence, ease of access, impact of media, notions of individualism coupled with privacy, selection of mates on terms like compatibility, understanding, & career-orientedness are broad factors that induce individuals toward the acceptance of the live-in relationship. Nonetheless, the law has granted legal recognition to live-in relationships. The live-in relationship is a union b/w cohabiting partners in a relationship resembling marriage.

Live-in relationship is an ancient concept. The Vedas provide about eight kinds of marriages of which Gandharva marriage resembles the live-in relationship. In medieval India practice of concubinage existed. Concubinage resembled the common-law marriage. In present modern India, the system of Maitray Karar existed in the state of Gujarat. This practice was declared illegal by the Hon'ble HC of Gujarat. Apart from these, few tribes exist in India that follows various phenomena similar to the live-in relationship.

Except the state of Uttarakhand India does not have any definitive law on the live-in relationship. In the absence of desired law the phenomenon of live-in is governed through section 2(f) of Protection of Women from Domestic Violence Act, 2005, section 144 of Bhartiya Nagrik Surksha (Second) sanhita, 2023 [previously Section 125 of The Code of Criminal Procedure, 1973] & section 119 of Bhartiya Sakshya Adhiniym, 2023 [previously section 114 of The Indian Evidence Act, 1872].

The Judiciary of India has done a marvelous job in providing shape to the phenomenon of the live-in relationship. The various landmark judgments have provided definitiveness to live-in. In (*Velusamy v. D. Patchaiammal*, 2010) the hon'ble court has equated 'Relationship in the nature of marriage' in terms of

live-in with common-law marriage. The court has further devised concept of alimony to ensure the maintenance to women & children in the live-in relationship. In (*S. Khushboo v. Kanniammal & anr*, 2010), constitutional protection has been bestowed to live-in relationships by SC. Further, in (*Revanasiddappa & anr. v. Mallikarjun & Ors*, 2011) the hon'ble court has laid in clear terms that children born to live-in couples are legitimate, innocent & all the privileges enjoyed by progeny born out of marriage are open & enjoyable by live-in children. Also, in (*Indra Sarma v. V.K.V. Sarma*, 2014) the apex court has laid down exhaustive guidelines based on which parliament may proceed to enact a new law on the live-in relationship.

Constitutional morality overrides societal morality. Law & religion are two sides of the same coin. According to J.S. Mill society, which remains grounded to its traditions & does not change its beliefs is like a dormant society. Although Hinduism, Islam & Christianity regard the live-in relationship as immoral. Nevertheless, with the progress of humanity, the traditional norms are becoming flexible to larger extent. Hindu marriage is losing its sacramental nature, & it has now become contractual. Marriage once regarded as indissoluble is subject now to divorce that too by mutual consent. Nikah amongst Muslims is a social contract wherein if any of the spouse changes his/her religion, their marriage contract ends. Muslim society also permits divorce in cases where nikah has failed. The Indian Divorce Act, 1869 regulates divorce proceedings amongst Christians. Further, the Holy Bible is silent on living together before marriage.

The U.S. partially recognize live-in in the form of 'common-law marriage'. Greece has acknowledged live-in relationships in the form of cohabitation agreements. Bangladeshi society rests upon the traditional hierarchical system wherein only the institution of marriage is regarded as pious. The live-in relationship is prohibited in Bangladesh. U.A.E. further depicts a landmark picture of the progressive outlook in terms of live-in relationships. To keep pace with the growing economy U.A.E. compromised its traditional norms & it has given legal recognition to live-in relationships.

Uttarakhand has now become the first state to implement the Uniform Civil Code in an independent India. The researcher has chosen Uttarakhand as an intended audience because the works on the live-in relationship in the state is meagre. Socio-Legal study has been conducted through the Questionnaire Method of Social Sciences cum Legal Research in the districts of Dehradun, Haridwar, & Pithoragarh & Dhanaulti. Empirical analysis consists of socio-legal study consequently; two questionnaires have been circulated amongst the target population. In this empirical study, sampling is done in two stages i.e., Random Sampling has been followed to choose respondents & further Purposive Sampling has been followed to collect responses. The researcher has received a positive outcome through socio-legal study. The maximum of respondents have favored a separate law on the live-in relationship. This depicts the progressive outlook of respondents.

The Uttarakhand has stepped forward in terms of promulgating a fresh law on live-in relationships. This piece of legislation was an immediate requirement to cater rise in live-in couples, crimes relating to women & children born to live-in, migrators misusing the concept of the live-in relationship in the State & to protect its rich heritage. Striking features of the code like registration of live-in relationships, grant of registration certificates, the summary inquiry u/s 381, U-UCC promotes gender parity & feeling of integration. The Uniform civil code of Uttarakhand has many flaws as the legislature has given the legislation cover of ‘another type of marriage’. The code has granted regressive powers to the registrar in the context of conducting inquiries, submission of statements, demanding additional information, etc. u/s 381 & 378 from live-in couples. These uncontrolled powers have posed a chilling effect on the privacy & Right to life of live-in couples.

In significant developments Nainital HC in (*Madhu Bala v. State of Uttarakhand & Others*, 2020) had iterated that Article 21 of the Indian Constitution bestows its citizens an inherent right to choose a life partner for himself/herself & to decide the pattern of life. In the case-law of (*Sachin Singh v. State of Uttarakhand*, 2022) the DB of Nainital HC could not provide any type of relief to the petitioner as his

wife asserted that she wanted to reside with her live-in friend out of her sweet-will.

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LIST OF ABBREVIATIONS

&	And
ALL	Allahabad
anr	another
Bom	Bombay
CrPC	The Code of Criminal Procedure
DB	Division Bench
etc.	Et cetera
Fig.	Figure
HC	High Court
HON'BLE	Honourable
i.e.	that is
IPC	Indian Penal Code
IPV	Intimate Partner Violence
J	Judge
LIR	Live-inRelationship
LC	Law Commission
LGBTQ	Lesbian, gay, bisexual, transgender & queer
PC	Privy Council
r/w	read with
SC	Supreme Court
ST	Scheduled Tribes
U.A.E.	United Arab Emirates
U.S.	United States
U.S.A.	United States of America
u/a	under article
u/d	under
u/s	under section
UCC	Uniform Civil Code
U-UCC	Uttarakhand Uniform Civil Code
v.	Versus

CHAPTER-1

INTRODUCTION

Since ancient times marriage has been the prominent & dominant of all institutions in human society. Marriage has always existed in various forms in every culture, validating physical union of man & woman and thereby attributing to foundation of the basic unit of society i.e. family. The institution of marriage is not man-woman relationship only; it goes much deeper than that. It is an important Sanskara as it imbibes whole spirit of humans starting from the birth, surviving through the ups-downs of married life & connects the fate of future generations even after death of married couple. Marriage is a pious union. Hindu marriage, therefore, is a social institution that is very different from an individual private affair of the west (Studocu, n.d.).

Families in India are not for sanctioning man-woman relationship; it is also for procreation, sound upbringing, psychophysical sustenance, & security-economic & social for children, continuity through the generations thereby strengthening foundations of society as a whole. The rise of civilization and dual slogans of rights & liberty of an individual has created a doubt on marriage-as a social institution. It acts as an obstacle to individual progress & personal dignity (*Indian Society and Ways of Living*, n.d.).

Social & economic pressures arising due to growing ambitions from high-tech life styles and westernization of society is giving new meaning to individualism & liberty of the youth wanting to set up a family. A very small component of resentment, frustration and betrayal nowadays plays an important role in marital breakdown (*Live-in Relationship: Legal Perspective and Problems*, n.d.).

Marriages in India are not between two people only; rather it is an institution, which connects two families together. Here, arranged marriages and dowry are customary. The society & Indian legislation guards institution of marriage. The Indian society is Patriarchal. Married women are very often discriminated against married men. Married women fall prey to social values that take their ugly forms in the garb of domestic violence, dowry harassment, dowry death, separation & divorce. Customary norms are strong, and they overrule the law in day-to-day life situations. The institution of marriage is deeply rooted in social & religious domain of the Indian society (*Marriage as a Social Institution – Changing Nature and Emerging Trends – Sociology of India*, n.d.).

Presently in India, institution of marriage is regulated either by the personal laws of parties marrying or by the civil law like The Special Marriage Act, 1954. Marriage between Hindus & Christians is a sacrament, whereas marriages under Muslim, Jewish & Parsi laws are contracts. Marriage solemnized and registered u/d the provisions of the Special Marriage Act, 1954 are a civil contract. The Section 7 of the Hindu Marriage Act, 1955 requires performance of various ceremonies to contest valid legal marriage (*Live-in Relationship: Legal Perspective and Problems*, n.d.).

According to the ancient texts, women of archaic India were in a good position in relation to their voice, freedom, status of living, education, career, marriage, family & religion. Here, they had equal opportunity for surviving with self-respect. The scientific & technological development in last two centuries has changed the definition of life. The growth of modern education amongst women, political consciousness, reform movements, social legislations & modern occupational roles has marked a new era. Therefore, the institution of marriage is not an institution to carry out socio-religious obligations only; it is now shifting more to the individual needs. In other words, the age-old idea of marriage is substituted with new beliefs wherein, marriage does not remain a social or a family concern (Ravikumar, 2018).

However, in the last few decades' new form of live-in has appeared where couples live together without formal marriage. Live-in relationship or non-marital cohabitation or simply cohabitation is an adaptation where two individuals live-together in a long-term, permanent basis relationship, which is emotionally, and sexually intimate. The definition of live-in relationship provides that, "it is an association of living wherein the unmarried couple lives-together for maintaining a long-term relationship like marriage." In other words, the live-in relationship is an alliance though informal amongst the couples. Only some countries allow registration of such alliances (Indulia, 2021).

The live-in relationship or cohabitation is an arrangement where couples are associated to one another romantically as well as sexually for a permanent association or long-term relationship or live together without getting married. The live-in relationship is not a mode to evade one's responsibilities rather these relationships provide an opportunity to get familiar to one's partner in a better way and allow the couples to measure the level of their compatibility to prevent divorce. Right to freedom & privacy, notions of professionalism, globalization & education has converted the dream of live-in into a reality. Taboos attached to live-in are fading gradually thereby, making it easier for the society to embrace these relationships easily (Legal, 2023).

There is no specific law regulating the concept of live-in relationship in India. There is no legislation to provide rights & duties to the parties entering the live-in relationship; the status of children born to such couples is also not clear. Legally, there is no definition of live-in relationship, therefore; status of such connections is prone to verification. The Indian law specifically does not provide rights and obligations to couples entering live-in relationships. On the contrary, courts have clarified the status of live-in relationship through its series of judgments. Though law is still unclear about the status of such relationships, yet the grant of few rights depends upon the interpretation & amendment of existing legislations so that partners can prevent misuse of such relationships (Varsha, 2023). Uttarakhand has become the first state to pass UCC to regulate live-in relationships. The hon'ble Chief Minister Shri

Pushkar Singh Dhami of Uttarakhand has expressed his view that law on live-in relationship was the urgent necessity to preserve the spiritual, holy character of Devbhoomi & to secure the present & future women in live-in relationship & progeny born to live-in couples (Singh, 2022).

Through the enactment of Uttarakhand Uniform Civil Code [hereinafter used as U-UCC], the state has moved towards securing idealistic goals of Constitution. The aim of U-UCC is to create a society thriving on the values of Preamble to the Indian Constitution viz, integrity & unity of India, justice, fraternity, equality as well as liberty (Money Control News, 2024). The expert committee constituted to pronounce on the desirability of U-UCC in its official report has commented that “increase in the episodes of crime out of live-in relationships & lack of legalization & law on live-in due to which perpetrators remain unnoticed without any punishment led towards the necessity of legalization & maintenance of record of couples in live-in relationship” (vol 1, 2024).

The phenomenon of a live-in relationship has entered Indian society from western countries. In the initial phases this phenomenon made its place in metropolitan cities wherein couples were impressed by the idea that solemnisation of marriage is not the pre-requisite for an individual's fulfillment. Gradually the concept of live-in has entered towns & villages. Education has played a major role in transmission of this idea (Centre, 2024).

In India, live-in relationships are legal. However, Western nations allow a broad acceptance of live-in relationships. Many countries allow civil & union agreements, prenuptial agreements to grant legal validity to live-in. Though India has de-criminalized live-in relationships, still conservative brains prevent the broader acceptance of these unions. Various debates surround live-in regarding morality. Moral ethical values connect Indians very deeply. Nevertheless, Judiciary has eased out these debates by explaining the line of demarcation between morality & illegality. Morality & illegality of a concept are two different phenomena in themselves (Centre, 2024).

Live-in relationships are gaining momentum in India. Major lacuna in India's context of live-in is that our country does not have a specific and independent law catering to the requirements of these relationships. Various provisions of Protection of Women from Domestic Violence Act, 2005, The Bharatiya Sakshya Adhiniyam; The Bharatiya Nagrik Suraksha (Second) Sanhita, 2023; The Hindu Adoptions and Maintenance Act, 1956 etc. are interpreted according to the facts and circumstances & thereby justice is done. Even there is no proper legal definition of live-in relationship until present date (Bharath, 2018). Nevertheless, State of Uttarakhand has enacted The Uniform Civil Code, Uttarakhand, 2024 remaining other Indian states do not have UCC in terms of live-in relationship.

On the other hand, judiciary has been pivotal in granting some status to live-in. Hon'ble SC & HC have largely pronounced to safeguard the rights of children born to live-in couples & female partners in particular. It is no exaggeration in quoting that judiciary has thrown light on the concept evolving in dark (Mahawar, 2021).

There had been series of debates on the desirability of a specific legislation on live-in relationship in the State of Uttarakhand. To describe progressive attitude of State with respect to live-in, an expert committee was constituted to comment upon the question "requirement of a separate law on live-in relationships" (Talwar & Ani, 2023). The committee gave positive outcome to the above question & consequently, The Uniform Civil Code, Uttarakhand, 2024 had been enacted on March 11, 2024 (Mishra, 2024). The committee had organized 72 meet-ups to enable interaction with the population of around 10,000 persons. The committee further organized 43 open public discourses & various consultation events to arrive at a draft of 800 pages in the duration of 19 months. The panel had given due regard to the 2.33 lakh public suggestions while drafting U-UCC (Raj, 2024).

1.1 LITERATURE REVIEW-

Books-

- i. Hewitt B. & Churchill B., in their book titled “Convergence and difference: Marriage and family life from a cross-cultural perspective” (Chapter-3), 2020 have brought to notice that new family systems are emerging which have contributed to diversification of family life globally. Marriage is an evolving institution; these changes do not necessarily suggest a convergence of marriage practices.
- ii. Srivastava M., in her work titled “Social aspects of Marriage and similar affiliations”; 2018 has thrown light on the theories of marriage, types of marriage and classification of marriage based on duration. The live-in relationship is not a novelty to society. It has come to stay, but at the same time, institution of marriage is able to hold its own credibility.
- iii. Patil Y.D., in his work titled “Social-Legal Perspective of Live-in relationship in India”; 2014 has brought to notice the entire concept i.e., definition, social-legal approach, judicial response, rights of women entering into live-in also the rights of children born out of live-in relationships in India. According to the researcher, live-in relationships are de-facto marriages.
- iv. Menski W., in his book titled “Hindu Law: Beyond Tradition and Modernity”, 2003 has put forth religious in-depth content analysis of Hindu marriage. The knowledge of complex fields of traditional Hindu marriage law has remained patchy & rather inadequate. It is evident that this has worked to the potential detriment of women & children in a male-dominated legal environment, as stereotypes dominate.

Articles-

- v. Talwar G., in his article titled “Uttarakhand UCC draft ready, focus on raising marriage age for women, ensuring gender equality”, 2023 has brought to the limelight an important development in the field of Personal Laws. According to Justice Ranjana Desai (Head of the UCC

drafting committee), the focus of panel has been on women & children rights. The above-mentioned draft will ensure equality to women. According to panel, live-in relationships should be registered. These relationships in the present day scenario are crucial to development therefore; couples should possess legal rights.

- vi. Ramachandran SK., in his article titled “UCC draft focuses on rights of women: Uttarakhand panel chief”, 2023 has through his work informed that Uttarakhand UCC draft will serve as the template which Union Government will follow in drafting UCC for pan-India. On this, our Honourable PM Shri Narendra Modi has commented that UCC is an integral part of India’s Constitution therefore; a country cannot depend on two laws.
- vii. Dutta JP., in her article titled “Uttarakhand High Court Allows Married Lady To Stay With ‘Friend’, Declines Habeas Corpus Plea Moved By Husband”, 2023 has brought to notice an important judicial development of June 14, 2023. In case no-HABC NO. 18 of 2022, Division Bench headed by Justice M.K. Tiwari & Justice Pankaj Purohit could not provide any type of relief to the petitioner in the above-mentioned case as his wife asserted that she wants to reside with her live-in friend out of her sweet-will. She further asserted that she is not willing to go back to her husband because of episodes of misbehavior on her husband’s part.
- viii. Debroy N., in her article titled “Judicial Approach of Indian Courts on Intimate Partner Violence”, 2023 has thrown light upon the incidences of Intimate Partner Violence against women. According to her IPV is the big problem in India. As per her study, India is the hotspot of the IPV cases. On the one hand, Constitution, civil & criminal laws assure human rights & dignity to women whereas; on the other hand, women are victims to IPV cases every day.
- ix. Amber A. & Pathak M., in their article “Cohabitation Preponderant to Marriage or Imprecise: A Stance to Child (India)”, 2023 have talked about property rights of women in live-in and the children born to them. Women entering live-in are not entitled to inherit coparcenary

share in the undivided Hindu family property. Their children are eligible to inherit the only properties maintained by the couple.

- x. Prakash S., in the article “From Dating to Domesticity: Examining the challenges, Autonomy and Social Stigma of Live-in Relationship”, 2023 has through the case-law of Indra Sarma v. V.K.V. Sarma highlighted the need to safeguard the women & children rights from exploitation as well as abuse through a legislation.
- xi. Hansaria V., in her article titled “Live-in Relationships and Women”, 2023 has brought to the limelight instances of abuse as well as deaths of women collaborate in live-in. This further encourages the author to plead for legislation on live-in relationship.
- xii. Rajput S.A., in the article titled “Navigating the Legal Waters of Cohabitation: A Socio-Legal Review of Live-in Relationships”, 2023 has explored the factors both cultural & societal leading to the development of live-in relationships. The author has also differentiated the institution of marriage & the phenomenon of live-in relationship.
- xiii. Sinha A., in his article titled “The Dark Side of Live-in Relationships”, 2023 has talked about contrast between modernization & traditionalism. As every coin has two sides, similarly the phenomenon of live-in has certain shortcomings, which is prejudicial to the interests of live-in couples and children.
- xiv. Nayak S., in her article titled “From Taboo to Rights: Availability of Maintenance to Women in Live-in Relationships in India”, 2023 has discussed that grant of maintenance to live-in women is a tricky issue. There has been long debates arguing that women in live-in should not be equated with “wife” and her legal status. Author has argued these female partners must be eligible to enough maintenance rights.
- xv. Gupta N., in her article titled “The DINK lifestyle has more advocates than ever. Why are modern couples choosing to be child-free?” has brought to the notice that DINK lifestyle is not a new way of family formation but the numbers of such couples are increasing. Privacy is not the only reason for couples choosing DINK but sustainability and societal pressures further account towards its adoption.

- xvi. Mutneja J. & Gaur R., in article titled “Social Legal Study on Unmarried Couple Rights: A Critical Study”, 2022 has shown the problem which unmarried couples face in their day-to-day life in the absence of law on live-in relationships. According to authors, rights of unmarried couples must be legalised.
- xvii. Saurav K. & Anant A., in the article “Socio-Legal Aspects of Live-in Relationships: Indian Scenario”, 2022 has further put forth the view that Judiciary has to the large extent interpreted the concept of live-in relationship to prevent abuse of couples & children. However, the need of desired legislation is felt when it comes to legal status of live-in couples and their progeny.
- xviii. Dixit H., in her article titled “Legal Rights & Status of Children Born out of Live-in Relationships”, 2022 has provided that India has no particular law on live-in. The concept even does not have any legal definition. Therefore, the legal status of such relationships is in dark.
- xix. Jain H., in his article titled “Research on Live-in Relationships and Society “, 2022 has put forth the notion that live-in is like marriage, but it is not the actual marriage. Without proper legislation live-in makes it easier for couples to live without any legal obligations. This situation proves fatal to women and children.
- xx. Chibber M., in his article titled “Rights of Women in Live-in Relationships: Thinking beyond the Statutory Realm”, 2022 has brought to the notice the fact although judiciary has granted some legality to live-in relationships still the legal provisions relating to maintenance, women & children rights are lacking.
- xxi. Rajak S., in her article titled “Socio-Legal Status of Women in Live-in Relationships in India”, 2022 has described the situation wherein absence of law makes the status of children born to live-in couples doubtful.
- xxii. Pandey G., in her article titled “The Indian Women calling themselves ‘proudly single’”, 2022 the author has expressed her personal views that India is obsessed with the institution of marriage. The SC has ruled out that women even those not married have right to abortion.

- She is of the view that in present scenario women is stable both financially & economically. She can enjoy her singlehood with herself.
- xxiii. Pandey N., & Singh P., in their article titled “Should live-in relationships be registered? Ideas Uttarakhand UCC panel is sifting through”, 2022 have brought to knowledge that committee preparing UCC draft for the hill state has opined that if live-in relationships were legalised couples would not require living behind the curtain. They could talk to neighbors freely without the fear of abuse. The law will instill confidence in live-in couples. In addition to it, registration of such relationships will make the couple accountable towards one another.
 - xxiv. Sohoni N., in her article titled “A Perspective of Live-in Relationships in India through Legal, Judicial and Societal Spectacles”, 2021 is of the view that it is the judicial activism towards live-in which has made the attitude of majority of people towards the concept positive. Judiciary has already marked the phenomenon as legal & provided it partial legal recognition. In its series of judgments, Judiciary also has requested the Parliament to draft a law on live-in relationship.
 - xxv. Singh J., in his article titled “Live-in Relationship in India: A Critical Study”, 2021 has made an interesting assertion that institution of marriage is honored only for safe-sex. This is the biggest hidden intention behind the absolute traditionalism. Live-in relationships are not honored, as elders cannot dominate the live-in couple. Even if live-in relationship were banned still there would be out of wedlock pregnancies. Above all, in present times, LGBTQ relationships have gained legality then why not live-in.
 - xxvi. Devi k., in her article titled “An Evaluative Study of Live in Relationship in India: Human Right Perspective”, 2021 has thrown light on the family as an important societal component. According to author, everyone is autonomous to start family as per his/her requirement. Therefore, live-in is also a way to start a family.
 - xxvii. Sachdeva G., in her article titled “Revisiting the Laws Relating to Live-in Relationship in India”, 2021 has put forth the plight of children

born to live-in couples. Under Indian Laws, child's right to inheritance depends upon the legitimacy tag. Author has expressed the view that whatever may be the mode of family formation all children must be treated on same plane. Children born to live-in couples must be entitled to fair inheritance rights.

- xxviii. Singh A.K., in his paper titled "Live-in relationships: Impact on Marriage Institution" makes clear the differentiation between 'mistress', 'concubine' & 'cohabitants', 2021. He further throws light on the rights of women entering non- marital cohabitation also rights of children born out of cohabitation.
- xxix. The author in the article titled "Law and Sexuality" has with the help of case-law *Madhu Bala v. State of Uttarakhand and Others* (Habeas Corpus Petition No. 8 of 2020) has brought to the notice an important judicial development which states that live-in relationship between two individuals of same-sex is permissible.
- xxx. Pareek S. & Kaur T., in their article titled "Factors strengthening marriage: A review on what binds couples together", 2019 have put forth various virtues that play an essential role in marital satisfaction. The researcher aims to highlight the factors that strengthen the relationship among married couples so that the youth can look forward to reasons for getting married, rather than seeking its alternatives.
- xxxi. Colive, in his article titled " Live- in relationship in India: Everything you need to know", 2018 throws light on the fact that live-in is not about escaping responsibilities but it is a way to understand each other and check compatibility. It is better to 'Just live-in' rather than going for Divorce.
- xxxii. Saini S., in her original article titled "Live in relation in India", 2018 has expressed the view that research on non-marital cohabitation in India has been almost non-existent and has largely been restricted to non-representative surveys and opinion based articles. Research in non-marital cohabitation should move beyond prevalence and comparisons with marital relationships. Live-in is a separate and distinct entity. For a better understanding, lot more research is required

on non-marital cohabitation in countries like India, where non-marital cohabitation despite on the rise is unacceptable. Live-in is something that has become a part of the existing family system.

- xxxiii. Bureau N.H., in article titled “80% Indian youth supports live-in relationship: Study reveals”, 2018 asserted the research, which says that 80 percent of Indians favour ‘Just live-in.’ Huge number of 1.4 lakh citizens participated in a poll conducted by the news app, Inshorts in the month of May.
- xxxiv. Naik K. & Maley D.G., in their article titled “Live-in-Relationship and Institution of Marriage: Socio-Legal Dimensions”, 2017 have talked that live-in relationship is an older concept existing than the marriage, but widely used these days. Pre-civilization reflect the concept of live-in relationship where the concept of marriage was not in vogue. The concept of marriage is a product of civilization. They have further talked about the kinds of marriage and reasons for opting live-in.
- xxxv. Rani A., in her article titled “The changing role and legal status of women in India”, 2017 has highlighted the entire concept of women empowerment. Despite various policies & laws strengthening women, still women are victims to various evils prevalent in society. The author is of the view that access to education & employment are the only tool that will enable women to achieve their goals.
- xxxvi. Patil M. & Ghosal M., in their article titled, “Hypocrisy of Marriage-In the novels of Anita Desai”, 2016 have put forth three phases in the growth of feminist tradition ‘limitation, protest and self-discovery.’ In Indian society women is not a person, but considered as an accessory, a slave to the master-man. Women in Indian culture are merely objects not individuals in their right through which self-affirmation and self-relationship are aspired through man. Women rarely lead an independent life.
- xxxvii. Laha S. in her article titled, “Live-in relationship-An analysis through cases” (2016), has examined the phenomenon of live-in. In addition, the researcher has thrown light on the legal and ethical status of live-in relationship in India.

- xxxviii. Mathur S, in her article titled “Live-in relationships: A move towards marriage” (2016), has laid down that live-in relationship is a healthy step towards marriage.
- xxxix. Bhattacharya R, in his article “Live-in Relationship and its impact on Indian Traditional Society: A Critical Socio-Legal study” (2016), has provided that live-in relationship takes the shape of an individualistic approach and is a human rightist phenomenon. However, the societal fabric of India is different from western world but India is embracing the modern concepts like live-in relationships.
- xl. Rahman W. in her article titled “Live in Relationship and status of Women in India” (2015), has discussed the confusion existing in society pertaining to live-in relationship. The author has also thrown light on the instances which demand a law on live-in.
- xli. Paliwal D & Paliwal RC., in their work titled “Youth, Modernization and Social Transformation- A Study of Rural and Hill Society in Uttarakhand, India” have put forth the attitude of youth in response to modernization & the corollary. They are of the view that parent’s traditional views are replaced today with the modernised views.
- xlii. Thakur J., in his article titled “The effect of socio-economic and demographic factors on divorce in modern India”, 2009 has discussed that although the socioeconomic and demographic factors broadly affect the rates of divorce, but the causes of divorce have become interpersonal rather than the institutional causes.
- xliii. Sonawat R., in her article titled “Understanding families in India: A reflection of Societal changes”, 2001 has discussed various data sets regarding values of youth towards marriage i.e. Moral, Economic, Psychological & social. She has also discussed various contemporary issues arising in family relationships.

Research Papers-

- xliv. Kumar S., in his paper titled “Rise in Live-in Relationships in the 21st Century” (2021), has commented that there exists a reason behind

every chaos. Therefore, there are valid reasons behind people recursing to live-in.

- xliv. Tiwari M., in his paper titled “Hindu Marriage”; 2020 has highlighted theoretical & historical aspect of Hindu Marriage. Hindu Marriage under The Hindu Marriage Act, 1955 is contractual in nature, though this contract is not a pure contract, but a civil contract, where the parties have certain rights & liberties, as they are free to come into the bond of marriage and free to leave if they find this bond jeopardizing their personal life. Section 7 of the Hindu Marriage has somehow maintained the sacramental element of marriage, but the introduction of divorce has dissolved the spirit of permanence.
- xlvi. Nirdoshita B., in the paper titled “An analytical study of the perception of adolescents about marriage,” 2019 tells about the view of the youth that they are trying to embrace the companionship of a husband and wife on the foundation of empathy, trust & mutual consent.
- xlvi. Prakash A., in the paper titled “Live-in Relationship: The New Normal?” (n.d.). has put forth the situations that call for compatibility issue between the couples & the situations which provide room for live-in relationships.
- xlvi. Abhang S., in her paper titled “Judicial approach to ‘Live-in relationship’ in India-Its impact on other related statutes”, 2014 has highlighted the fact that live-in is digging in Indian society with the institution of marriage remaining unaffected. Therefore, the law in every country has to keep pace with the changing times.

Reports-

- xlix. Centre for Socio Legal Research in its research report titled, “Live-in Relationships in India” (2021), has put forth the entire concept of marriage, live-in relationship, present status & constitutional morality.

Blogs-

- 1. Athulya in the blog titled “Live-In Relationship-What Does the Indian Law Say?” 2020 has put forth the view that live-in relationships have

made their place in the Indian society. This phenomenon is present parallelly with the institution of marriage. However, there is no specific law on live-in. Though the judiciary has filled in the gaps through the pronouncements, still a law is required.

1.2 RESEARCH QUESTIONS-

- i. What is the necessity of passing a specific enactment for governing Live-in relationships?
- ii. To what extent a different Law will grant Legal recognition to the rights of live-in couples and children?

1.3 RESEARCH OBJECTIVES-

- i. To examine new Legal and societal issues cropping up due to no law on the Live-in-relationships.
- ii. To assess that non-marital cohabitation may be regarded as immoral but it is not 'illegal'.
- iii. To determine that there is no formal legislation governing this form of relationship as a result parties may "walk into" and "walk out" from this relationship informally.
- iv. Granting legitimacy to Live-in-relationship is the need of the hour so that:
 - Moral fabric of country is not eroded
 - Remedy is available to partner in case of abandonment , and
 - Offspring born out of this relationship has same rights and dignity like other children

1.4 HYPOTHESIS-

- i. Visible rising trend in live-in relationship requires a specific enactment to be drafted and enacted on the subject to avoid vagrancy and lawlessness.
- ii. Majority of folks are accepting this concept of live-in relationship despite non-acceptance by religious laws.

1.5 RESEARCH METHODOLOGY-

For the purposes of conducting research in growing areas like live-in relationships, it is difficult to choose an appropriate research design that caters to all the situations. The research is said to be authentic if it serves & provides solution to the specific issue. The researcher has tried to follow the said approach in this piece of study. Consequently, following research methodology is followed by the researcher-

- This research is an in-depth study of the institution of marriage & phenomena of live-in relationship both at theoretical & empirical parlance. For securing a comprehensive picture of the problem, “socio-legal approach” has been adopted. Therefore, this inter-disciplinary approach necessitates implementation of doctrinal as well as non-doctrinal mode of research.
- For the purposes of doctrinal research, sufficient library study has been done by the researcher through analyzing sources of data viz, primary & secondary. Commenting on the non-doctrinal constituent of research work, it is quite significant. It had given the researcher an opportunity to gather primary data from the four districts of Uttarakhand through the analysis based on Questionnaire. The present study employs the “Questionnaire Method of Social Sciences cum Legal Research” as its research model.
- In this present study, empirical analysis comprise of two questionnaires i.e. questionnaire 1 “Social study” & questionnaire 2 “Legal study”. The questionnaire 1 consists of 20 closed-ended questions; questionnaire 2 consists of 14 closed-ended and a 1 open-ended question.
- Questionnaires are circulated through the medium of google forms.
- The responses to questionnaires’ are collected in the form of Microsoft excel spreadsheets.
- The responses of participants are analyzed through Microsoft excel in the form of pivot tables.

- In this empirical study, sampling is done in two stages i.e., ‘Random Sampling’ has been followed to choose respondents & further ‘Purposive Sampling’ has been followed to collect responses.
- For the purposes of this study, four districts are selected in the State of Uttarakhand based on population wherein Dehradun is a Metropolitan district, Dhanaulti is a rural district, Pithoragarh is a Semi-Urban district & Haridwar is an Urban district.

The combination of all above-mentioned methodologies appears to be the most appropriate as well as logical manner of getting an actual insight of the problem due to the sensitivity & privacy attached to the phenomena of live-in relationship. The present research work is based primarily on the primary data collected through the mode of structured, pre-tested & non-disguised questionnaire (Annexure-10&11). The researcher has attempted through the empirical analysis to gather data from the real life experiences of respondents that had highlighted some ground realities of live-in relationship.

1.6 RESEARCH GAP-There are many questions in relation to live-in relationship, which are left without any answers. On one hand, the hon’ble courts have held that couples in live-in are entitled to the status of legally wedded couples whereas, on the other hand, in some series of judgments, courts have refused to grant such rights to live-in couples. The views of judiciary in many instances are blurring with respect to live-in relationship. The judicial verdicts on live-in lack consistency (Bharath, 2018).

The various provisions like Section 2(f) of the Protection of Women from Domestic Violence Act, 2005, section 144 of Bhartiya Nagrik Suraksha (Second) sanhita, 2023[Annexure-7] [previously Section 125 of The Code of Criminal Procedure, 1973] & section 119 of Bhartiya Sakshya Adhiniym, 2023[Annexure-8] [previously section 114 of The Indian Evidence Act] are expanded by our honourable judiciary to grant some rights and relief to women & children born to live-in couples. However, none of the above-mentioned statutes deals specifically & provides comprehensive relief to live-

in couples. There is a need to understand difference between the institution of marriage & phenomenon of live-in relationship (Varsha, 2023).

The present need of hour is to address major issues like legitimacy & custody of children; laws on the appropriation of properties, clear, specific rights & duties of live-in partners, because live-in relationship is a developing phenomenon. Crimes are also perpetuated u/d the name of live-in. Every aspect has its pros and cons; live-in also proves detriment to the interests of women majorly. There are many instances where rape is done by making false promises to marry in future. Consequently, intended abortions are on rise even child pregnancies are increasing. These social loads are casting havoc on female mental, physical & emotional well-being. In event when children are born to such women those little beings are worst treated, neglected & are prone to the nervous disorders like depression & anxiety (Indulia, 2021).

All the above issues have one solution only i.e., different, specific law on live-in relationships. The said law should provide clear picture of the future of live-in relationship. An ideal legal framework must keep pace with gradual development in the society. Law cannot operate in isolation when the numbers of couples in live-in are rising on large scale. The said law must provide a balance between evolving concept of live-in and traditions, culture of India (Narayan et al., 2021).

There is a requirement of more and further empirical studies into the phenomenon of live-in. The studies must aim to establish cause & effect relationship and solutions based on evidences. The existing studies on live-in are mainly based on non-representative surveys. The studies majorly describe concept of live-in & comparisons with institution of marriage. The requirement today is to move two-step forward and access the future of live-in and factors which necessitate adoption of a law on live-in relationship (Saini, 2018).

However, the State of Uttarakhand has made a progressive step by coding & enacting U-UCC. Nevertheless, in reality the said law is couched in much

rigidity. It is taking soul of the concept of live-in, which is personal autonomy (Pradhan, 2024).

1.7 LIMITATIONS- The questionnaires' based analysis conducted by the researcher is susceptible to following limitations-

1.7.1 Socio-Legal study-Both the questionnaires are prepared by the researcher herself. Researcher has applied her best knowledge in conducting both the studies. Researcher has tried to keep the language of questionnaires simple so that it is easy for the respondents to answer. In order to protect privacy of respondents their identities are kept hidden. The responses have been analyzed through MS Excel spreadsheets & pivot tables.

1.7.2 Traditionalism-Though according to the responses, the outlook of majority respondents is progressive in terms of live-in relationship. As every coin has another side, some respondents' outlook is very orthodox towards live-in and its concept. These people are not able to draw a line of distinction b/w ethics, religion & function of law. Because of this, outlook of these respondents is overlapped by being traditionally more religious. Most importantly, people are not capacitated to look beyond the traditional institution of marriage & adapt to a change. According to the theory of traditionalists, a marriage though broken must continue until seven births of the couple. Further, the theory regards divorce, live-in relationships as taboo.

1.7.3 Lack of Knowledge-As analyzed from the responses a small number of respondents were not conversant with the concept of live-in relationship. On the other hand, some respondents knew live-in relationship partially. In addition, some respondents were not aware of the recent developments, judgments on the concept. Rural background of these respondents is to be blamed. Last but not the least very few respondents did not knew the manner of attempting an online survey.

1.7.4 Technical Mismatch-Because of poor internet facility in certain areas, the researcher received very late replies.

1.7.5 Sensitive Issue-Because of the societal stigma & pressures associated with live-in relationships, some respondents were hesitant to reply. Some respondents read the questionnaire and did not attempt the answers. On the contrary, concept of live-in is followed on a large scale but secretly due to dual standards of society. Broken homes, non-compatible partners, forced marriages; unmatched ambitions of life etc. are some of the reasons that make people to embrace live-in.

1.7.6 Age of majority- Researcher has chosen the age-range of respondents from 18 years. (The Indian Majority Act, 1875) states that any person is deemed a major when he/she achieves 18 years of age. A major person is presumed to be fully aware of his/her activities & has the full freedom to enjoy life according to way he/she likes [Annexure-1]. The researcher has applied stratified random sampling for choosing respondents.

1.7.7 Quality response from female respondents-The researcher has received quality responses from female respondents. This fact is not surprising as women are the most vulnerable component of society. Nevertheless, present day women is educated & aware of her rights, she is ready to raise her voice against biases. Women have learnt to stand firm for her survival. The expert committee for drafting U-UCC has also welcomed the above-mentioned notion of womenfolk. The committee has further appreciated the women of Uttarakhand for freely expressing their views & raising voices against gender inequality (Report of the Expert Committee Vol. 3, 2024).

1.7.8 Unique geography & demography- Uttarakhand has its demographical & geographical limitations [Annexure-2]. The expert committee on drafting U-UCC during the course of consultation with stakeholders has reported that Uttarakhand has unique demography & geography, which must be respected (Report of the Expert Committee Vol. 1, 2024). Uttarakhand comprise of thirteen districts out of which only 3 form the part of plains i.e., Dehradun, Haridwar & Udham Singh Nagar. Rest all the remaining districts are components of hilly areas. Last census was conducted in 2011 for

Uttarakhand. According to 2011 Census reports (*Uttarakhand Population 2022 | Sex Ratio & Literacy Rate 2024*, n.d.)-

Classification of population-

Uttarakhand total population- 1.01 crores

Hilly area population- 69.77%

Urban area population- 30.23% (*Uttarakhand Population 2022 | Sex Ratio & Literacy Rate 2024*, n.d.)

Measure of growth-

Percentage of Urban growth-39.94%

Percentage of Rural growth- 11.52% (*Uttarakhand Population 2022 | Sex Ratio & Literacy Rate 2024*, n.d.)

Classification of population-Dhanaulti (*Dhanaulti Tehsil Population, Religion, Caste Tehri Garhwal District, Uttarakhand - Census India*, n.d.) & Pithoragarh (*Pithoragarh District Population Census 2011 - 2021 - 2024, Uttarakhand Literacy Sex Ratio and Density*, n.d.) both cities have rural population. Urban population is nil in these two cities. Haridwar has some urban population but it is the holy religious capital of Uttarakhand (*Haridwar District Population Census 2011 - 2021 - 2024, Uttarakhand Literacy Sex Ratio and Density*, n.d.). Consequently, researcher has received quality, fair & unbiased responses from the city of Dehradun.

Live-in relationship in Dehradun is not a new thing. Out of every six people, two are residing in live-in relationship. In addition, an online app quack-quack helps in searching suitable live-in partner within the city. Above all Dehradun is a hub to tourism, businesspersons, students, professionals etc. Most importantly due to various reasons people especially youth are migrating to Dehradun from the hills (*“Live in Relationship in Dehradun”*, n.d.).

Dehradun is the Uttarakhand's biggest city; also, it falls under the Class I category of urban agglomerations. Dehradun is characterized as the metropolitan district (Doon today, 2014). Doon in its past was an agricultural

city. However, its fate changed after Doon became the capital city of Uttarakhand. It was here the city witnessed massive urban sprawl (Gupta, 2013). Being an industrial, trade and commercial centre, the city has attracted rural population. Another big advantage that the city offers to its migrants is the quality education to their children (Agarwal et al., 2021).

Rural out-migration-As per the report of (Rural Development & Migration Commission, Uttarakhand, Pauri Garhwal, 2019) 60% of Uttarakhand's population have abandoned their native villages. These abandoned villages are termed as 'ghost villages' (Bhagirath & Bhagirath, 2020). The number of ghost villages in Uttarakhand is 1,700. According to the above-mentioned report, a village with 1,000 people is inhabited by the population of just 100 people. The number of villages from where population had migrated amount to 3,900. The major reasons cited for rural out-migration are dearth of employment, medical facilities, education, unfavorable climatic conditions etc. (Pandey, 2017) [Annexure-3].

Impact of migration-The effect of rural out-migration is that majority of population is coming down to plains as "plains" of Uttarakhand are labeled as food bowls. These plain regions namely Dehradun, Uttarakhand & Udham Singh Nagar provide maximum employment facilities in 3 major sectors because of the favorable climatic conditions & various other facilities to support quality living (TheExamPillar, 2021). The per capita Net District Domestic Production is reported higher in plains as compared to hilly areas in Uttarakhand. The total NDDP in Haridwar, Dehradun & Udham Singh Nagar amounted to 254.1, 195.9 & 187.3 thousand (Lal et al., 2021) [Annexure-3].

The migration alters demography of a State. According to reports, total number of population in hilly regions has reduced from 68.4% to 65%. Whereas, the population in plain regions of Uttarakhand has increased viz., Udham Singh Nagar 33.45%, Dehradun- 32.33% & Haridwar- 30.63% (*Uttarakhand Population 2022 | Sex Ratio & Literacy Rate 2024*, n.d.) [Annexure-3].

Urbanization-Urban population in Uttarakhand has increased by 1,358.5 %. This urban growth is majorly concentrated in some of urban centers of plain areas. The maximum urban population is retained by Dehradun i.e., 55%. According to reports, 84.44% of urban population is concentrated in towns of plain areas & only 14.56% is located in towns of hills (Pant B.R. & Chand R, 2020).

From the above discussions, regional disparity is visible in the State of Uttarakhand (Singh &Goel, 2022).

CHAPTER-2

LIVE-IN RELATIONSHIP-A CONCEPTUAL FRAMEWORK

2.1 INTRODUCTION-The adult male & female living together without any formal marriage as husband & wife are said to be in a live-in relationship. Live-in relationship is that form of relationship where an opposite sex couple cohabit together beyond the purview of normal marriage. Live-in relationship helps individuals to check their compatibility before marriage. It prevents divorce by enabling couples to understand whether they are compatible for marriage or not & most importantly live-in relationship promotes deeper bonding among individuals. The concept of live-in has gained partial recognition of law. Live-in being a foreign concept has made its place in the Indian society.

A charitable trust named Vina Mulya Amulya Seva arranged a senior citizen live-in relationship samellan wherein seven couples who attended the samellan planned to enter into cohabitation. This has been a welcome step for reducing loneliness & abandonment, which old aged people face in their lives. Even the senior citizens are embracing live-in relationship gracefully (Jaimala, 2017). ALL HC had observed that society must view live-in relationships from the angle of individuals' freedom and not from the angle of social morality. Cohabitation has become part of present day life (India Today, 2021).

In this chapter, the concept of live-in relationship has been described in detail.

2.2 MEANING & DEFINITION OF LIVE-IN RELATIONSHIP-Live-in relationship is that form of living where parties do not marry each other in other words no solemnization of marriage under any law takes place in this

form of relationship (Shah, 2017). Nevertheless, the parties to these relationships live like a couple & present to the society that their relationship is stable and permanent. Therefore, it is that relationship wherein a male and female cohabit together without formally entering into a marital relationship & the marital legal obligations cannot bind them (Gn, 2020).

Live-in relationships are also termed, as Cohabitation (Berscheid & Regan, 2016). Reasons to enter cohabitation are numerous. Cohabitation is an intimate union between couples who share the same roof for a continuous stretch of time. To put simply cohabitation resembles driver driving a vehicle without license where in case of any accident driver cannot claim compensation due to the absence of license. Similarly there is no law on live- in's & partners have no remedy in event of any contingency (Prabhavathi & Raju, 2020).

Term “Cohabit” in big sense implies to “co-exist” together. The concept of cohabitation is much common in western countries. The major factor, which induces couple to enter live-in, is compatibility check before opting legal commitment (Roy, 2021). Live-in relationship is also known as de facto union where without marriage solemnization couples cohabit in a common bedroom. This relationship has different names like “common-law marriage, informal marriage, marriage by habit, deemed marriage, non- marital relationship” etc. Cohabitation is an interpersonal status approved legally in some countries i.e. marriage without registration in civil registry. There has been a transition from arranged to love marriages & live-in relationships (Savita & Khan, 2020).

There are no set boundaries of live-in relationships. The concept does not have any legal definition too. For the general understanding, live-in relationship is “an arrangement of living where a couple which is unmarried lives together in a relationship resembling marriage for a long term.” Another term used for live-in relationship “sui juris marriage”, which denotes relationships not recognised as valid legal marriages (Dholam, 2015).

The cohabitation is that form of relationship where a heterosexual couple lives together devoid of entering into a formal relationship like marriage. It does not essentially require sexual relations. Reasons for opting cohabitation vary from

person-to-person. It is majorly an informal relationship where various countries allow its registration. There are two categories of live-in relationships (Kumar, 2014)-

- *Relationships by choice*-In this form of live-in's people reside with each other on their accord. Relationship choice here is purely voluntary. These relationships may exist amongst those individuals who are already married but choose such relationships as a matter of priority. The reason quoted very often by the couples for entering these live-in, is that they do not want to add any formal status to their relationship. Metro cities exhibit glaring examples of this kind of arrangement (Kumar, 2014);
- *Relationships by circumstance*-In this type of relationship, couples enter into a live-in relationship under the notion that a valid legal marriage exists between them, or the parties have divorced their early partners & the parties cannot marry again due to the existing financial factors. When man and woman marry each other by performing all the rites of a valid marriage but have a spouse, which he/she has not divorced, the law does not recognize such kind of marriage. These kinds of live-in relationships are involuntarily (Saxena, 2019).

In order to understand live-in relationships, there is a requirement to make & understand some differentiations-

- *Mistress*-Mistress is a sexual partner & lover of her male companion. Relationships with mistress are temporary & maintained in secret wherein salary is paid to her for the services.
- *Concubine*- Leaders of Asia, Arab & Europe were in the practice of following concubinage. These concubines were sexual slaves & much low status was granted to these women; &
- *Cohabitants*-Cohabitants are the couples following live-in relationship. These relationships are voluntary & rights of women in live-in relationship are secured through the Constitution of India & judiciary (Singh, 2014).

2.3 VIEWS OF FOLKS SUPPORTING COHABITATION-Men are a social animal who always look for a good company, as men cannot live alone in isolation. In order to avoid this loneliness society has developed various institutions & marriage is one amongst them. However, marriage no longer is the last resort for family formation (TIMESOFINDIA.COM, 2019). In the world full of stress & pressures individuals nowadays, look for a partner who is loyal, grants a shoulder to rest on & supports financially. Modern education & scientific attitude has made women economically & socially independent. Consequently, live-in relationships have become very common phenomena nowadays (Arya, 2014). There are various views in favour of legalization of live-in relationships (Business Bliss FZE, 2023)-

- *Shobhaa De (Social activist)*-She is of the view that concept of marriage is in transition as present day women is independent financially & challenges age old practice of male dominance. An independent woman has purchasing as well as spending capacity & has the capacity to decide the mode of life for her. Therefore, she has the right to decide her life partner, manner of relationships & personal space.
- *Soma Das (Social Geographer)*-According to her couples prefer live-in as they do not believe in the institution of marriage.
- *Mangala Samant (Marriage Counsellor)*-She has expressed that 20% of ITians prefer cohabitation before marriage reason being long working hours, life full of stress and social inactivation.
- *Shyam Bengal (Film maker)*-Legalization of live-in relationships is a great step as it will protect the rights of women & enable children born out of live-in's to claim their rights in future (Business Bliss FZE, 2023).

The ALL HC has held that on attaining majority, a boy & girl are entitled to live together on their sweet will & no one including their family has the right to disturb their living (Staff, 2020). The Punjab & Haryana HC has further observed that an individual has the liberty to choose the nature of his/her relationship, whether marital union or the live- in relationship is to be adopted

(Upadhyay & Law, 2021).The Uttarakhand HC has also expressed that same sex-couples are entitled to live together, although they are not eligible for marriage. Above all the strength of the Constitution lies in the acceptance of plurality & culture. Marriage, choice of the partner, right to decide whether to marry or not & whom to marry are the decisions which completely lie outside the purview of the state and the society (Mandhani & Mandhani, 2020).At the same time, ALL HC has observed that law will not allow those live-in relationships, which erode & disturb the country's social texture (Pandey, 2021).

2.4 CONCEPT OF MARRIAGE & LIVE-IN RELATIONSHIP-Marriage is one of the oldest institutions which provides the base on which the entire structure of the community & its prosperity is formed. Marriage is the accepted & supported mode of family formation, which requires the performance of religious rituals strengthening the family system. Marriage is a religious sacrament without conditions where husband & wife submit to one another. Thus, marriage is a status which is legal, an environment, relationship of man & woman tied in law for lifetime or till they are divorced, to discharge the duties vested on them legally towards each other and society and whose companionship is based on the distinction of sex. The definitions of marriage may vary from culture to culture but it is an institution, which acknowledges the interpersonal relationships, intimate & sexual (*Changing Dimensions of Hindu Marriage*, n.d.).

Various authors have defined the institution of marriage according to their field of study. According to sociologist Westermarck marriage is a more or less long-lasting relationship between a male and female, which exists beyond the act of propagation & continues even after the birth of offspring (*Marriage Definition Sociology, Best Definition of Marriage, Definition of Marriage by Different Authors*, n.d.).Malinowski, an ethnologist defines marriage as the contract for the production as well as maintenance of children (Varshini & Naachimuthu, 2018).As per anthropologist Robert Lowie's definition, marriage is an enduring alliance between permitted individuals. Horton & Hunt view marriage as the accepted societal design where two or more persons

set-up their family. Institution of marriage comprise of three essential characteristics universally i.e., conjugality, permanence & exclusivity. These characteristics form the base of Indian matrimonial laws. Marriage is an institution designed for satisfying sexual needs of a person in a manner, approved legally, socially, customarily & culturally (Naik & Maley, 2017).

Indian society is accepting various western ideas like those that cohabitation (Kaur, 2019). Society is changing as a response to the forced customs. Society is relaxing strict gender-roles and is thereby accepting the empowerment of women. Live-in relationship implies couples not hitched but connected to one another (*Live-in Relationship: Legal Perspective and Problems*, n.d.-b).

Marriage is a socially & universally approved pious union. Marriage establishes contract between the parties, which make them liable for each other, as well as vests the couple with legal rights. Concept of marriage in India is regulated through the personal laws (Sepaha, 2021) and various laws like Hindu Marriage Act, 1955; The Indian Christian Marriage Act, 1872; The Dissolution of Muslim Marriages Act, 1939 etc. have been enacted (LawRato, 2018). The institution of marriage does not assure stability & permanency to one's marital union, it only accords legal recognition to the union (Vaishnavi_Sabhapathi et al., 2018). The ALL HC has held that for asserting maintenance u/s 125 of CrPC the party is not required to provide the evidence of performance of essentials ceremonies for marriage (Saxena, 2021).

A poll conducted by the Inshorts, a news app provides that that 80% of India's populations favor live-in relationship (80 percent Indian youths support live-in-relationships, 2018). Further, in a survey of college going students for accessing their views on live-in relationship it had been researched that 75% of the folk's belief that live-in relationship leads to good understanding of each other before marriage (Ghosh, 2021). In addition to it, females too have the positive perception like males for adopting live-in relationships (Hemalatha & Banu, 2018).

2.4.1 CHANGING NATURE OF MARRIAGE INSTITUTION- Due to changing times the institution of marriage has reformed. To begin with,

marriage was a sacred affair. It is been regarded as one amongst the ten important *Sanskara* of human life. According to the ancient beliefs, marriage helps an individual to achieve dharma, artha, Kama & Moksha. Hinduism says that marriage is a very sacred union that continues throughout couple's life and may even stretch to their seven births. For the purpose of solemnization of this holy union, Hindu ancestors have provided rules in details, which cover all aspects of marriage; thus, they provided a balance to the union so that family may enjoy life within the dharma i.e., the righteous code of conduct (M. Kumar, 2015).

In the present scenario, Hindu marriage is neither religious nor sacramental. Though Hindu religious texts regard marriage as an inseparable & indissoluble bond, which cannot be broken whatever may be the situation. Nevertheless, The Hindu Marriage Act, 1955 provides several matrimonial remedies like divorce and nullity of marriage, which has eroded the sacramental character of Hindu marriage. Initially Hindu marriage did not recognised divorce but the globalization, liberalization & modernization has made the legislature to adapt to these changing situations. The provisions of divorce were added to The Hindu Marriage Act, 1955 to aid the couples in the event of actual matrimonial wrong. However, nowadays these provisions are recourse to terminate the matrimonial ties in event of small difficulties too. Insertion of divorce by mutual consent through Marriage Laws (Amendment) Act, 1976 is a glaring example to this point (M. Kumar, 2015).

The problem with social mindset is that instead of love and relationships; religion, castes & finances dominate the intellect of society. The traditional mindsets do not even allow couples to see each other before marriage. Forced marriages are an offence (*Right to Marriage by Choice*, n.d.).

2.5 FACTORS PERSUADING COUPLES TO EMBRACE LIVE-IN RELATIONSHIPS-Factors inducing individuals towards cohabitation are numerous & based on the individual's perception. These factors are-

2.5.1 TRENDS WORLDWIDE-There has been a decline in rate of marriages globally particularly the western countries known for their low marriage rates.

Marriage as an institution is losing its sanctity. Every country has fixed minimum age of marriage for its citizens as a result incidents of child and forced marriages are on decline. Socially there are two modes of selecting a partner for marriage. In arranged marriages, the family members make selection and approval of mates. Second, the autonomous marriages where a couple chooses mate of choice and marry each other for love. This mode of family formation is a new trend, which has emerged in the recent years. Autonomous marriage represents intimacy, love that is passionate & sexual-orientedness. On the other hand, the arranged marriages promote love after the solemnization of marriage. This is the major reason, which makes folks opt for autonomous marriages (Hewitt & Churchill, 2020).

Arranged marriages dominate the countries based on extended-family system. In other words, countries traditional in outlook prioritizing familial relations only subsist on arranged marriages. On the other hand, the industrialized societies thriving on nuclear family system witness the autonomous marriages. The demanding needs of autonomy in mate selection is a factor which trouble societies worldwide; globally & culturally only marriage is regarded as an approved mode of forming family but it does not impress the present generation and modernizing environment (Hewitt & Churchill, 2020).

2.5.2 WOMEN EMPOWERMENT-Gender equality & empowerment of women are the millennium development goals since the year 2000. Gender equality is the crux of human rights. Gender equality not only ensures women human rights but it also encourages a country's economic & financial development. Presence of discrimination projects a very terrified picture of a country (ECLAC, 2015). Women now are working shoulder-to-shoulder with their counterparts. There exists many influential women personalities be it business or wrestling. Guarantee of equal rights to both men & women ensures a sustainable development of a country's economy & the universe globally (Parvathi &Thamizhchelvi, 2020).

Constitution being the law of the land provides the fundamental structure of the political system, which governs the citizens of a country. Constitution

reflects the vision of its founding fathers, political & economic structure of the nation also faith & aspirations of citizens (Gusain, 2020).

- *Preamble*-The preamble to India's constitution provides for a sovereign, socialist, secular & democratic republic. Preamble is a document of utmost importance & the constitution is to interpret under the ray of great visions, mentioned in the preamble. Therefore, the preamble provides the epitome of human rights representing hope of the people who had made the constitution.
- *Fundamental Rights*-Fundamental rights are the magna carta of Indian constitution. The striking feature of India's constitution is that major parts of human rights are fundamental rights. Above all enforcement of fundamental rights is the fundamental right in itself. These fundamental rights are negative rights enforced against the state when violated. The constitution embodies the concept of women empowerment. Article 14 provides the right to equality to women. Article 15(1) prohibits discrimination of women based on sex. Article 15(3) provides power to the state to take positive decisions for women. Article 16 grants equality of opportunity to women for appointment or appointment to any post and Article 21 grants right to dignified life to all citizens.
- *Directive Principles of State Policy*-These are contained in part-IV of the Indian constitution. It provides a list of civil & economic rights, which forms the bedrock of human rights. DPSP's are positive rights taken into account while formulating, and implementing laws. Article 39(a) makes state to secure an adequate means of livelihood to both men & women, Article 39(d) provides equal pay for equal work to both men & women & Article 42 empowers state to secure just, humane conditions of work & maternity relief (Das & Saibabu, 2014).
- *Fundamental Duties*-These duties are contained in part IV-A of the Indian constitution and these are positive obligations on the people of India. Article 51(A) (e) provides that citizens of the country should promote harmony & spirit of brother-hood among all the individuals of

India also citizens should leave practices diminishing the dignity of women (Rani, 2017).

- *International & National covenants*-At the national level legislature has enacted various laws for empowering women like-
 - i. The Equal Remuneration Act, 1976.
 - ii. The Dowry Prohibition Act, 1961.
 - iii. The Immoral Traffic (Prevention) Act, 1956.
 - iv. The Maternity Benefit Act, 1961.
 - v. The Medical termination of Pregnancy Act, 1971.
 - vi. The Commission of Sati (Prevention) Act, 1987.
 - vii. The Prohibition of Child Marriage Act, 2006.
 - viii. The Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
 - ix. The Sexual Harassment of Women at Workplace (Prevention and Protection) Act, 2013 (Kshirsagar, 2018)
 - x. The Constitution 73rd & 74th (Amendment) Acts has ensured 33% reservation for women at both the Panchayat & Nagarpalika levels where women had seen their appointment as chairpersons of these institutions also. These amendments have ensured the empowerment of women at the local levels. Not just empowerment these provisions also provide the sense of security to women (Saryal, 2014).

At the international level too India is signatory to various covenants upholding the status of women. Article 23 of The International Covenant on Civil and Political Rights, 1966 provides the right to men & women who are of marriageable age to choose their life partner and family. Above all no individual shall be compelled to enter into marriage union without his/her free consent. The Universal declaration of Human Rights, 1948 also upholds the same view (Tyagi, 2015). The Constitution of India, law of the land has through art. 21 guaranteed “Right to life” to its citizens. This right to life extends beyond mere animal existence & encompass Right to Privacy’ as its integral component. Saurabh Banerjee, J., Delhi HC has opined that right to

choose life partner of choice is an indispensable facet of right to life & privacy. No one be it parents of concerned individuals, society & even state has authority to restrict & hinder this exercise of right to life especially when adult couples have consented to reside together (The Indian Express, 2023).

2.5.3 EDUCATION-Education of women implies sharpening the knowledge, skills of girls & women. It comprise of education at schools, colleges, technical education, professional education & health education. Every woman has the fundamental right to primary education. Women give birth to new generations therefore; she is an important part of the society. Consequently, women should be aware of her rights. Future of next generations is dependent upon the mother. By educating women, country gets the big opportunity of social & economic development. An educated woman contributes immensely to her home & profession. In today's scenario, an equal emphasis to women's education along with men's education is given. After independence, the draft constitution has put women at par with men. Accordingly, women have been financially reliant & their confidence level has received a boost. Most importantly, women now have become aware of her rights. She understands what is good & bad for her. Therefore, women has the sight which is helping in controlling population & an educated women gives preference to her career so she prefers to marry at a later age (Datta, 2020).

The school based sexual education has been the focus of many countries in the present times. Sexuality is the understanding of relationships in a different manner, closely related to elements like sex, gender-identity, emotions, love, intimacy that is sexual, pleasure & reproduction. Role of education is to help young people to further, understand the concept of sexuality. For this purpose the education system must include-

- Scientific accurate facts, gender related information affecting the emotional, physical & social aspect of sexuality;
- Socio- cultural values & attitudes affecting the concept of sexuality;
- Knowledge regarding chances to grasp skills like decision-making & communication;

- Open dialogue promotes learning & helps in developing communication & decision-making process. They also promote the evaluation of the ideas like gender, love, romance, beauty & equality.
- Adolescents value peer advice as peer group give them that piece of knowledge, which neither school nor parents provide them (“Love & Let Live,” 2020).

Adoption or non-adoption of live-in relationship is an individual's discretion & an integral part of one's human rights (V. Kumar, 2015). The SC iterates the same vision in its landmark verdict (*Shafin Khan v. Asokan K.M.*, 2018). The Brief facts of the case were “whether the adult girl requires her parent's approval to get married”. The Hon'ble court ruled out that, the choice of life partner is an individual's decision & is an important ingredient of right to life. In addition, societal confirmation on these intimate relations cannot be the base of recognition of live-in relationships (Chaudhary, 2019). In current scenario, casteism, religious factors, status & familial opinions still affects the student's choice of marriage (Ramsheena & Gundemeda, 2015).

2.5.4 THE SECOND DEMOGRAPHIC TRANSITION THEORY-Ron

Lesthaeghe & Dirk van de Kaa is the proponents of this theory. They examined the factors underlying the change in the patterns of family formulation. New choices of lifestyle influence these changes. The tolerance from religious authorities & the rise in personal choices, individual freedom, and participation in decision-making process, secularization, self-reliance & increase in the quality of life mainly contributes to a shift towards live-in relationships. The proponents further contend that reduction in the age of marriage, rise in non-marital cohabitation, fall in fertility rates, an increase in non-marital child rearing, upward trend of divorces and reduction in the child bearing further support the adoption of live-in relationships. The education, gender equality & delay in marriages by professional women & childbearing leads to complications in bearing child after a gap and is consequently

responsible for an increase in the numbers of divorce. The proponents summarize the theory in four stages-

- To begin with, rates of marriage have dropped gradually also, the instances of couples opting marital union are also on decline. With these dissolution of marital unions i.e. divorce has increased tremendously & on the other hand consensual union are gaining importance,
- In the second stage couple, their well-being, problems and relationship only becomes important to them. Along with it idea of having children also drops down,
- In the third stage adoption of contraceptive methods have not only reduced child births but has provided more sexual satisfaction & pleasure to couples,&
- The last stage corresponds to transition in the household patterns. The concept of nuclear family is been replaced by live-in relationships, one-person or single parent family households (Jaimala, 2017)

2.5.5 THE INSTITUTION OF MARRIAGE & ITS DRAWBACKS-

Though marriage is an institution backed by law but there is various cons associated with its practice. Indian society is mainly patriarchal which implies women are to follow their husbands, in-laws, father, brother etc. Another big trauma associated with patriarchy is that society has defined strict gender roles for men and women, where women are supposed to look after her husband, family and children. This is the primary status assigned to women socially. On the other hand, only men are the bread-earners of their family. According to traditional marital norms, only arranged marriage is the approved form of union. Despite women empowerment strategies women are still eligible to various forms of abuse like child marriage, dowry demands, dowry deaths, forced marriages etc. However, in the world of global economy where there is cultural exchange of views and practices this traditionalism does not fits in. Therefore, marriage as an institution has recorded decline in its acceptance &

acceptability of live-in relationships as an alternative to marriage especially in metro cities has increased (Kumar, 2016).

The researcher further has elaborated that compatibility is the readiness to accept people as they are and not to change them. In today's world, everyone wants a spouse from whom he/she can get emotional as well as sexual satisfaction. In short a fun loving spouse, intellectual, sexually appealing, having common interests and who supports his/her personal goals is the desired one. Therefore, an idealistic spouse is required nowadays & this idealism has lead towards pessimism about marriage (Green, n.d.).

There is a direct link between good quality relationship & mental health. Therefore, the compatible couples in live-in relationships are in better position to the couples in a dissatisfying relationship. Unhappy marriage and loneliness leads to various forms of distress and psychological ailments too. Having a partner who is compassionate plus an understanding listener relieves stress & helps in expressing those emotions, which cannot find any words. These kinds of relationships result in many pleasurable positive experiences, good quality relationships, lower morbidity & mortality (Narayan et al., 2021b).

This process may also be termed as the dreambody language. Signs of this language are incomplete body movements, unusual ideas, dreams, beliefs and myths that a person in this language not even realizes that he/she has. This language affects the whole community also and is therefore, termed as global dreambody. The global dreambody is a mysterious channel as it arranges the psychology, links the individual unintentionally to the other people's inner world thereby connecting new friendships & disturbing many previously existing (*The Dreambody in Relationships*, n.d.).

2.5.6 ROLE OF MEDIA-Media is fourth pillar of the democracy. Media exhibits the fundamental right to freedom of speech and expression. Media is required to disseminate the correct information & views amongst the citizens. In addition, India's democracy gives everyone the freedom to share his/her thoughts freely and media is the most suitable platform. Media is just not

restricted to print media but it comprises of social media too. Social media is playing the dominant role in directing the attention of folks toward live-in relationships. The red label's advertisement presents a couple living together without marriage. Male partner parent's visit surprised not only the couple but parents too. Nevertheless, the advertisement ended with this relationship acceptance by the parents & thus, depicting intergenerational harmony. The advertisement depicts the changing institution of marriage & increasing acceptance of live-in relationships (Titzmann, 2017).

2.6 CONCLUSION- Love is an emotion binding two individuals with each other notwithstanding their caste, creed, sex, race, color etc. In order to traverse this relation couple is required to spend plenty of time together. Both marriage & live-in relationship are two distinct ways of removing the emptiness of life. India is a diversified country. The globalization has posed an unmatched effect on human relationships (Karn Marwaha et al., 2015).

The terms like marital satisfaction, qualitative adjustments & happiness are synonymous. Psychological factors, socio-demography, and style of parenting and physical health upkeep influence marital satisfaction. The researcher is of the view that modern relationships have shifted their focus from traditionalism to the heterosexual married couples for the purpose of inclusion of various forms of romantic relationships. Traditional and conservative outlooks are not applicable over modern relationships (Karn Marwaha et al., 2015).

Relationship satisfaction is a multidimensional term, computed by examining positive and negative aspects of a marital relationship. According to the researcher, these positive & negative aspects are measurable through sacrifice along with satisfaction, revengefulness towards the partner, aggressive-conflict behavior & tolerance over disagreements. Forgiveness has a very positive impact on increasing relationship satisfaction. On the other hand, various stresses, anxiety, discontentment, distress, resentment & depression are different causes underlying relationship dissatisfaction. With the passage of time new reasons of marital dissatisfaction may appear when old reasons are said a good-bye. These changes in norms may either be slow or fast but in

all situations adjustments to the diagnosis & research for ease of interpretation for people using them is required (Desk, 2024).

The author tells that there is no law, which binds the live-in partners with each other consequently, any of the partners may walk out of the relationship whenever he/ she want. The legal status of these relationships is doubtful neither there is any legal definition for live-in relationships. Therefore, a new separate law on live-in relationships is the present day requirement. To get a deep insight into the concept of live-in relationships it is important to get conversant with the roots i.e. history of these relationships.

CHAPTER-3

GROWTH OF LIVE-IN RELATIONSHIP IN INDIA

3.1 INTRODUCTION-As discussed in the previous chapter 2, live-in relationship is a phenomenon wherein a male & female reside under one roof in a relationship resembling marriage. It is an informal sort of relationship free from all the complexities of married life. These relationships provide an opportunity to the couple to be comfortable with one another. However, there is no legal definition of live-in. There is no particular law on live-in.

Indian society had been avoiding the concept of live-in relationships. Earlier living together without marriage was an offence against the culture. According to Hinduism one man and one wife is the pious form of marriage. With the passage of time, evolving mentalities are accepting the phenomena not approved earlier (Kumari, 2020). In present scenario section 377 i.e. homosexuality & section 497 i.e. adultery of the Indian Penal Code, 1860 have been decriminalized. Live-in have been considered as void right from their inception. However, the SC has validated these relationships. If a relationship fulfills all the criteria of valid marriage like legal age to marriage, soundness of mind, free consent etc; the relationship is legal. In addition to it, couples' residing under the same roof raises a presumption in favour of valid marriage (Mukherjee, 2021).

In this chapter, growth of live-in relationships in terms of historical background is studied.

3.2 HISTORICAL BACKGROUND-Adam & Eve is the first non-married couple in history globally. During those times when institution of marriage was not in existence, both Adam & Eve did not know the status of their relationship. No marital ritual, mangalsutra, wedding ring, marriage

registration etc. validated this relationship. Still this relationship was a union of two souls. Interdependence on one another & Darwinian's survival of the fittest theory made them to both survive & live together (Jaimala, 2017).

There is no fixed formula to determine the goodness & badness of these live-in. Goodness or badness of a thing simply belongs to an individual's thought process. Folks believe that live-in relationships deepen the bond between two individuals also there are numerous reasons which induce the couples to choose these relationships, as discussed in chapter 2. Patriarchy dominates the Indian society. Women are discriminated on different occasions (Desk, 2024).

Rise in love marriages, inter-caste marriages, failures of wedlocks, education and world, as a global village is various other temptations to follow live-in relationships. Media, Bollywood & TV industry also has a positive impact upon the phenomena of live-in. In future live-in relationships would find acceptance in the Indian society & these relationships would exist together with marriages. The cohabitation is not a new thing. The practice has been in existence since long time back (*Live-in Relationship: Legal Perspective and Problems*, n.d.).

3.2.1 VEDIC INDIA-During this time & even afterwards live-in relationships or pre-marital relationships was present; difference lies in the fact that during this period these relationships had an occasional occurrence. Living together before marriage is not at all a new concept. It has always existed in different forms. Ancient India also regarded marriage as the societal and approved norm of family formation. At the same time, Hindu books highlight the existence of pre-marital relationships along with marriage. Hindu Vedas contain text regarding eight types of marriages of which Gandharva Vivaha is similar to present day live-in relationships (*Live in Relationship: Indian and International Perspective*, n.d.).

People during Vedic period had very broad mindset in response to the prostitution & various activities regarded as sin like pre-marital sex, having sexual relationships outside marital wedlock, divorce, same-sex relationships, etc. Ancient Indians were neither hypocrite nor they tolerated any sort of

indecenty. Vedic rishis & rishikas in order to regulate these activities brought all these relationships under the umbrella of Dharma. All these relationships were acceptable only if they were according to the Dharma. As even a simple activity, which did not, followed the path of Dharma was a sin (Ravikumar, 2018).

In Gandharva, form of marriage men & women married each other on their mutual consensus. This kind of marriage contained verbal commitment only. Neither any particular ritual nor the consent of parents and family was required to solemnise Gandharva vivaha. Just the consent of couple was essential. The ancient texts provide that Gandharva vivaha carried same sort of responsibility & commitment like normal marriages. One important characteristic of Ancient India was the non-prevalence of child marriage consequently; boys & girls could marriage only after attaining the age of puberty (Dave, 2019).

According to Rig Vedic, literature Gandharva vivaha was the most common and early form of marriage. Gandharva couple met each other in their normal life, or in familial & religious occasions. The Atharvaveda further provides that parents usually gave freedom to their daughters to choose a life-partner for her in a way people of Ancient India encouraged love unions. Love unions during this period were a happy merryfull act attaching no stigma & taboo. During this, time mothers waited for their daughters to attain youth or puberty so that she could choose a husband for her. Various statements of Mahabharata also strengthen the Gandharva form of marriages, “The best form of marriage is the one where a desiring man & woman marry one another without performing any religious ceremonies”. It has also been penned down that woman have the right to choose their own life partner no father give his daughters nor any other man ask for the daughter (Das, 2016).

Various renowned scholars further have supported the Gandharva vivaha. According to Manu, this form of marriage is the desirable mode of marriage. He was of the view that Gandharva vivaha is most suitable for males who are military or administrative personnels, leaders, soldiers and monks. Narada is

of the view that Gandharva marriage is suitable for all persons including Brahmins. He terms this form of marriage as sadharna marriage. The forced marriages & unions based on cheating, violence & bride purchase are the wrong forms of marriage. Baudhayana favors Gandharva Vivaha because of the element of free will & love contained in this mode of marriage (Das, 2016).

In (*Kamani Devi v. Kameshwar Singh*, 1946) the SC has held that husband; wife relationship originated through Gandharva marriage is valid & binding. The husband in this marriage has the responsibility of maintaining his wife financially. Mukherjee, J. has opined that Gandharva marriage is not concubinage. It is the partial marital union in modern society where lawmakers are progressive in nature. The hon'ble jurist was of the opinion that possibility of granting legal recognition to this form of marriage is not to ignore even though the custom does not sanction this union.

Gandharva vivaha also resembles the common-law marriage of the west involving no religious commitments & focuses on an individual's free consent and free will. In this form of marriage couples, reside with each other for a considerable period before they are regarded married by the society (Das, 2016).

3.2.2 MEDIEVAL INDIA-The practice of living together without marriage is in practice down the memory lane. During Medieval India, the nawabs & rich men married several numbers of wives & had various live-in women in zenanas. This practice of having sexual relationships out of marriage was not invalid & immoral. During this period avarudh stris, i.e. concubines served as sexual slaves for amusement and relaxation (Singh, 2014).

Concubines are women who cohabit with men in addition to their wives. These concubines enjoyed a very low status as compared with official wives. The practice of concubinage was involuntary & is a form of sexual-slavery. Relations entered into with concubinage were mainly for sexual gratification (Guest, n.d.).

The practice of concubinage formed the different category of slavery & it resembled the institution of marriage. Muslim marriage is a contract where disregard to even single condition could render the marital contract void. In this situation of Muslim marriage, being polygamous in nature wives also secured certain rights (Dubey, n.d.).

On the other hand, process of concubinage did not involve any legal marriage. Emperors could employ any numbers of concubines as they pleased. No restriction existed in this regard. The medieval rulers could demand services from a concubine all through her life. These concubines could never seek their release. On concubines, bearing a child master could not sell her or give her as a gift. In addition, the child bearing also gave her various limited rights and her position raise up as compared to other domestic slaves. These concubines also got the status of ruler's wives at various occasions. This practice of keeping concubines in harems formed a striking feature of Mughal Empire (Bano, n.d.).

In (*Dhannulal and Ors v. Ganesram and Ans*, 2015) the SC has ruled out that law favors long-term live-in relationship as marriage & frowns relationship entered into just for pleasure & enjoyment like concubinage, appointing mistress etc (Dhingra, 2019).

The Rajasthan Human Rights Commission has opined that women in concubinage are entitled to protection. It is the duty of Governments & various Human Rights Organizations to educate on a larger scale people regarding the concept of live-in relationships. Living with women & treating her as a concubine assassinates the character of these women. Concubine life is not a dignified life & is against the Fundamental Right to life (*Women in Live-In Relationships Like Concubines, Must Be Protected: Rajasthan Rights Panel*, n.d.).

Muta Marriage-In medieval India Muta marriages, i.e. temporary marriages were also present. A significant feature of this Muta marriage was its solemnisation for a specified duration of time. For muta, no permission from

family members is required. The following are the essentials for conducting muta (Khandelwal & Patwa, 2018)-

- i. The mudda (time period) of marriage should be specifically mentioned, so that there is no scope for an increase or decrease in the duration of marriage,
- ii. The contract of muta should also provide dower in clear terms. Whether dower is in form of cash or kind should also be provided, &
- iii. In event of pregnancy child will always belong to husband. However, if husband does not recognize the progeny as his child, this would act as evidence that such child is not begotted by him.

Divorce provisions are not applicable over muta as this form of marriage automatically terminates on the expiry of its time of solemnization. Couple is free to re-enter into the same muta contract if they wish so. Muslim man may conduct muta only with women who is Muslim or is amongst the “people of book”. Islam prohibits the performance of muta with women who is a non-believer of Islam or enemy of the prophet’s house. Shia Muslims perform these temporary marriages (Khandelwal & Patwa, 2018).

In (*Shahzada Qanum v. Fakher Jahan*, 1953) the Court provides that there exist no difference between “muta conducted for life” & “muta conducted for non-specified period”. Even permanent marriages resembling nikah are conducted through the word “muta”. It is the mentioning of specified duration, which renders muta a temporary marriage for the particular period.

The SC in a landmark judgement has laid down that girl who has attained puberty & has the capacity to marriage u/s 251 of the Mahomedan Law has the right to choose partner of her choice & live life on her will. The court has further held that live-in relationship is increasing day-by-day therefore; Constitutional Courts have the duty to protect the Fundamental Right of a major girl to live life with partner of her choice. Law & morality are not to be confused (P Ramdas & P Ramdas, 2018).

3.2.3 BRITISH INDIA-

i. Before, Independence-This phase marked the various social reform movements (Sharma, 2018)-

- Raja Ram Mohan Roy abolished the Sati Pratha in 1829.
- Efforts of Ishwar Chandra Vidhyasagar to improve condition of widows led to the enactment of Widow Remarriage Act, 1856.
- Child Marriage Restraint Act, 1929 fixed the minimum age of marriage for girls. This step led to the demolition of the practice of child marriage through the hard work of Mohammad Ali Jinnah. Mahatma Gandhi further requested the fellowmen to boycott the practice of child marriage & encouraged young men to marry child widows.
- British era is evident to nationalist movements also. Rani Lakshmi Bai and Begum Hazrat Mahal led the rebellion of 1857. The Indian National Congress supported the first delegation of women demanding political rights. Many female freedom fighters have formed the part of India's struggle to independence. They are termed as proud nationalist heroes (Sharma, 2018).

ii. After Independence-According, to European rulers Indian women are a natural chaste & much virtuous. The various reform movements in this period uplifted the status of women. Independence further has assured Fundamental Rights & dignity to women. Presently women are no longer only the homemaker; she is a professional, political leader, pilot, professor, lawyer, athlete, cricketer etc. Late Smt. Indira Gandhi is the first Women Prime Minister of India who has served the world's longest duration of her tenure. Indian Government has declared the year 2001 as Swashakti i.e. year of women empowerment. In addition to it, the Government has passed The National Policy of Women Empowerment in the same year (Rani, 2017).

Women Empowerment & Gender Equality is the one goal out of the eight Millennium development Goals. In order to achieve these goals Constitution

starting from the preamble assures the dignity of women (Parvathi &Thamizhchelvi, 2020).

Apart from this Constitution has placed Fundamental Duty to leave all the practices, which derogate dignity of women (Kshirsagar, 2018). Chapter 2 discusses all these provisions in detail. India is a signatory to many National & International Human Rights Conventions to assure the prestige of women (Saryal, 2014).

In landmark, judgement of (*Lata Singh V. State of U.P. & Anr*, 2006) the SC has authorized major boy & girl to choose life-partner for each other. No family member, political or legal authority and even parents have right to hinder couple's peaceful living or to harm them. Practices like honour killings are like parasites, which disrupt the entire social fabric. Inter-caste or love marriages are not crime (Indian Law Watch, 2021).Neither Hindu Marriage Act, 1955 nor any other law prohibits or criminalizes these inter-caste marriages. Infact, these associations further boost up societal cohesion, which would further foster disruption of the heinous caste system (Law Insider IN, 2021).

iii. Maitri Karar-Maitri karar was the friendship agreement practiced in Gujarat for a considerable period. Maitri Karar was the written agreement entered into by a couple to live together & care for one another like friends. Male counterpart in these kinds of relationships was married & female counterpart was always unmarried. She had the duty to sustain her family. Such families allowed their daughters to live into these agreements for the presumption that their daughters cannot be married. These agreements provided that female companion could never hold any right on the male companion during or after the expiry of course of friendship (Naik & Maley, 2017).

Hindu men desirous of having multiple relationships with women other than their wives followed the practice of maitri karar. These agreements were a way to avoid the provisions of Hindu Marriage Act, 1955 that made polygamy as an offence (Naik & Maley, 2017).The women entering into these friendship

agreements acquired the status of mistress. Many bureaucrats & senior functionaries had maintained the harem of these mistresses under the garb of maitri karar. Therefore, in (*Minaxi Zaverbhai Jethwa v. State of Gujarat*, 1999) the Gujarat High Court has ruled out these agreements as void ab initio. Before this judgement the office of District Collector, Ahmedabad recorded 29,951 cases of maitri karar.

In Gujarat, there existed another practice wherein temporary relationships resembling marriage between men & women were legalised. The women entering these relationships were not mistress. This system required performance of some essentials (Kapoor, 2013)-

- Couple must be major, of sound mind & fit to contract otherwise;
- Male & female should not be married;
- Rights & duties of couple were set down also whether their relationship would bear a child or not was also provided; &
- Couple could claim any damages for the breach.

However, the wealthy & powerful people for their enjoyment manipulated this practice. Therefore, maitri karar are illegal (Kapoor, 2013).

iv. Different nomenclatures-Live-in relationships exist in different forms at various places (Sengar, 2021)-

- *Dapa System*-This system is prevalent amongst Rajasthan's tribal area. Under this system, young male & female elope with each other without getting married. The relationship between such couples is a live-in relationship. These couples could marry after getting some financial stability only.
- *Pethu System*-This system exists in Chhattisgarh's Bastar region. Here begetting a child is considered as an indication towards marriage. In other words, a couple in pethu system or live-in relationship can get married only after giving birth to a child (Jain, n.d.).

- *Ghotul System*-This form of live-in relationship is also present in Bastar region. Here boys and girls are free to know one another & get frank with each other before marriage. Further, this system allowed couples to spend time together and live-in pre-honeymoon camps (Jain, n.d.).
- *Dhuku Marriage*-This form of marriage is associated with Jharkhand. Dhuku marriage is an approved civil cohabitation between couples. This cohabitation could get approval either before or after pregnancy and even after the birth of children. Jharkhand's tribal areas followed this tradition at a large scale due to dearth of financial resources. The tribals do not find it comfortable to organize grand marriage feasts. The major drawback of Dhuku marriage is that dhukni or female counterpart does not have the wife's rights. Neither she could apply sindoor on her forehead nor can she have any claim in her husband's or dhukua ancestral property on husband's death. Above all children born out of such wedlocks are not socially recognised. Couples enter Dhuku marriage due to compelling poverty needs (Sengar, 2021).

3.3 CHANGING STRUCTURE OF FAMILIES-Family is an important pillar of every society. Family as a unit supports the cultural & societal stability. This institution of family is progressive i.e. it is also subject to adaptations (Bisht, 2019)-

3.3.1 INDUSTRIALIZATION-Migration from rural to urban areas has lifted the way of living of people. As a result, individual's connection with their joint family set-up has loosened. People no longer are dependent upon the adult male members of their family to take decisions for them. Therefore, there has been a considerable decline in village agricultural industry,

3.3.2 URBANIZATION-Urbanization has fostered the emotions like privacy & individualism. Consequently, urban people have shifted to nuclear families from joint families. Above all nowadays females are also doing jobs of their interest,

3.3.3 EDUCATION-Education has a positive impact upon an individual's belief-system, ideas & perceptions. Education has enlightened the women. It has made her aware of rights and instilled confidence in her. Women earn at par with men. They are independent in their own spheres. In addition, the various social legislations have granted women equal rights with men. Education receives an important focus in empowering women. Article 21-A has made it compulsory for state to provide education to all children in the age group of six to fourteen years. Education has made youth to accept the husband & wife relation on the bedrock of mutual trust, consent & compassion (Bisht, 2019).

3.3.4 MARRIAGE-The institution of marriage has also received a setback. Now young generation prefer to marry late. The trend has shifted from arranged marriages to love marriage & now to live-in relationships. Most importantly present day couples believe in one kid theory or they are least interested in planning their families. Western culture has adversely affected Indian community (Forum IAS, 2019). Marriage is becoming a frightening union because of distrust, bereft of love, mutual understanding & respect (Patil & Ghosal, 2016). According to a survey on school students, the feelings of culture, caste, class, family & religion still dominate the marital choices (Ramsheena & Gundemeda, 2015). There are certain qualities, which play an important role in a relationship satisfaction (Pareek et al., 2019).

3.3.5 DOMESTIC VIOLENCE-Incidents of domestic violence are much high in India. Every five minute reports one case of domestic violence. Reason behind this violence is patriarchal mindset, orthodoxy, strict gender roles & traditional women duties. Suicidal deaths are also very alarming. Out of 371, 84 suicides are due to familial distress. What make a man to end up his life are social & economic pressures whereas emotional turmoil induces a woman to kill herself. In every six suicides, one death is of a homemaker. On the other hand, the figure of men suicidal death is 71.6% & women suicidal death is 67.9% (A. Kumar et al., 2023).

Kerala, which constitutes the most, educated population of India, accounts third in ranking of suicidal deaths. It records twelve suicide cases per day. Domestic violence in the present scenario affects both male & female population equally. The term is no longer restricted only to females. In addition to all these women nowadays are also victim to IPV. This kind of violence may be associated with sex, physical (hurts), & psychological even stalking. Incidents of intimate partner violence have doubled during Covid-19 lockdowns (Krishnakumar & Verma, 2021).

3.3.6 DIVORCE-Divorce rates are rising at an alarming rate nowadays. Couples believe to end an incompatible relationship. In present scenario, marital termination & remarriages or live-in relationships are not a big deal. Divorce by mutual consent has made the marital terminations convenient. Presently marriage is not a pre-requisite to bear and rear a child. Surrogacy, IVF etc. provides a sufficient alternative to an individual. Divorce is no longer a taboo. Single person & single parent families are also increasing day-by-day (Rajeev, 2019). Major reason for divorce cited nowadays is psychological hostility to accommodate transitions in life (Ariplackal & George, 2014) Out of three, every two-divorce cases are due to incompatibility between couples (Agarwal, 2011). The compatibility has four kinds i.e. physical, emotional, intellectual and eternal (*The Four Types of Compatibility in Relationships - the Meaningful Life Center*, 2023). Moreover information & communication technology plays a pivotal role in forming new relationships through online dating, digital media impacts relationship quality & provides ease of separation through online mediation, divorces etc (Eichenberg et al., 2017).

3.4 CONCLUSION-Idea of living together without any formal marriage is spreading day-by-day & is becoming a way of life. The morality of adjudicating sexuality has changed. Today love over marriage is a moral sexual act. This idea of two persons living together without marriage has given birth to live-in relationships. Live-in do not hinder the institution of family. These relationships only provide an opportunity to a couple to know one other without any legal bonds. Live-in have always existed in the society & are still present; but under different names and systems (Jaimala, 2017).

In India, marriage is a prestigious & pious union. Live-in relationship although is not the part of Indian Personal Laws but the Constitution of India does not disregard or prohibit them. The concept of live-in gives has many anomalies, as there is no specific law on the subject. These anomalies disturb the social fabric of the country. Therefore, to match the pace of development a law on live-in relationship is must. There is the necessity of those legislative reforms, which progress with the developments in the society. Most importantly, children born out of these relationships need security i.e. mental, emotional as well as physical (G, 2018).

According to traditional Hindu society men dominates the women. Men are master & women are his accessory. Women are merely the objects of aspiring affirmation & realization. Women's identity is equivalent to her husband's recognition. In this regard, women are supplementary to her husband. Wife title limits the development of women. There are three responses to this situation i.e. constraint, protest & discovery of the self (Ahluwalia, 2018).

In the present scenario youth, consider the old institution of marriage with changed & adapted vision. The qualities like trust, forgiveness, gratitude, respect, humility & the most important of all are proper communication, which play an important role in marital satisfaction. Therefore, a legislation, which safeguards the interest of people, children as well as state, is required in terms of live-in relationship. In order to draft a law on live-in it is imperative to study the laws devised by various countries that have legalised and adopted the concept of cohabitation.

CHAPTER-4

GLOBAL SCENARIO OF LIVE-IN RELATIONSHIP-A COMPARATIVE ANALYSIS

4.1 INTRODUCTION-After the Second World War non-marital cohabitation became an approved form of union making in many western countries (*Live in Relationship in India in Contrast With Foreign Countries*, n.d.). As observed in the previous chapter-3 live-in relationships are not a novelty. Cohabitation has its long historical growth. Similarly, second demographic transition theory explains the phenomenon in various stages. Non-marital cohabitation in the first stage acts as a variant accepted & followed by a few people only. Second stage acts as a diffusion stage where more & more individuals choose non-marital cohabitation. Here, cohabitation acts as prelude to formal marriages. Thus, live-in relationships become an alternative to the institutions of family formation & child bearing. In the third stage, marriage & live-in relationship stand at the same pedestal.

A distinction exists between provisional & long-term cohabitation. Provisional cohabitation is that form of living, which does not, directs at maintaining long-term relationship & a family. Long-term cohabitation is the form of arrangement that aims at maintaining a continuing relationship. This form of relationship may occur with or without children. Long-term cohabitation resembles contemporary marriage. In addition, the live-in relationship couples are treated as informal spouses (Saxena, 2019).

In order to gain more knowledge on the subject we would be observing live-in relationship in various countries. This chapter is a first significant contribution of researcher to the thesis. Previous literatures study comparative analysis of

live-in relationships across the globe. However, these studies are limited to small excerpts that define the nature of live-in at different places. The chapter-4 of this thesis provides in-depth analysis of the concept of phenomena of live-in along with present position in the four countries chosen for analysis. The researcher has chosen the particular countries based on criteria mentioned below-

- i. New York [U.S.A.] - Live-in relationships are legalised partially,
- ii. Greece- Live-in relationships are legalised in the form of cohabitation agreements,
- iii. Bangladesh- Live-in is prohibited & declared unlawful, &
- iv. U.A.E- Live-in was prohibited earlier by U.A.E. Nevertheless, on seventh of November 2020 the government of U.A.E. has decriminalized live-in relationships.

4.2 NEW YORK

United States is also termed as a melting pot where different cultures contribute their unique flavor. The U.S. does not have any official language. The country conducts its official business in English. In addition to it, 90% of U.S. citizens speak English. Other languages spoken in U.S. include Chinese, French, German, Spanish, Hindi, Punjabi, Italian etc. United States honour every known religion but seventy percent of the American population follows Christianity (McKelvie & Zimmermann, 2022).

U.S.A. has recognised & legalised live-in relationship or cohabitation in the form of “Common law marriage”. Common law marriage is a kind of situation wherein couple resides with one another without any legal ceremony. Most of the U.S. states have accepted common law marriage but New York does not approve this form of marriage (*Common Law Marriage in New York*, n.d.).

4.2.1 NATURE OF LIVE-IN RELATIONSHIPS-The State does not have the phenomena of common law marriage. The couples may reside together but cannot get any rights (Baron, 2013). New York regards domestic partnership as

the valid form of legal union. The state however grants recognition to common law marriages when-

- i. Couples contract these marriages legally in the states conferring status to common law marriages (Law & Law, 2020), &
- ii. Cohabiting partners had executed a cohabitation agreement i.e. a kind of pre-nuptial agreement.

New York accepts cohabitation partially; only the unions formed in other states having status are acceptable by New York. New York treats cohabitation as something more than a mere romantic relationship where couples spend nights together. Union is termed as cohabitation when a couple lives together habitually & regards one another as husband and wife (Otterstrom, 2020).

4.2.2 ORIGIN OF COMMON-LAW MARRIAGE-The concept is traced to Roman law & medieval canon law. The concept presumes marriage of the couple & their marital status. The phenomenon does not demand either marriage solemnisation or marriage registration. The purpose of this kind of arrangement was to protect the women entering these relationships from any injustice. In addition to it, if these women qualified the courts granted them the status of either wife or widow. This doctrine of common law marriage resembles present day long-term cohabitation (Lesthaeghe, 2020).Judiciary has ruled out magnificently in respect of common-law marriage. Let us have a look at some landmark judgments.

(Fenton v Reed, 1809)

Issue-

Can a common law marriage be equated with relationship without marriage?

Judgement-

The SC held that, there are certain parameters based on which marriage may be proved i.e., cohabitation, family reception, reputation, acknowledgement &

various other parameters. Therefore, to prove valid marriage solemnization of marriage is not necessary.

(Meister v. Moore, 1877)

Issue-

The SC was flooded with discussions over common law marriage in the year of 1877.

*Judgement-*The hon'ble Court pronounced two situations-

- i. When couples shared words in the present nature of tense, it imply solemnisation of common law marriage; &
- ii. When couples shared words in the future nature of tense, it implies that couples are engaged to marry in future.

(Marvin v. Marvin, 1976)

Issue-

The question concerning 'Palimony' was discussed by the SC.

*Judgement-*In the first judgement of its kind the SC of America pronounced on the concept of palimony. Pal + alimony imply maintenance to women by her male partner with whom she has resided for a 'substantial period of time' & deserted.

(Taylor v. Fields, 1986)

Issue-

The Apex court had to differentiate b/w common law marriage & a casual relationship.

Judgement-

When the couple is not able to project a stable cohabitation amongst them & spend weekends together occasionally, these sorts of relationship are equated to the relationship b/w a married man & mistress.

The state of New York has abolished the doctrine of common law marriage in 1933 (Judge, 2023).

However, cohabiting couples may enter into a cohabitation agreement. This agreement protects couples financial contributions (*New York Cohabitation Agreements Attorney | Hedayati Law Group P.C.*, n.d.) also provides manner of distribution of assets in event of separation of unmarried couples (George, 2022). Cohabitants are not the legal heirs nor can they take medical decisions like a spouse. Therefore, along with cohabitation agreements cohabitants may also go for estate planning (U.S. Legal Forms, Inc., n.d.).

4.2.3 RECENT STATISTICS REGARDING LIVE-IN RELATIONSHIP

IN U.S.-The proportion of married adults has reduced in recent decades, from 58% in 1995-53% today. At the same time, the proportion of adults cohabiting with unmarried partner has increased from 3%-7% (Horowitz et al., 2019). Economic factors influence an individual's choice regarding cohabitation. The strata with low income have recorded a larger decline in marital relationships (U.S. Census Bureau, 2021). Live-in relationship has risen by 900% in U.S. states. Two-thirds of couple married in 2012 lived together before marriage. Cohabitation has lessened the rates of divorce in U.S. (Mathur, 2016) & there has been a considerable rise in unmarried women giving birth to children out of live-in relationships. A huge population of children is beared & reared in cohabiting families (Bumpass & Lu, 2000).

4.2.4 PRESENT POSITION- In the case law of (*Obergefell v. Hodges*, 2015) the issue raised was whether the denial of marriage right to homosexuals leads to violation of the 14th amendment. The hon'ble court had pronounced in affirmative & has further held that 'Right to Marry' is an integral Fundamental Right on which the liberty of an individual vests. This liberty cannot be refused to homosexuals.

4.3 GREECE

Greece is a country of diverse cultures. Out of the total population, 98 % of Greece population is orthodox Christians. Remaining two percent include Jews, Roman Catholics & Muslims. Orthodox Christians is the third & biggest

branch of Christianity. The first two are Protestants & Roman Catholics (Greekacom, n.d.).

The Greece is famous for its strong family structure & lower crime rates. However, Greek society has also witnessed changes like those that obtaining divorce in present day has become easy (Wells & Cartwright, 2024). Greece has prohibited the system of dowry & solemnization of civil marriages take place parallelly with religious marriages (*Greece | Islands, Cities, Language, & History*, 2024).

Ancient Greece gave limited freedom to women. Marriage was a general rule for women. Women were required to give birth to children and look after their family. Unwed women were rare in Greece. Sex-slavery was common in Greek society (Davidson, n.d.).

Generally, young girls aged 13-14 years would be married by their father or by any closest male guardian. Father or the guardian choose husband for their daughters and in return they received dowry. Women were required to be loyal to their husbands whereas husbands were not under any such clause (Gill, 2018).

4.3.1 NATURE OF LIVE-IN RELATIONSHIPS-Live-in relationship has gained approval in Greece under the pattern of Cohabitation agreement/ civil union agreement. Greek society regards live-in relationship as an alternative to marriage. Cohabitation agreement is an arrangement contracted between the couples who wish to live together without formal marriage. Benefit of these agreements is that couples in live-in relationships-

- i. Gain similar rights like married spouses, &
- ii. These agreements stipulate the essentials like manner of inheritance, parenting, property distribution, well-being of child, taxation etc. (Karaiskaki, 2019).

4.3.2 RIGHTS OF COHABITING PARTNERS-Live-in relationship are also termed as de-facto cohabitation in Greece [Article 13].

- i. The civil code of Greece i.e., Law 4356/2015 [Annexure-4] provides that assets gained after the beginning of cohabitation are regulated through the provisions of unjust enrichment [Article 6],
- ii. An arrangement is also made to apply other provisions of family law [civil code] on certain agreements [Article 14] &
- iii. Death does not entitle the surviving partner any succession rights (*Greece*, n.d.) [Article 8].

4.3.3 RECENT STATISTICS REGARDING LIVE-IN RELATIONSHIP IN GREECE-Females are in the process of breaking their traditional boundaries and they at present times prefer to have modern relationship. Females are postponing their decision regarding marriage. In addition to it, majority of females regard cohabitation as a forerunner of marital relationships. Most importantly, only education can uplift the financial independence as well as social security of women (Rontos et al., 2019). Cohabitation is the usual course in Europe. The populations of all ages follow the concept however; this phenomenon is very common in younger generations & in Greece, single parent homes are gaining popularity. Above all, single parent homes act as a dominant type of households in Europe. Average family size has fallen down in Greece from 2.5-2007 to 2.3-2017 (Sahu, 2014).

4.3.4 HISTORY OF LIVE-IN RELATIONSHIP-Origin of cohabitation dates back to Ancient Rome where a system of concubinage was prevalent. Ancient Romans regarded concubinage as a durable and an exclusive union. This phenomenon empowered Roman men to enter into a relationship though informal but approved by the society. This relationship entered was with a woman other than an individual's wife. Most of the time concubina was a woman that a Roman man could not marry due to her low social status. To be a concubina i.e. female entering concubinage was not a derogatory act. This practice of concubinage has some features resembling cohabitation. However, both these practices are distinct & different in their scope and existence (Jaimala, 2017).

Demographic factors like delay in the age of marriage, decline in fertility rates, change in patterns of family formation, increase in single-parent families, increasing divorce rates, rise in numbers of cohabiting couples, decline in marriage rates etc. further have contributed the shift towards live-in relationships (Rontos, 2015).

4.3.5 REGULATION OF COHABITATION-Law 4356/2015 regulates the cohabitation agreements, rights, penal and various related provisions in Greece. The law prescribes certain essentials-

- i. The above law applies to both heterosexual as well as same-sex couples [Article 1],
- ii. Cohabitation agreements regulate the properties of couple acquired during the course of cohabitation [Article 8]. However, the basis of these agreements should be the principles of solidarity as well as equality (Koutsouradis et al., 2015),
- iii. Parties concluding cohabitation agreements must possess the full legal capacity of contracting [Article 2],
- iv. According to Article 5.2., parties to these agreements cannot waive their rights to claim share in properties acquired by other party during the course of cohabitation in advance (*Cohabitation Agreement and Residence Permit for Partners* | Svetlana Kasatkina Web-site, n.d.), &
- v. An informal cohabitation without cohabitation agreement does not attract any legal provision (*Family Law in Greece: Overview* | Practical Law, n.d.).

According to European Union laws, European citizens & their non- European citizens are at par to freely reside & move in the territory of European Union. Unmarried couples also possess this right (Vreede, 2017).

4.3.6 PRESENT POSITION-Apart from cohabitation, a new trend is emerging in Europe i.e. LAT relationships or living apart together. This trend is very common amongst young populations who want to live together but reside separately for various practical reasons. Higher education, liberal backgrounds, previous cohabitation, marriage etc. are few out of various

reasons. LAT is chosen mostly by widowed and older populations to maintain their independence (Liefbroer et al., 2015).

4.4 BANGLADESH

Bangladesh is a developing country. It is predominantly an Islamic nation. Eighty-nine percent of its total population is Islamic. Amongst them 92% are Sunnis, 2% are Shia Muslims & remaining 1% are Ahmadiyyas. Hinduism is the largest minority group i.e., 10% in the country. Other tiny minorities of Bangladesh include Christianity, Buddhism & animists (Szczepanski, 2019).

Bangladeshi society rests upon traditional hierarchical system where senior male member decides all the important decisions of family (*Bangladesh - Language, Culture, Customs and Etiquette*, n.d.). Bangladeshi society is mainly patriarchal in nature. For normal women & girls the father, husband or elder brother owns authority regarding their lives. Educating girls is less important than educating boys (*Culture of Bangladesh - History, People, Clothing, Traditions, Women, Beliefs, Food, Customs, Family*, n.d.).

Generally, the primary role imposed upon Bangladeshi Women is of a homemaker and to bear & rear kids. On the other hand, Bangladesh has witnessed the reign of two female Prime Ministers but women are not encouraged to be active in politics publicly. Only men can step out of house & earn a living. There is no restriction on men socializing with other men openly (Kiprop, 2018).

Family especially extended family is an important unit of society. This extended family is also termed as Barhi that includes husband, wife, & sons their wives & children, other unmarried issues. Within this set-up, elder male member takes all the important decisions regarding family & their well-being. Along with it elder female exercises complete authority over the household matters. Bangladeshi society criticizes & attaches stigma to divorce (pathfriend-bd.com, 2020).

4.4.1 NATURE OF LIVE-IN RELATIONSHIPS-Live-in is prohibited & unlawful in Bangladesh. Only marriage is an approved and accepted form of

union making. Live-in relationships have no recognition i.e. social and legal in Bangladesh. Morality & ethics further do not support these sorts of relationships. In addition, in future there is least likelihood of giving recognition to live-in by the country. In situations where couples reside together without marriage, various atrocities crop up-

- i. Children to these couples would be illegitimate for all purposes, &
- ii. Couple would not have any rights like inheritance and rights on one another (Das, 2010).

4.4.2 SIGNIFICANCE OF MARRIAGE-Bangladeshis has a very traditional outlook regarding matrimony.

i. Marriage is purely a family decision in Bangladesh. Elder family members decide marital prospects. Boys & girls often see one another on their first night. This incident is very common in rural areas,

ii. In rural areas, traditional matchmakers still play a very prominent role in selecting a suitable match for young boys and girls. These matchmakers even settle the disputes relating to dowry. But in urban areas traditional matchmakers are been replaced with marriage bureaus (*BANGLADESH-CULTURE: Marriage Is a Family Decision*, 1997),

iii. Doctors, engineers & other professionals having job abroad is a suitable match for girls. Therefore, parents of these boys insist that prospective bride must be a competent home-maker and should have a fair complexion,

iv. However, the laws of Bangladesh put a ban on dowry. Still the people practice dowry widely. Demand for a new car or house is very common. At times, parents demand their son's education from abroad from the prospective bride's parents as dowry (White, 2016), &

v. A big challenge is felt while finding a suitable match for working women. As Bangladeshis, do not want such qualified & earning women. Even these girls cannot decide their life partner (White, 2016).

Institution of marriage in Bangladesh is also changing. The country views divorce as a taboo but numbers of divorce cases are rising & numbers of marital unions are reducing. New patterns of family formation are emerging and this world is a connected globalised & modernised ball. Divorce is bad, these should not happen. At the same time, it is futile to be in a broken relationship just for the sake of security. Laws of Bangladesh are religious & strict which do not permit couples to divorce one another easily (Afroz, 2019).

4.4.3 VARIOUS MENACES IN BANGLADESH-Bangladeshi's fall prey to various practices like-

i. Forced marriage-Bangladesh's marriage laws are a combination of both civil as well as religious laws. Mostly young women fall prey to forced marriages than young men. Reasons to solemnise forced marriage are poverty, illiteracy, low status, discharge of a debt, to gain a higher status in society etc. Village areas mostly follow this practice of forced marriages. Arranged marriages are the norm in Bangladesh. Marriageable age for boys is 35 years and girls are 25 years (*U.S. Embassy in Bangladesh*, n.d.).

ii. Child marriage-Rates of child marriage are very high in Bangladesh. Fifty percent of Bangladeshi women in mid 20's were married before 18. Out of these women, 18% were under 15 at the time of their marriage (Patoari, 2020). Bangladeshi's do not regard child marriage as a form of sexual exploitation and violence. Girls fall prey to these menaces of child marriage and trafficking (*Unicef for every child*, n.d.).

iii. IPV-Women of rural areas face more violence at the hands of their husband, father or any other near relative. Illiterate women and women from disadvantaged section further are at a great risk of experiencing violence. Whereas, women having exposure to social media experienced 17% less violence as compared to other women (Bhowmik & Biswas, 2022).

4.4.4 PRESENT POSITION-Due to excessive traditionalism at marriage, non- acceptance of love unions, taboo associated with divorce and re-marriage is deteriorating the health of both male as well as female & is detrimental to

society's well-being too. According to various researches, all these pressures are leading towards suicidal tendencies in Bangladeshi men (Khan et al., 2021).

Women empowerment is the requirement of society in Bangladesh. The most disadvantageous section in the country is women. Women empowerment is measurable through two parameters i.e. Economic Decision Making Index and Housing Decision Making Index. It is been studied that urban women are comparatively less empowered in relation to housing decisions. On the other hand, rural women are behind urban women in both the parameters (Paul et al., 2016).

4.5 UNITED ARAB EMIRATES

U.A.E. is also termed as the melting pot of cultures. Majority of population in Emirates is Muslim. The country operates on Islamic Code. Non-Muslims are free to follow their religion but at the same time, they are obligated to honour the Islamic Code (Briney, 2019). Emirates have 90% literacy. Ninety-six percent of population is Muslim while only a small percentage is Hindus and Christians. Official religion of U.A.E is Islam (*Local Culture in the United Arab Emirates | Expat Arrivals*, n.d.). Religion plays a very important role in Emirates. Most importantly, U.A.E. believes in freedom of religion. Emirates majorly are Sunni's, 80% while Shia's are only 20% (*Google Sites: Sign-in*, n.d.).

Family is the fundamental unit of U.A.E. The Prime Minister Sheik Mohammed Bin Rashid introduced "UAE National Charter 2021". The aim of this charter was to strengthen familial relationships and preservation of traditional marriage principles. Although the Emirati are patriarchal nevertheless, U.A.E. supports gender equality. The economic forum in 2016 has labeled U.A.E. as the leading country in region for gender equality (*UAE - Language, Culture, Customs & Etiquette*, n.d.).

4.5.1 NATURE OF LIVE-IN RELATIONSHIPS-Emirates prohibited live-in relationships. Neither, the unmarried couples could share hotel rooms

together. However, in practicality, tourists often occupied the rooms together & hotel authorities never raised any query regarding different surnames (*Dubai Religion - Islamic Laws UAE - Kissing, Sharing Hotel Rooms, Dress, 2022*).

The Emirates gave a partial recognition to live-in relationships to relax the laws in respect of tourism. On seventh of November 2020, the Emirates government has allowed the unmarried couples to live together legally. In other words, UAE has decriminalized unmarried cohabitation. However, the UAE government has permitted couples to cohabit but cohabitation with a married partner is a crime of adultery in the country (Awa, 2022).

Emirates have also criminalized the crime of honor killings. Along with it, penalties on consuming, purchasing & transport of alcohol scrapped. These amendments to U.A.E. laws have broadened the personal freedom of citizens. These amendments further point at the fact that government of Emirates is updating itself in tune with the changing society (Ap, 2020).

4.5.2 PRESENT POSITION-The Federal Decree Law no. 31 of 2021[Annexure-5] has become effective from January 2, 2022. The new law has amended Federal Law no. 3 of 1987 & has proposed major changes-

- *Comprehensive definition of the crime of rape u/a 406-* According to new law rape would invite punishment of life imprisonment. However, this punishment would extend to capital punishment if any one of the four conditions described are fulfilled i.e., age of victim was beyond 18 years, victim was not conscious, victim did not possess the capacity to resist or if the rapist is any one amongst the victim's family, caretaker, an employer or a domestic help (Motei, 2021);
- *Decriminalization of relationships solemnized out of wedlock u/a 409-* The new law empowers husband, wife & custodian to sue perpetrator in the court of law. In a situation wherein couple is unmarried & above 18 years of age, the couple can be punished with sex months of imprisonment. The new law further has increased the age-limit for

granting consent to sexual act by children victims to 18 years (Staff & Staff, 2016);

- *Adoption of children born other than marital union u/a 410*-As per new law non-acknowledgement of parenthood & failure to prepare official documents of child concerned by the couple is a punishable & criminal act vide January 2, 2022 (Darwish, 2022);
- *Changes in law concerning alcohol consumption u/a 363*- According to new law consumption of alcohol in a private & licensed space are not a criminal offence. Further, no license is required to sell alcohol in the country. The law just mandates to not to sell & serve alcohol to any one beyond 21 years as it is a criminal act (Reporter, 2021);
- *Changes in divorce provisions*-As per changes done to “Personal Status Code” of U.A.E. the laws of the place or country where marriage was solemnized would apply. In the event of distribution of assets b/w a couple verdict of the court would be final in case where no agreement concerning distribution of assets is formalized b/w the couple (*Legal Update: UAE Introduces Several Progressive Legal Amendments Covering Aspects of Family Law, Criminal Law and the Civil Code – Galadari Law*, n.d.);&
- *Changes in inheritance laws*-This recent development has empowered residents of U.A.E. to choose any law for the purposes of inheritance. Above rule only excludes any property, which is purchased in the country of U.A.E. In this situation, inheritance laws of U.A.E would apply to the concerned property (Gulf News Report, 2020).

4.6 IMPLICATIONS OF GLOBAL TRENDS ON INDIA- Through the analysis of 4 different countries researcher has tried to portray comparative study of different situations with India. Live-in relationship though not a novelty to India but lacks legality in terms of promulgation of law. It would not be wrong to admit that western literature has an enormous impact on India’s live-in relationship laws.

The U.S. partially recognises live-in in the form of ‘common-law marriage’ as discussed above in 4.2.2. The SC of India in its popular verdict (*Velusamy v.*

D. Patchaiammal, 2010) has equated 'Relationship in the nature of marriage' in terms of live-in with common-law marriage as held in (*Fenton v Reed*, 1809). Further, the India's SC in (*Velusamy v. D. Patchaiammal*, 2010) has discussed the concept of 'palimony' devised in (*Marvin v. Marvin*, 1976) & elaborated difference b/w common-law marriage & fate of casual relationships pronounced in (*Taylor v. Fields*, 1986).

Greece has acknowledged live-in relationships in the nature of cohabitation agreements as discussed in 4.3.1. However, some live-in couples prefer to register cohabitation contract in India but it is not an accepted form of live-in. Since, the phenomenon of live-in has gained momentum in India & is an accepted norm by majority of population therefore, introduction of cohabitation contracts might safeguard rights & future of live-in couples & their children. Cohabitation agreements are generally opposed in the name of public policy. Therefore, cohabitation agreement model of Greece might serve as the blueprint enumerating pros & cons of the same (SCC Times).

Bangladeshi rests upon traditional hierarchical system wherein only the institution of marriage is regarded as pious. Live-in relationship is prohibited in Bangladesh. The country thrives in orthodoxy & is home to crimes against women & girl-child (Das, 2010). Through this discussion, the researcher wants to highlight that society must be progressive & it must cater to present needs of society. Least society becomes stagnant like Bangladesh's society. Therefore, granting legal recognition to live-in relationships in India must be priority.

U.A.E. further depicts a landmark picture of progressive outlook in terms of live-in relationships. To begin with, U.A.E. also did not tolerate live-in unions. Nevertheless, to keep pace with growing economy U.A.E. compromised its traditional norms in a latest significant development as discussed in 4.5.2. & it has given legal recognition to live-in relationships (Staff & Staff, 2016).

4.7 CONCLUSION-There is diversity in the nature & pattern of live-in relationship across countries. In addition, phenomenon occurs differently

amongst the states of countries. The instances of live-in are found amongst folks with limited finances, less education, having no or meagre migration experience. Along with these, people who are less religious & believe in equality freely choose cohabitation. Live-in have also gained recognition in different patterns. In some places, it is synonymous to concubinage. In other places, live-in integrates into existing statutes (Hein Online, 2024). Most of the countries have cohabitation agreements that specify the rights & liabilities of cohabitants. Western countries regard cohabitation as resembling the institution of marriage. Western literature provides a good comparative insight into the concept of live-in relationships. In non-western countries the phenomenon is not fully established therefore, no comparative literature exists on the point. Undoubtedly, traces of the second demographic transition are visible in the Asian nations. Asian nations are also embracing the concept of cohabitation rapidly (Armaan, n.d.). Point of concern remains the dearth of uniform law on live-in relationship. It becomes imperative at this point to study the views of various stakeholders on live-in relationship to come at any conclusion.

CHAPTER-5

LIVE-IN RELATIONSHIP IN INDIA-SOCIO-LEGAL APPROACH

5.1 INTRODUCTION-To study the impact of live-in relationships is not an easy task. Firstly, the term cohabitation has no legal definition consequently; it affects various groups differently in accordance with their ideologies. Secondly, term cohabitation receives different meanings according to the norms existing at a particular time. Thirdly & lastly, many of the impacts of cohabitation are due to social selections (Savita & Khan, 2020). We may say that what appears to be the effect of cohabitation might actually be the characteristic of people cohabiting together. Law & society are complementary to one another. When any phenomena roots in the society, it searches its existence & meaning in the eyes of law. So is the concept of live-in relationship. However, the institution of marriage is losing its divineness due to excessive traditionalism. Morality revolves around the fear of sin (Kaur, 2019). Urban India has already accepted & is comfortable with the concept of live-in relationships. Apart from it, many developed countries have accepted & legalised live-in relationships. Even conservative countries have started to relax their laws in context of live-in, as discussed in previous chapter 4 in detail.

India is witnessing a drastic change from the idea of regarding cohabitation of unmarried man & woman as sinful to present times when live-in is a good option over the divorced life. Hindus regard institution of marriage as the religious sacrament. The ancestors sanctioned this belief in every Indian's minds (*Changing Dimensions of Hindu Marriage*, n.d.). Nevertheless, modernization, industrialization & globalization have an equal impact on this marriage institution. Knowing one another before marriage in times when

divorce & breakdown of marriages is on rise is not a bad option. Only the rigid & conservative thinking is to go-bye (L. Singh, 2023).

Undoubtedly, society honors the institution of marriage. At the same time, live-in relationship is making its place in the Indian society as a parallel phenomenon. Most importantly in a democratic country like India every citizen's freedom of speech & expression, freedom to reside & settle in any part of India, Fundamental right to life etc. is to be respected. Right to choose live-in relationship or marriage is simply an individual's approach & a part of human rights (Naik & Maley, 2017).

In order to gain more clarity on the concept, this chapter studies approach of stakeholders i.e., society, legislature & judiciary towards live- in relationships.

5.2 SOCIETY

India is popular for its democracy & family system. India is a diversified country where individuals connect very close to their families. Every Indian regards his/her family as the priority. Indian society regards the institution of marriage as its major strength. Reasons quoted to strengthen this believe is faith and respect, which folks have on the institution of marriage. India is a secular nation where citizens despite their faiths consider marital unions as the important component of their lives. They believe that by following socially approved institutions the healthy societies preserve their moral values and traditions. Earlier families were joint & the elders and parents of the family took decisions like marriage for their children. However, in the present time there has been a gradual shift in pattern and structure of families. Now families are nuclear where the individuals for themselves take all the decisions. There has been a gradual shift towards the protection of privacy which is also a fundamental right guaranteed by the Indian Constitution (*Constitution of India | Legislative Department | India*, n.d.) Liberalization, Privatization & Globalization has greatly influenced the society. In preset times folks prefer to marry late as they expect more out of the relationships & want a stable career at the same time. As a result, people nowadays are

choosing live-in relationships over marriage (C & Saveetha School of Law, Saveetha University, India, 2014).

Society may regard non-marital cohabitation as immoral, but it is not illegal. No law places restriction upon two adults to enter into any relationship. Most importantly, law, fundamental rights & fundamental freedoms are not absolute, reasonable restrictions exist on their exercise. There is a difference between law & morality (*Kumar*, n.d.). People in live-in relationships without formal marriage are not criminal offenders. “Law grows with the growth & strengthens with the strength of the society.” Consequently, legislation & judiciary is keeping pace with the developments in this regard. The law becomes a dead letter if it is rigid & stagnant (*Singh*, 2019).

A live-in relationship is that form of relationship, which does not, put the responsibilities of a normal marriage on the couples. These relationships rest upon the foundation of individual freedom. Live-in are preferred as they allow couples to test their compatibility before marriage. Individual also choose these relationships as they are free from the huss and buzz of a normal marriage, or couples do not want to enter into a formal relationship & in some situations financial position of couples make them to enter into live-in where individuals cannot spend on lavish marriage ceremonies (*Milindanand*, n.d.).

Both marriage & live-in are two distinct concepts. Institution of marriage is witnessing many changes. Divorce cases are increasing day-by-day (*Shahistapathan*, n.d.). If numbers of divorce cases will keep on rising at this speed, it would lead towards abolition of the institution of marriage in coming 10-15 years. The tolerance level among people is going down day-by-day. Institution of marriage also does not guarantee loyalty. In marital unions, also people cheat their spouses. What provides loyalty in any relationship is honesty. However, a live-in relationship goes good as couples choose one another & enter it by their choice (*Pandey*, 2021). Adoption of live-in relationship does not imply that institution of marriage is been replaced by it. Motive of both marriage & live-in is to complete the emptiness of life and thereby, creating a healthy environment for individual's growth &

development. Live-in relationships are not just for fun & sensual satisfaction. This form of relationship is the necessity of modern lifestyle accepted by society largely (Naik & Maley, 2017).

Live-in relationships promote individualism, liberty & parallelly it provides an intimate relationship to a couple. There are various factors, which influence the choice regarding live-in relationships. There have been significant shifts in the union formation patterns like increase in the rates of divorce, delay in the age of marriage & childbearing, etc. (L. Singh, 2023). Chapter-2 studies all these factors in detail. When a phenomenon in the society becomes more common, it implies that earlier norms against the phenomenon become less effective. Similar is the case with non-marital relationships. In the current situation, the societal norms have changed & most importantly, the taboo attached to live-in relationships, which existed fifteen, or twenty years back have changed now.

In India, live-in relationships are less prevalent amongst the middle class. On the other hand, the elite class and the lower income group both can easily accept & adapt to the new kinds of relationships. In these changing situations now even parents permit their kids to adapt these kinds of living arrangements (Jaimala, 2017).

Preamble of Universal Declaration of Human Rights recognises inherent dignity and equal, inalienable rights of the entire members of the Human family as the foundation of freedom, justice & peace all over the world. This recognition further encompasses within itself the right to choose sexual as well as reproductive life of one's choice (Kapoor, 2011). The society has intermingled the concept of law, religion & culture. The society regards the terms girlfriend and live-in partners as impure and illegal. According to the society, only the term wife carries with itself purity, sacredness & chastity. Live-in relationships have become an alternative to marriage in metro cities (Kumar, 2016).

5.2.1 THEORIES ASSOCIATED WITH LIVE-IN RELATIONSHIPS & MARRIAGE-There are various notions concerning the institution of marriage and live-in relationships.

i. Symbolic Interaction Theory-This theory studies society by addressing subjective meanings imposed by the people on objects, events & behaviours. These subjective meanings are important, as individuals tend to behave according to their belief & not according to what is true objectively. According to the theory, society is ever changing and complex pattern of subjective meanings. Therefore, marriage is a product of social interaction. More the interaction greater are the instances of marriage & the continuous mutual support leads towards the permanency of Hindu marriages (Acharya & Udgata, 2019).

ii. Social Exchange Theory-This theory views human behaviour as a rational choice in which an individual look towards the maximization of pleasure or benefit & tries to minimize the pain or cost. According to this theory, set of common believes regarding marriage & cohabitation bind various groups of people with feeling of solidarity. Therefore, people belonging to different religions & culture behave differently according to their belief where any departure from the customs creates doubts (Acharya & Udgata, 2019).

iii. Rational Choice Theory-This theory provides that people are encouraged through their personal wants, goals & motivated by their personal desires. It is not at all possible for an individual to get all what he desires therefore, he/she should make choices as to goals & means to attain those aims. According to the theory, rational individuals select that course of action, which gives them maximum satisfaction. Whatever may be the mode of action it should be “rational” in character. The theory explains the shift from traditional marriages to live-in relationships. The theory says that people choose live-in, as they are convinced of the fact that these relationships allow all the benefits of a married life without commitments & responsibilities (Acharya & Udgata, 2019).

Nature of society is progressive. It cannot remain static. Society keeps on adapting itself according to the requirements of time. Live-in relationships

have digged in the Indian society and it has in no way substituted the institution of marriage. Society must distinguish between the law & morality. Law is the set of rules devised to regulate the society whereas; morality is an individual's perception of right or wrong. Law has never declared cohabitation as immoral & illegal. Choice of mode of life i.e. marriage or live-in should be purely an individual's discretion. There should be no force associated to it (Kumari, 2020).

5.3 LEGISLATURE

Though there is no law in India, which governs live-in relationships, but section 2(f) of Protection of Women from Domestic Violence Act, 2005 [Annexure-6], section 144 of Bhartiya Nagrik Surksha (Second) sanhita, 2023[Annexure-7] [previously Section 125 of The Code of Criminal Procedure, 1973] & section 119 of Bhartiya Sakshya Adhiniym, 2023[Annexure-8] [previously section 114 of The Indian Evidence Act, 1872] covers the entire concept presently. The centre has enacted new criminal laws effective from 1 July 2024. New criminal laws have replaced Criminal Procedure Code with Bhartiya Nagrik Surksha (Second) sanhita, 2023 & Indian Evidence Act, 2023 with Bhartiya Sakshya Adhiniym, 2023. India is waiting for a law, which recognises such live-in relationships. Women entering live-in relationships do not get their partner's surname, neither are they recognised by their spouse name in legal and financial matters nor they could open a bank account, submit income tax return & apply for loan along with their partners. In short, women in these relationships have identity different & separate from their partners. Women in live-in relationships are not domestic partners (Kaur, 2019).

5.3.1 PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005-Section 2(f) of the act governs live-in relationship under the expression “relationship in the nature of marriage” (Protection of Women from Domestic Violence Act 2005).Judiciary has presumed regulation of these relationships under this expression as the phrases “nature of marriage” & “live-in relationship” rest on the same footing. This section protects the basic

rights of women from fraud and bigamous relationships (Tripathy & Misra, 2018).

Section 2(a) [Annexure-6] of the same act defines women in terms of an aggrieved person. Any women in a domestic relationship subjected to any act of domestic violence by the respondent, is an aggrieved person. Domestic violence can include incidents of physical, mental, verbal & economic abuse. Women can claim remedies for these incidents of abuse (*Mishra*, n.d.).

Phrase “relationship in nature of marriage” may imply-

Firstly, a cohabitation [domestic] between two heterosexual unmarried individuals i.e. live-in relationship which is studied in this thesis;

Secondly, an adulterous relationship. In the case law of (*Kusum v. State of UP*, 2016), a married woman eloped with another man & cohabited with him for five years. She did not divorce her husband. The ALL HC did not allow this relationship u/s 2(f) of the Domestic Violence Act, 2005. Her relationship could not to fall within the ambit of the expression relationship “in the nature of marriage”. In another situation of (*Reshma Begum v. The State of Maharashtra*, 2018), the applicant divorced her husband customarily & developed an affair with a Muslim married man. The couple married in the presence of kazi. Because of this relationship, a child was born to the couple. However, the couple separated due to conflicts between them. The Bom HC held that relationship between the couple is not “in the nature of marriage”. The court further held that section 2(f) is not prone to excessive interpretation to include within its ambit adulterous relationships. In this case- law applicant was not entitled to any relief.

Thirdly, a relationship [domestic] b/w same-sex couples (Sattigeri, 2021). In (*Chinmayee Jena v. State of Odisha*, 2020), a transgender man & woman wanted to enter into live-in relationship. Justice Ratho held that, “love has no boundaries & has extended its interpretation to allow same-sex couples in live-

in”. However, these couples are not competent to enter into the marital unions but they can cohabit together only to some extent.

Relationship in the Nature of Marriage & Domestic Relationship-The term “relationship in the nature of marriage” is been interpreted & granted meaning by the judiciary in following judicial precedents (Nawsagaray, 2018).

(Velusamy v. D. Patchaiammal, 2010)

Facts-

- i. What is a relationship in the nature of marriage?
- ii. What is the criterion that couples should fulfill to fall under the category of “relationship in the nature of marriage”?

Judgement-Markandey Katju & T.S. Thakur, JJ made various observations in this case law-

- i. Phrase “Relationship in the nature of marriage” is similar to “Common Law Marriage”. Therefore, couples though not formally married must fulfill the following criterion i.e., couples must represent themselves to society like spouses, couples must possess the legal marriageable age, couples must be competent to perform a legal marriage; they must further possess the competency to decide for themselves to remain unmarried & cohabitation amongst the couples must be voluntary & the cohabitation must continue for a ‘significant period of time’.
- ii. The relationships, which qualify the above tests, would be included under the phrase “relationship in the nature of marriage”. One-night stand, spending casual weekends together, keeps maintained by their men but hired for sexual gratification only will not get any protection under this phrase & the act as a whole.

(Indra Sarma v. V.K.V. Sarma, 2014)

Facts-

- i. Whether a live-in relationship amounts to “relationship like marriage” u/d the definition of domestic relationship i.e., section 2(f) of the Protection of women from Domestic Violence Act, 2005?
- ii. Whether failure to maintain woman in live-in relationship amounts to domestic violence u/s 3 of the same act?

Judgement-

Bench of K.S.P. Radhakrishnan & Pinaki Chandra Ghose, JJ. answered the above questions in affirmative and held that section 2(f) of the act require wide interpretation to incorporate within its ambit the poor, illiterate victims also the children born to them out of these relationships. The Hon’ble court has further requested the parliament to enact a separate law on the point to prevent victims from any kind of injustice. The SC has provided various guidelines on which parliament may enact a new law on live-in relationships i.e., spending ‘reasonable time together’; residence at a shared household u/s 2(f) of Domestic Violence Act, 2005, couples must pool their finances together & must give financial support to one another, household responsibilities must be undertaken by female live-in counterpart, live-in relationship must be for affection, mental support & companionship, bearing of children, socialization as spouses & conduct of couple.

5.3.2 BHARTIYA SAKSHYA ADHINIYM, 2023- According to section 119 of Bhartiya Sakshya Adhiniym, 2023[Annexure-8] previously section 114 of the Indian Evidence Act, 1872 [Annexure-8], “the court may make presumption regarding the existence of any fact which it thinks likely to have happened, regard being given to the common course of natural events, human conduct and public & private business, in a relation as to the facts of the particular case” (The Indian Evidence Act 1872). In a situation where a man and woman lived as a couple for long time, then the court would make presumption regarding marriage (Lohia & Goyal, 2020). In *(Tulsa & Ors. v.*

Durghatiya & Ors., 2008) Loli & Radhika Singh were cohabiting together without marriage. The duration of their cohabitation was lengthy. The couple also bore several children with each other. Validity of this relationship as well as legality of children born & their rights was in question. The SC held that where a couple cohabits with one another for a significant time presumption regarding valid marriage arises. This presumption is rebuttable if such circumstances & situations exist which weaken the said presumption.

5.3.3 BHARTIYA NAGRIK SURKSHA (SECOND) SANHITA, 2023-

Purpose of section 144 of Bhartiya Nagrik Surksha (Second) sanhita, 2023[Annexure-7] [previously Section 125 of The Code of Criminal Procedure, 1973] [Annexure-7] is to avoid vagrancy & destitution for a wife/minor children/old age parents, & the same extends by judicial interpretation to partners of a live-in relationship (The Code of Criminal Procedure, 1973).The SC in (*Abhijit Bhikasetth Auti v. State of Maharashtra and Ors*, 2009) has iterated the point. The question raised in the said case law was that whether women in live-in relationship claim maintenance u/s 125 CrPC. The Bom HC has ruled out that the woman needs not to prove the existence marriage in strict sense to claim maintenance u/s 125.

(Chanmuniya v. Virendra Kumar Singh Kushwaha, 2011)

Facts-

- i. Whether living together as husband and wife raises the presumption as to valid marriage between the parties?
- ii. Whether such presumption entitles the woman the right to maintenance u/s 125 CrPC?

Judgement-

- i. The Hon'ble court has held that women not having the legal status of wife are under the ambit of term "wife" u/s 125 CrPC. Therefore, law presumes a valid marriage between the couple.

ii. The court further is of the opinion that man is not entitled to take advantage from the legal escape. Accordingly, man is duty bound to maintain his live-in partner.

Malimath Committee Report-Malimath Committee was presided over by Justice V.S. Malimath. The committee in 2003 suggested following measures for women in live-in relationships [Annexure-9].The committee gave following measures under the heading “offences against women” (Malimath, 2003)-

Firstly, the committee has suggested that term ‘Wife’ must be altered & revised. The term ‘wife’ must include women in live-in relationship. Further, the women in live-in relationship abandoned by their male counterpart at his will must also get the protection under term ‘wife’. Therefore, the Malimath Committee has equated the status of live-in women with the status of ‘wife’,

Secondly, the committee has granted privileges of a legitimate spouse to live-in women for the purposes of maintenance u/s 125 CrPC. The only condition which committee has imposed upon female live-in partners is that they should be in such a relationship for a ‘sensible period of time’, &

Thirdly, the committee has suggested to presume a valid marriage b/w couples where couple is residing as a spouse (*Kaleem*, n.d.).

Taking help from this report Maharashtra Government devised a proposal suggesting that women in live-in relationship for a “reasonable period” must get the wife’s status. This idea came forward in October 2008. Nevertheless, this proposal could not get the shape of a legislative enactment (Magoo, 2020).

However, women in live-in are entitled to maintenance u/s 125 CrPC. Legislature & judiciary safeguards the rights of women in terms of maintenance (Sarkar, 2016). Nevertheless, regarding inheritance & succession rights of these women are very limited (Aggarwal, 2020).

5.4 JUDICIARY

Judiciary is custodian & interpreter of the Constitution. In absence of any specific law on live-in the SC & various HC's have illuminated the path to follow. The judicial pronouncements have rendered certain clarity to concept. These judgments form the bedrock for providing justice to the people entering live-in relationships. Hon'ble Justices A.K. Ganguly & G.S. Singhvi have pronounced on the dynamic nature of Hindu Law. In a progressive society, law cannot remain static. Hindu Law has adapted itself to new emerging situations. Social norms change from time-to-time & society-to-society. The actions, which might be illegitimate previously, in present situation, may prove to be legitimate. Law has devised its exclusive manner to accommodate such changes through the process of 'amendments' (Narang, 2021).

Judiciary has been very active in terms of live-in relationships right from the time of Privy Council. As discussed in chapter 3 earlier that live-in relationship is not a novelty. Difference lies in the fact that earlier these relationships existed behind the doors. In the current scenario, these relationships have found their partial recognition in the society. We have also seen in the previous chapter that live-in have found legal & societal recognition in many neighbouring as well as developed nations (Mukherjee, 2021). India which is famous for its democracy & diversity cannot aloof itself from this progress. Let us have a look at the bible laid down by our hon'ble justices' right from the time of PC. Here are the landmark judgments, which have paved the way of live-in relationships in India with definitiveness.

- *Before independence-*

In the case law of (*Andrahennedige Dinohamy v. Wijetunge Liyanapatabendige Blahamy*, 1927), the legality of Singhalese marriage was questioned. At the time of solemnisation of marriage, the rituals prevailing & law of Ceylon did not made it compulsory to register marriages. The couple resided together for 20 & was parents to nine children. Non-registration of marriage brought this union u/d shadow & u/d the category of irregular marriage. The PC gave a

historic judgement wherein it held that when it is proved that a couple has resided together as spouses, the law presumes that couple was residing together out of a legitimate marriage. However, if vice-versa were proved then couple would be presumed to have lived in the condition of concubinage.

- *After independence-*

(Badri Prasad v. Director of Consolidation, 1978)

Facts-

In the first case law concerning live-in relationship, a special leave petition was filed against the couple residing together for the good number of 50 years.

Judgement-

The Apex court herein upheld the legality of such union & granted legal recognition to live-in relationships as a valid marriage.

(Madan Mohan Singh v. Rajni Kant, 2010)

Facts-

The meaning of “walk-in” & “walk-out relationships” was discussed in this case law.

Judgement-

The SC has opined that those live-in relationships that continue for a longer duration of time cannot be said to “walk-in” & “walk-out” relationships. In this situation, court will presume a valid marriage b/w the couple.

5.4.1 LIVE-IN RELATIONSHIP: A CONSTITUTIONAL RIGHT-In (*S. Khushboo v. Kanniammal & anr*, 2010), the SC has granted constitutional protection to live-in relationships. The brief facts of the case were “No authority has the power to oppose a couple desirous of living together & living together is not a crime.” The Special Bench of Apex Court on April 28, 2010 held that no Law in India prohibits live-in relationship neither these

relationships are a criminal offence nor live-in is unlawful & illegal. Live-in relationship forms an essential component of article 21 of the Constitution of India. Therefore, live-in relationships are permissible. Cultural exchanges' amongst people further boosts to such relationships.

The Hon'ble court has also exclaimed that right to choose one's life-partner within or outside the boundaries of marriage is purely that person's prerogative. Decisions like live-in relationships, marriages etc. are part of an individuals' right to privacy. This aspect of privacy is prone to protection in all respects. Morality & faith are not above the Constitution. The strength of Constitution depends upon its ability to accept the plurality as well as diversity of rich Indian culture. People irrespective of any faith can marry one another. Inter-caste/ Inter-faith & love marriages are not illegal. Special Marriage Act, 1954 regulate these relationships (G, 2018).

5.4.2 CONSTITUTIONAL & SOCIETAL MORALITY-The term "Constitutional morality" denote the adherence to laws of constitution & doctrines without any conditions. It is of prime importance for developing the spirit of constitution. This aspect of constitutional morality finds its place through judicial pronouncements as Constitution nowhere mentions the term in explicit sense. In the broader sense, Constitutional morality is soul of India's Constitution affirmed through the Preamble to Constitution. Constitutional morality guarantees the elimination of inequality from the India's social structure. Further, it assures individuals regarding the measures of enforcement of various rights guaranteed by Constitution. (*Constitutional Morality*, n.d.).

"Societal morality" is also termed as public morality. It is the popular approach of a particular group, community and society. Based on common beliefs and mentality society often judge the actions of other people & comment upon pros & cons of their behavior. These perceptions at many times are prejudicial. Societal morality is subjective & personal having many grey

areas. Moral policing is not good where democracy prevails (Centre for Socio Legal Research, 2021).

However, law & morality relate to one another closely but there exists a line of difference between them. The object of law is to subject individuals' will to the common will of society. Whereas, the object of morality is submission of an individual to his conscience and dictates. Further, the subject matter as well as field of operation of law & morality or ethics is different & separate. The law focuses on social conduct of an individual on the other hand, morality concentrates only on an intrinsic conduct of the individual (*Important Concepts of Law, Morality, Right and Duties, Legal Personality and Theories*, n.d.).

The Constitutional morality is anecdotal to societal morality. It ensures progressive aspect of morality in tune with the constitutional principles. It is laid down authoritatively that constitutional morality overrides societal morality. It denotes the rights of individuals devoid of any public opinion & pressure (Drishti IAS, 2018).

5.4.3 RIGHTS OF CHILDREN BORN OUT OF LIVE- IN RELATIONSHIP-Children are the assets of the nation(Singh, 2020).The Convention on Child Right provides that every child have a right to descent life along with basic human rights. Above all every child needs an environment in which he/she can make choices with complete freedom. In order to achieve this child's education & health is every country's priority. SC and HC's have clarified the legal status of children born out of live-in relationships in their numerous judgments (Dubey, 2019).

- *Maintenance Rights-*

(*Dimple Gupta [Minor] v. Rajiv Gupta*, 2008)

Facts-

The fate of maintenance rights of children born to live-in couples was raised.

Judgement-

The hon'ble court has held that, it is the duty of every biological father to maintain his live-in children. Further, the court has rendered legitimacy to live-in children.

- *Inheritance rights-*

(*Vidyadhari v. Sukhrana Bai*, 2008)

Facts-

Are live-in children authorized to the inheritance rights in a situation wherein, the first marriage of male counterpart is continuing?

Judgement-

In this historic verdict, the SC has equated the status of live-in children with "legal heirs"

- *Property rights-*

(*Bharatha Matha & Anr v. R. Vijaya Renganathan & Ors*, 2010)

Facts-

The extent of share of live-in children in parent's as well as properties acquired through self was pronounced by the Apex court.

Judgement-

The court has authoritatively held that live-in children are authorized to inherit only properties acquired through self of their parents.

- Legitimacy of live-in children

(*Revanasiddappa & anr. v. Mallikarjun & Ors*, 2011)

Facts-

Is it fair to name live-in children as illegitimate & relationship b/w couple as a form of void marriage?

Judgement-

The Hon'ble court in express terms had laid, whatever may be the nature of relationship, every children born would be vested with the legitimacy by the court of law.

Regarding custody there is no specific law regulating the issue. Therefore, The Hindu Minority and Guardianship Act regulate the custody matters of children. According to the Act while granting custody, welfare of the child is the priority (The Hindu Minority and Guardianship Act, 1956). Apart from this provision of (The Guardianship and Wards Act, 1890) may be recourse to decide the welfare of child (Ali, 2019).

5.4.4 RECENT DEVELOPMENTS IN LIVE-IN RELATIONSHIPS-

- i. In a latest judgement in (*Rhea L. Pillai v. Leander A. Paes and Anr*, 2022) Bandra Court has directed Paes to pay monthly maintenance of Rs. 1,50,000 to Rhea towards the expenses of house, other essentials & for the maintenance of daughter born to couple out of their live-in relationship. Rhea & Paes was an inter-faith couple. They both decided to live together without any formal marriage and decided to beget a child. Due to familial interference, clashes began to arise amidst the couple & Paes subjected Rhea & her daughter to incidents of domestic violence (Pti, 2022).
- ii. The bench of Allahabad HC in a landmark judgement (*Shaira Khatun and Anr. v. State of UP and three Ors*, 2021) has opined that live-in relationships have become an integral part of modern life and it is approved by SC of India. These relationships are to watch from the prism of individual freedom and liberty guaranteed by the Article 21 of the India's Constitution & not only from the angle of societal morality. In addition to it, the Fundamental Right to life be procured. It is the duty of State to mark the observance of Fundamental Rights therefore, police personnels are duty bound to protect the rights of petitioners major in age (Trivedi, 2021).

- iii. In (*Sanjay and Anr. v. State of Haryana & Ors*, 2021) the court has held that legislature recognises live-in relationship under The Protection of Women from Domestic Violence Act, 2005. In addition, the Court ordered police to give protection to the couple in the event of any imminent danger to their life (Sehgal, 2021).
- iv. In other case law of (*Kajal and Anr. V. State of Haryana and Ors*, 2021) the Punjab & Haryana HC has refused to recognize a live-in relationship of minor girl and a major boy (Sehgal, 2021).
- v. In (*Smt. Geeta and another v. State of U.P. & Ors*, 2021) the Court refuted the live-in relationship between a couple where woman was already married to another man (Sehgal, 2021).
- vi. In the case, law of (*Rashika Khandal v. State of Rajasthan*, 2021) the Rajasthan High Court has ruled out in clear words that no live-in relationships can exist between married & unmarried individuals (Sehgal, 2021).
- vii. In (*my preferred transformation and hospitality private limited v. The District Collector & Ors*, 2019) the Madras HC has opined that couples, which are not married, can occupy rooms in a hotel. This is not a sin in any law (Sehgal, 2021).
- viii. In the case law of (*Shakti Vahini v. Union of India*, 2018) the SC has held that declaration of one's choice is an important ingredient of a dignified life & liberty. Fundamental Right to life & liberty encompasses within it the right to choose. In certain states, still love marriages are taboo and sin. These kinds of relationships according to conservatives bring embarrassment to them and families. As a result, many boys and girls fall prey to honour killings. These killings are the by-product of patriarchal mindset. The bench in this situation also reminded the authorities that it is their duty to safeguard the interests and rights of such couples (Magoo, 2020).

Court in this judgement also relied upon 242nd Law Commission Report containing the ill effects of honour-based crimes. The Honourable Court declared these honour crimes as illegal & further held that Khap Panchayats have no authority to question the choice of a major couple regarding their marriage (Reddy et al., 2021).

- ix. In (*Navtej Singh Johar v. Union of India*, 2018) the SC has decriminalized section 377 of The Indian Penal Code, 1860. Now homosexual relations i.e. private same-sex relationship is not illegal (Sattigeri, 2021).
- x. The Kerala High Court in (*Rajeeve v. Sarasamma & Ors*, 2017) has opined that couples in live-in relationships are spouses in limited sense not fully. The HC has further expressed that female receiving service benefits only out of live-in relationship is not a legally wedded wife (Sattigeri, 2021).
- xi. The SC in (*KS. Puttaswamy v. Union of India*, 2017) has declared right to privacy as a Fundamental Right (Sattigeri, 2021).
- xii. The Hon'ble court in (*Svetlana Kazankina v. Union of India*, 2015) has granted visa extension to a couple wherein, woman was an Uzbekistan national & male was Indian. The court further ruled out that since these live-in have become a facet of life so visa extension rules for married as well as live-in relationship couple should not be different. The visa cannot be denied on the ground that couple is in a live-in (Sattigeri, 2021).
- xiii. The SC in (*Revanasiddappa v. Mallikarjun*, 2011) has opined that relationship between parents & birth of a child both are two different things. The Court has made it clear that children born out of live-in relationships are innocent & authorized to all rights and fortune like children born out of a normal marriage (Saxena, 2019).
- xiv. Allahabad HC has expressed that marriage rituals are not be followed strictly in order to claim maintenance u/s 125 CrPC. In addition, there

is no requirement to prove evidence of those rituals. Women in live-in relationships are entitled to maintenance u/s 125 CrPC (Saxena & Law, 2021).

5.5 CONCLUSION-Live-in relationships are not a threat to India Society. What the concept requires is regulation through Law. Home is a place, which keeps everyone in the society stick to his or her roots. However, change is an equal truth. Above all law strengthens with the societal progress. Urban cities of India have accepted the growing concept of cohabitation. They are more comfortable in this set-up. There is no straightjacket formula to access goodness or badness of a relationship. It is something, which is very subjective and changes with person-to-person. No exhaustive list exists to determine the ethics of a particular concept. There are people, which see no harm & no wrong in engaging pre-marital relationships. No law can interfere in the personal domain of people. Progressive judgments by judiciary further give impetus to the constitutional mandate of safeguarding the privacy & personal domain of citizens. Along with the stakeholders, it is very important to study the views of various religions on live-in relationships. India is a secular country where choices and aspirations of every religion receive an equal importance.

CHAPTER-6

LIVE-IN RELATIONSHIP IN INDIA-RELIGIOUS & SPIRITUAL PERSPECTIVE

6.1 INTRODUCTION-Live-in relationships are to view from the angle of personal autonomy & not from the lens of social morality only. This personal autonomy blooms from the Article 21 of the Constitution. It is the duty of courts to respect & protect this personal autonomy provided by the Constitution. The essence of cohabitation lies in the space between marriage & personal autonomy (*Constitution of India | Legislative Department | India*, n.d.). Every law has its “inner aspect of morality”. Therefore, live-in is not outrightly a taboo. All the religions negate the concept of live-in on the other hand; religious texts provide the existence of live-in from ancient times. The religious texts never have nullified cohabitation in strict sense. Paradoxical beliefs have conditioned people’s minds in such a way that their minds cannot imagine any institution other than marriage. Nevertheless, in modern times people are deviating from many illogical beliefs. Every religion has devised its own family law to regulate the matrimonial matters like Hindu Marriage Act, 1955, Muslim Marriage Act, 1957, The Christian Marriage Act, 1872 etc. (Centre for Socio Legal Research, 2021).

In the previous chapter 5 we have discussed the claims of stakeholders i.e. society, legislature & judiciary on live-in relationships. In this part, we will study the claims of three major religions i.e., Hinduism, Islam & Christianity on live-in relationships.

Above all these three major religions are also followed in the State of Uttarakhand. Maximum of Uttarakhandi’s are Hindu. Hindu population account to 82.97% in Uttarakhand. Islamic population amounts to 13.95% of total population & Christianity amounts to 0.37% of Uttarakhand’s population (Report of the Expert Committee Vol. 1, 2024). The Hindu community during

deliberations regarding desirability of U-UCC has expressed that basic principles of Sanatan Dharma & Vedic traditions must be given due respect. Equal rights must be given to both the genders i.e., male & female. Enactment of UCC is much necessary for the State. Muslim Community is of the view that live-in relationships should compulsorily be declared. This mandate would protect rights of both parties. The Christian community further stressed on the declaration of live-in relationship (Report of the Expert Committee Vol. 2, 2024).

6.2 HINDUISM

Marriage is the oldest social institution among Hindus. It has much significance in the lives of Hindu community. Marriage is the one out of ten essential *Sanskaras* of Hinduism (Verma, 2022). Hinduism regards marriage as a religious injunction conducted to perform various religious duties. The purpose of Hindu marriage is to attain Dharma, Artha, Kama & Moksha (Iyer & Symbiosis Law School, Hyderabad, 2018).

As discussed in chapter 3 desire for companionship led to the adoption of institution of marriage. Hindus further have refined this institution of marriage & made it their ideal (Gupta, 2022). For this, ancestors have provided rules in detail governing the entire aspects of marriage institution & have therefore; strike a balance between fullness of life & Dharma i.e. righteous code of conduct (Pandey, 2021). Section 7 of the (Hindu Marriage Act, 1955) regulates the entire concept of Hindu Marriage.

6.2.1 SIGNIFICANCE OF HINDU MARRIAGE-Hindu marriage is a pious relationship between two souls, which lasts beyond lifetime.

- It is believed that Hindu marriage continues up to seven lives. Therefore, the Hindu marriage is a permanent & sacramental institution.
- Hindu marriage is a sacrament as the marital union between the couple ensues by bestowing the bride upon bridegroom by her father & not because of any contract. Father of the bride performs the gift of

kanyadan in the presence of holy Agni who is the god of fire (Diwan, 2012).

- Pure religious ceremony of Saptapadi follows the kanyadan. In Saptapadi, the bride & bridegroom hold each other hands. They take seven steps together by walking around Agni also; bride & groom promise one another their ever-lasting eternal friendship as husband & wife.
- The main motive of solemnizing marriage among Hindus is the procreation of male offspring. The logic behind this expectation is that begetting a male child helps Hindus in paying off their pitriri i.e. debt to ancestors. Most importantly, according to Hindu scriptures a Hindu can attain Moksha only when his son performs his last funeral rights (Rai, 2016).

6.2.2 CHANGING NATURE OF HINDU MARRIAGE-Social changes has influenced the Hindu marriage, like other institutions. The notion of Hindu Marriage as a religious duty & a sacrament has changed (*Features of Hindu Marriage That Are Changing and Evolving*, n.d.)

- The Hindu marriage has lost its religious identity & sanctity u/d the Hindu Marriage Act, 1955. According to Hindu sacred texts, marriage amongst Hindus was an inseparable bond of husband & wife. This union of marriage was not liable to break, in any of the circumstances (*Hindu Marriage Is a Contract or a Religious Sacrament*, n.d.).
- However, the Hindu Marriage Act, 1955 through providing several matrimonial remedies like divorce & nullity of marriage has eroded the sacramental character of Hindu Marriage (Ravleen & Vandana, 2018).
- The Marriage Laws (Amendment) Act, 1976 made further onslaught on the sacramental character of Hindu Marriage through providing various remedies like divorce by mutual consent (Kumar, 2015).

6.2.3 HINDUISM & LIVE-IN RELATIONSHIPS-Live-in relationships are not new phenomena in Indian context. These relationships have existed in various forms at different places as discussed in chapter 3. The Hindus

scriptures further describe & admit the existence of the pre-marital relationships (Bhattacharyya, 2019)-

- Manu quotes that live-in relationship was present in the Vedic period & time afterwards. The popular Gandharva Vivaha of Ancient India is similar in concept to live-in relationships (*Baruah*, n.d.).
- Even in modern India, these live-in existed under the pattern of “Maitri-karar”. Maitri Karar was a written agreement between the two individuals’ of opposite sex. Under this agreement, the couple lived together as a friend & took care of one other (P. Kumar, 2014).

Justice C.S. Karnan has made an observation that live in relationship are equivalent to the institution of marriage. In other words, on a couple’s consummation of their sexual desires, the said act takes the form of complete commitment. This consummation also has certain consequences attached to it. This mating implies marriage (Online, 2021).

- Hinduism never regarded sex as a taboo starting from the Ancient India. In Hinduism, sex is not neither a taboo nor it is evil and impure. Hindus worship Kamadeva, the lord of love. Kamadeva personifies sexual desire. Kamadeva fills love & its passion in torment. Sexual intimacy forms the basis of spirituality, procreation of children, re-births, vitality, & sternness and forms the basis of continuation of existence (Jayram, n.d.).

The only thing, which Hinduism prioritizes, is that sexual conduct of people should aim at the right ends. The purpose of intimacy should be lawful. In situations where the aim of sexuality is only pleasure sensual enjoyment, such acts are unlawful & a sin. Hinduism strongly approves that until the objective of sexual activity is to attain the righteous ends; the sexual desire would not be considered as an end in itself (Prabhavathi & Raju, 2020).

Incidents of live-in are blooming slowly & rapidly in India. Individuals of all ages starting from youth to aged are embracing this concept with both the hands, as discussed in chapter 2 in detail. Although there is no law governing these relationships specifically but legislative protection has prepared the

blueprint for live-in. Judicial & Constitutional recognition has further provided an impetus to cohabitation, as discussed in chapter 5 in detail. Society is accepting live-in not as a process replacing institution of marriage rather than as a phenomenon existing parallelly to marriage. India is a democratic & secular country where choice of family making must be an individual's decision (Trivedi, 2021).

6.3 ISLAM

According to Islam, marriage is a fundamental building unit of life. Muslims follow Prophet Muhammad's teachings in their lives. The holy Quran mentions the term "marriage" at various places. Islam regards Quran as the words of god revealed to the Prophet Muhammad. Therefore, the Islamic community follows teachings of the Prophet with respect to marriage. Above all Quran provides that Prophet was married consequently, Muslims follow Prophet as an ideal. Preachings of Prophet are the source of authority for Muslims *Muslim relationships*. (n.d.).

6.3.1 ISLAM & LIVE-IN RELATIONSHIPS-Traditionally Muslims do not agree with cohabitation or pre-marital sex. All these activities are haram according to Muslim society. There is no place for de-facto relationships in Islamic community. In Islamic principles term Zina is used which is synonymous to live-in relationship. Zina denotes sexual intercourse not between husband & wife. Muslim couples cohabit with each other only after marriage. Marriage is the only approved form of family making socially as well as legally in Islam. Islam forbids adultery as it erodes the marriage and its bond (Franceschelli, 2016).

However, with changing norms of legitimacy taboos connected with live-in relationships are loosening. Modernization has an equal impact on every community. These changes are evident too. As we have discussed in chapter-4 that even conservative & rigid country like U.A.E has relaxed its laws regarding live-in relationship. Apart from this homosexuality is legal in following Muslim countries also-Lebanon, Kazakhstan, Mali, Niger, Turkey,

Indonesia, Northern Cyprus, Bahrain, Albania, Azerbaijan etc. (I. T. W. Desk, 2016).

The Kerala HC has ruled out that adults have the right to enter into live-in relationship. The Constitutional Courts are duty bound to protect the right of major couple to have a live-in relationship. The court further says that it is not possible to close the eyes & sit quiet over the fact that live-in is blooming in our society day-by-day (P Ramdas & P Ramdas, 2018).

According to Dr. Normi, those who enter into an illegal sexual intercourse commit a big crime & so are subject to harsh punishments from Allah (Khan, 2021).

6.3.2 NIKAH-Marriage among Muslims is a civil contract. Islam also regards marriage as a social institution. Term “Nikah” denotes the concept of marriage in Islam. Nikah is an Arabic word which stands for “the union of sexes”. Legally, Nikah means marriage. In other words, Nikah implies to “tie up together”. Objective of solemnizing nikah is the procreation of children & legalizing the progeny (Ahmad, 2018). Nikah is a matrimonial contract as well as an institution that grants women a high status in society. Nikah ensures a stable married life as it ties a couple together for an indefinite period & honours the women with mahr. In Islam, there is no room for celibacy. In addition to it, Islam also forbids chastity (Admin, 2019).

However, during pre-Islamic day’s term Nikah meant various forms of sexual relationship between men & women established on certain terms. During this time, women were regarded equivalent to chattels & had no inheritance rights. They were very dependent on men. However, Prophet Muhammad raised voice & brought a change in the position of women (legal Service India, n.d.).

6.3.3 CHANGING NATURE OF MUSLIM MARRIAGE-Muslim marriage is a civil contract that stands on the same pedestal like other contracts.

- The validity of marriage contract depends upon the capacity of the parties contracting it.
- The parties must possess majority [bulugh] & discretion (Sinha, 2012).
- The Muslim law neither provides any particular form of contracting the marriage contract nor does it mentions any specific religious ceremony to follow.
- However, there are two pre-requisites of Muslim marriage i.e. public declaration & mutual consent (Ahmad n.d.).
- Dower [Mahr] forms the important component of Muslim marriage. Mahr is the amount cash or kind, which a husband pays to his wife. The mahr is a consideration for marriage that exclusively belongs to wife. The absence of dower renders the marriage as invalid (Mulla, 2017).
- Muslim marriage being a civil contract enables the contracting parties to exercise their personal rights against one another also against the whole world.
- Marriage in Islam is not a temporary union but is also subject to dissolution. Muslim marriage also is prone to break down irretrievably (*Concept of Live-in Relationship and Maintenance*, n.d.).
- Various legislations mentioned below safeguard the interests of couples-
 - (The Muslim Women (Protection of Rights on Divorce) Act, 1986),
 - (The Muslim Women (Protection of Rights on Divorce) Rules, 1986),&
 - (The Dissolution of Muslim Marriages Act, 1939).

6.4 CHRISTIANITY

The Christian church has always held that marriage occupies a sacramental position in human life. Marriage is a universal institution and God's purpose. Constitution of the united church of Northern India provides that God bless marriage; being a holy & pious institution. Institution of marriage is a natural

phenomenon (Patel, 2021). At the same time; Christian marriage is a religious sacrament binding men & women for good as well as bad. The couples share their destinies & live their life together surviving various hiccups of life.

Solemnization of Christian marriages takes place in the church; blessed by the Bishop. Marriage completes on receiving Bishop's blessings (*A Christian View of Marriage - Christianity*, n.d.).

(The Indian Christian Marriage Act, 1872) governs the marriage solemnisation among Christians in India. Following are the essentials of Christian Marriage-

i. Section 4-Marriage between Christians where one of the parties is a Christian must be solemnized according to the provisions of the Act. Any contravention renders the marriage void (Chopra, n.d.).

ii. Section 60- According to this section-

- Groom & the Bride must not be below 21 & 18 years of age respectively,
- Both the parties to the marriage should be unmarried. They must not have any living spouse during the time of marriage,
- Marriage should be witnessed by at least two dependable witnesses, &
- Marriage is to solemnize under the presence of an individual authorized u/s 9 of the Act (LAWNN.COM, 2019).

iii. Aims of Christian marriage-

- The first aim of Christian marriage is regulation of sexual relationship b/w a couple. Christians believe that marriage is the pious union which continues throughout the life time of a couple & maintains stable sexual relationship;
- The second aim of christian marriage is bearing & rearing of children by the couple;&
- The third aim of Christian marriage is to maintain companionship based on the virtues like love, co-operation & sacrifice (Shuani, 2015).

6.4.1 CHRISTIANITY & LIVE-IN RELATIONSHIP-Christianity also condemn cohabitation. The Bible provides that “everyone must honour marriage, & the bed of marriage must be pure. Christians believe that God judges the adultery & the adulterer. Most importantly, all sexuality out of marriage is immoral”. Further the “old testament” says that “man who seduces a virgin & has sexual relations with her without marriage paid the father of the girl. In case where girl’s father permitted, man married the girl. Not only this having sexual intimacy with a virgin betrothed to another man could result in death of both the parties by stoning” (Bolinger, 2022).

6.4.2 CHANGING NATURE OF CHRISTIAN MARRIAGE-Marriage among Christians is a sacrament. According to Christians, marriage is a covenant executed before god. However, there has been a gradual shift in the nature of Christian Marriage too-

- i. It has been reported that 60% of marriages are preceded by the period of cohabitation,
- ii. Inter-faith or Inter-religious marriages among Christians are also solemnized,
- iii. Christians in the present scenario have become more tolerant regarding live-in relationships. Christian community is accepting sex before marriage socially,
- iv. They believe that love alone is sufficient to prove their commitment for one another (*Christian relationships, n.d.*).
- v. Bible does not mention anything about living together before marriage. The Bible insists on two aspects i.e. purity & keeping one’s body as a holy temple. Living together before marriage is not a sin (Yoked, 2016).
- vi. Christian marriage is also prone to dissolution. The Indian Divorce Act, 1869 regulates divorce proceedings & other matrimonial causes amongst Christians. Section 10 of the same act further provides for the Divorce by Mutual Consent (*Christian Law Regarding Marriage and Divorce in India: Indian Christian Marriage Act, 1872, n.d.*).

vii. Many countries having Christian population have legalised live-in relationships like U.S.A. discussed in detail in chapter-4, China etc (*Live-In Relationship in Various Countries*, n.d.).

6.5 CONCLUSION-An ideal law is the one that provides maximum happiness to maximum number of people. Implying thereby live-in relationship is separate from the morality & ethics. Society, which remains grounded to its traditions, is a static society with no creativity at all. Dynamism is the nature of progressive societies. Most importantly, morality & ethics are an individual's perception of right or wrong. Therefore, a thing, which is pleasant to an individual, is both ethically & morally right for that individual. Old aged institution of marriage today requires creativity & dynamism. It requires more flexibility keeping in view modernised environment of society (*Important Concepts of Law, Morality, Right and Duties, Legal Personality and Theories*, n.d.). As studied in Chapter-5 Hindu Law is evolving, accordingly new patterns of family formation have emerged. These patterns are further promoting diversification of family life globally.

Myth that live-in relationship is acting as a substitute to marriage is not correct. Institution of marriage & live-in relationships are two parallel concepts in themselves. Difference between both lies in the fact that marriage is an old and developed institution having socio-legal recognition. On the other hand, concept of live-in is under the process of transition. Researches provide that live-in have already made their place in the society & will stay in India forever. Neither marriage acts as a security-valve to unions nor live-in aim at destroying the fabric of society. Whatever be the nature of relationship, success ensues through mutual compatibility, mutual respect & life-long commitment towards one other (Kumari, 2020).

Another myth that live-in relationships only aim at sensual pleasure, waywardness and is devoid of sense of responsibilities is yet to sort in the minds of society. When situations render a phenomenon very narrow

interpretation, it highlights material aspects of those relationships than the spirit (Kumar, 2016).

Neither Judiciary nor Legislature has ever declared cohabitation as immoral, unethical & illegal. The present hour demands a new legislation on the concept of live-in relationships. This legislation is important in order to safeguard the interests of women & children born out of such unions. Although judiciary has done a magnificent job in protecting the interests of both women & children still a codified law is desirable. A drafted fixed code will provide stability to the concept of cohabitation & remove all the doubts from the minds of people. The suitability of these live-in relationships is to study through an empirical study.

CHAPTER-7

A SOCIO-LEGAL STUDY ON LIVE-IN RELATIONSHIP IN THE FOUR DISTRICTS OF UTTARAKHAND

7.1 INTRODUCTION-Globalization has affected Indian society in different ways i.e., financially, socially, technologically & politically. In terms of social change, globalization has put familial relationships in Indian society under much stress. The phenomenon has put question marks upon the authenticity of India's time-tested institution of marriage. It would not be wrong to say that number of divorces is increasing day-by-day. In addition, rise in number of remarriages further shows that couples nowadays are saying an easy go-bye to their wedding vows due to improper relationships. All these factors make institution of marriage an institution full of hassles. Extra flavors of traditionalism & sentiments attached to marriage institution are required to be relaxed.

As seen in the previous chapter 6 approach of religion towards live-in relationship is not absolute negative. Law & morality though are two sides of the same coin but are different in terms of their subject. Religious texts provide about the prevalence of live-in relationships from time immemorial. Religion & connection with the opposite sex has nothing to do with the unrighteousness or immorality. In other words, live-in relationship is helping society to prevent broken homes where goals& aspirations of couples are at the boom. The present requirement is to break the shackles of old orthodox conditioning where religion, values act as a social lock & blocks the sight beyond the notions of marriage.

Presently the scenario has changed. In metropolitan cities, some couples live together with positive approval of parents. Live-in relationship at present time

acts as ‘tried & tested formula’. It is a phenomenon similar to getting married. Live-in relationship, in other words, acts as step towards marriage & not a rebellion against marriage institution. These relationships are like demo that provide picture of the quality of a relationship before couple enter marital life, which binds two persons with one another. Live-in relationship reduces insecurity of spending life with unknown (Bharath, 2017).

Growth & development of society must be gradual & not sudden. Therefore, before India accepts live-in relationship a lot of research and fieldwork is required to assess the suitability of the abovementioned relationships. Therefore, through this thesis an attempt is made to examine the fate of live-in relationship in four districts of Uttarakhand. Most importantly live-in relationship in present times has become a burning topic of discussion (Welle, 2023).

Researcher has choosen Uttarakhand as intended audience because the works on live-in relationship in the state is meagre. Researcher wanted to explore the unexplored districts of Uttarakhand. Uttarakhand was a rural state. However, in present times the state is under the process of urbanization particularly in the district of Dehradun [demographics of Uttarakhand is discussed in chapter-1.7.8 in detail]. Uttarakhand is in a stage of transformation, development where different views both old & young, various professions & professionals are contributing to the development of the state (Srivastava et al., 2022). Above all Uttarakhand has now become the first state to implement Uniform Civil Code in the independent India. So, it becomes important to research on the fate & acceptability of live-in relationship in Uttarakhand. Nevertheless, the developing city is open to its peculiar challenges (Mishra, 2024).

Before the implementation of UCC in the state of Uttarakhand institution of marriage was regulated by The Hindu Marriage Act, 1955, The Special Marriage Act, 1954 & The Indian Christian Marriages Act, 1872. Concerning live-in there was no definitive law. The phenomena was dealt according to the provisions of section 2(f) of Protection of Women from Domestic Violence Act, 2005, section 144 of Bhartiya Nagrik Surksha (Second) sanhita,

2023[Annexure-7] [previously Section 125 of The Code of Criminal Procedure, 1973] & section 119 of Bhartiya Sakshya Adhiniym, 2023[Annexure-8] [previously section 114 of The Indian Evidence Act] & judicial pronouncements.

7.2 UNIVERSE OF STUDY-For the purposes of this research work ‘Universe’ is social as well as legal. Therefore, universe in the present study comprise of people in live-in relationship as well as people not in live-in relationship as views of only ‘couples in live-in’ could aim at biased conclusions. The universe further comprise of legal fraternity due to legal aspect connected with the phenomena of live-in. Due to financial limitations the research is restricted to four districts-Dehradun, Dhanaulti, Pithoragarh & Haridwar in the State of Uttarakhand.

Live-in relationship is an emerging phenomenon with huge potential, pros & cons therefore; it becomes a dire necessity to research on desirability of specific law on live-in. With this aim in mind the target population comprise of i. society, as ‘spirit of law’ lies within the society itself & ii. Legal fraternity to examine complexities that might arise while framing a law on live-in. Live-in relationship as phenomena has a direct connection with society & law consequently, choosing society & legal fraternity as target population appears to be most logical choice to arrive at valid results.

7.3. SAMPLE & SAMPLING DESIGN- State of Uttarakhand has its unique geographical limitations that are discussed in much detail in chapter 1.7.8 [Annexure-2]. Uttarakhand is divided into 13 districts out of which only three districts form the part of plains namely Dehradun, Haridwar & Udham Singh Nagar (*Uttarakhand Population 2022 | Sex Ratio & Literacy Rate 2024*, n.d.). According to the report of (Rural Development & Migration Commission, Uttarakhand, Pauri Garhwal, 2019) almost 60 percentage of Uttarakhand’s State population has left the native villages. These ‘abandoned villages’ are popularly known as ‘ghost villages’ in present day situation of rural out-migration (Bhagirath & Bhagirath, 2020). This rural out-migration has changed the demographical attributes of the State. The plains of Uttarakhand

have witnessed a significant rise in population & urbanization due to employment opportunities, medical facilities, favorable climatic conditions & good education. The majority of urban population i.e., 55 % is concentrated in Dehradun (Pant B.R. & Chand R, 2020).

In this empirical study, sampling is done in two stages i.e., ‘Random Sampling’ has been followed to choose the respondents & further ‘Purposive Sampling’ has been followed to collect responses. For the purposes of this study, four districts are selected in the State of Uttarakhand based on population wherein Dehradun is a Metropolitan district, Dhanaulti is a rural district, Pithoragarh is a Semi-Urban district & Haridwar is an Urban district.

Many couples have entered live-in relationship but these couples will not be able to give representation to the whole population of Dehradun, Haridwar, & Dhanaulti & Pithoragarh. Entering live-in is a personal domain of people that makes an attempt to spot live-in couples precarious. Phenomenon of live-in relationship is categorized as a behavioral phenomenon that is in trend & opted by many individuals. With the aid of purposive sampling, the researcher has the opportunity to analyze current scenario of live-in & has received the genuine views respondents on the phenomenon of live-in relationship.

Table 7.1: Overview of sampling strategy

Universe / Population of Study	Target Population	Sampling Frame	Percentage of Representation
Universe of study is both ‘social’ & ‘legal’	1. Society	1. Live-in couples	80 (20%)
		2. Married Couples	120 (30%)
	2. Legal Fraternity	1. Lawyers	50 (12.5%)
		2. Law professors	50 (12.5%)

		3. Legal scholars	100 (25%)
		TOTAL	400 (100%)

Table 7.1 portrays the complete sampling strategy followed in the empirical study. It describes universe or population of study as consisting of both ‘social’ & ‘legal’ component. Target population consists of broadly two categories namely society & legal fraternity. Sampling frame of the study constitutes live-in couples & people not in live-in relationship i.e., married couples (society) & lawyers, law professors & legal scholars (legal fraternity).

7.4 INTERPRETATION OF COLLECTED DATA-

Table 7.2: District wise distribution of Respondents in Uttarakhand

S.No.	District-wise distribution of Respondents	Number of Respondents	Sample percentage
1.	Dehradun	200	50%
2.	Dhanaulti	30	7.5%
3.	Pithoragarh	70	17.5%
4.	Haridwar	100	25%
	Total	400	100%

Table 7.2 shows district wise spread of respondents in the State of Uttarakhand. Since, purposive sampling is used in the study, the researcher has selected following percentage of respondents from the districts of Dehradun 200 (50%), Dhanaulti 30 (7.5%), Pithoragarh 70 (17.5%) & Haridwar 100 (25%).

Table 7.3: Classification of Respondents based on Gender

S.No.	Gender of Respondents	Number of Respondents	Sample Percentage
1.	Male	210	52.5%
2.	Female	180	45%

3.	Others (LGBTQ)	10	2.5%
	Total	400	100%

Table 7.3 portrays distribution of respondents according to gender. Out of total 400 respondents, male respondent's equals to 52.5% & female respondents comprise (45%). Respondents in others category constitute majorly third gender of population that constitute 2.5% of total population. The respondents in 'others' category comprise of LGBTQ community.

Table 7.4: Classification of Respondents based on Age Group

S.No.	Age-range of Respondents	Number of Respondents	Sample Percentage
1.	18-28	100	25%
2.	29-39	200	50%
3.	40-50	70	17.5%
4.	Above 50	30	7.5%
	Total	400	100

Table 7.4 describes distribution of respondents according to age groups. Respondent has chosen 4 age-ranges i.e., 18-28, 29-39, 40-50 & above 50. Proportion of sample representation of each age range group is as follows 18-28 (25%), 29-39 (50%), 40-50 (17.5%) & above 50 (7.5%). Majority responses are received from the second age group range i.e., 50%.

QUESTIONNAIRE 1 (Annexure-10)

The questionnaire is circulated to society. Researcher has analyzed the questionnaire according to questions. Question no's 1 & 2 are general questions regarding age & gender of the respondents. Questionnaire had four categories of participants from the age groups i.e. 18-28, 29-39, 40-50 & above 50. Maximum participation was observed from the age group of 29-39 years.

Table 7.5: Awareness regarding LIR

3. Are you aware of the concept of live-in relationship:	Analysis of responses
a. Yes	92.04%
b. No	03.00%
c. Partially	04.05%

The maximum numbers of respondents i.e., 92.04% in table 7.5 are conversant to the phenomenon of live-in relationship. The concept of live-in relationship is no longer a novelty or a taboo to talk. Just a meagre percentage of 03.00% respondents are not familiar with the phenomenon of live-in & 04.05% are familiar to live-in but partially.

Table 7.6: Shift towards LIR

4. Trend is shifting towards live-in relationship as it:	Analysis of responses
a. Provides freedom & flexibility to choose the life partner	11.04%
b. Provides opportunity to check compatibility	9.08%
c. Both a & b	78.08%

On analyzing the responses in table 7.6., the majority of respondents i.e., 78.08% have agreed to the statement mentioned above that trend is shifting towards live-in relationship as it provides both freedom, flexibility to choose life partner & opportunity to check compatibility. These two are major factors that are inducing people to opt for live-in.

Table 7.7: Separate law for LIR

5. "80% of Indians supports live-in relationship as a way of life," says poll conducted by Inshorts. A law regulating these live-in relationships separately should	Analysis of responses
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<i>be enacted, keeping in view the increase in numbers of live-in couples:</i>	
a. Agree	65.02%
b. Disagree	14.06%
c. Neutral	20.02%

According to figures in table 7.7, the researcher has come to know that more than half of the population of respondents i.e., 65.02% has agreed to the statement mentioned above that a separate law to regulate live-in relationships should be enacted as there is increase in number of live-in couples. Live-in relationships have become a mode of family formation especially in metro cities. While 14.06% disagree & 20.02% neither agree nor disagree to the above statement.

Table 7.8: Legal Rights of live-in couples

<i>6. Live-in relationships are not a criminal offence. Therefore, couples should be entitled to legal rights from live-in relationships like rights arise from the institution of marriage:</i>	<i>Analysis of responses</i>
a. Agree	66.00%
b. Disagree	16.08%
c. Neutral	17.03%

According to the respondents views in table 7.8 majority of respondents i.e., 66.00% agree to the statement mentioned therein that live-in couples are entitled to legal rights in the same way married couples are eligible. It is nowhere mentioned either in constitution or under any law that live-in relationship is a criminal offence. On the other hand, 16.08% disagree with the statement & 17.03% are neutral.

Table 7.9: LIR-An old phenomenon

<i>7. Live-in relationship is not a new phenomena difference being that earlier it was a closed affair. So, society should accept it as a new and distinct form of relationship:</i>	<i>Analysis of responses</i>
a. Agree	70.08%
b. Disagree	10.03%
c. Neutral	19.00%

As per the analysis of figures in table 7.9 it is clear, that majority of participants i.e., 70.08% have agreed to the statement that live-in is not something new. The only difference is that live-in relationships nowadays are an open affair. Therefore, there is no harm in accepting live-in as a new and distinct form of relationship by the society. Whereas only a small portion of 10.03% have disagreed to the above statement & 19.00% are confused over the situation.

Table 7.10: Financial losses to live-in couples

<i>8. Couples in live-in relationship do not enjoy the financial benefits enjoyed by the legally wedded couples. Therefore, these couples suffer many financial losses, as their union has no legal recognition:</i>	<i>Analysis of responses</i>
a. Agree	63.08%
b. Disagree	21.09%
c. Neutral	14.03%

According to the analysis of table 7.10, the researcher has expressed the view that responses favouring a separate law on live-in are more. Consequently, response to the question in the above-mentioned table is maximum i.e., 63.08% towards financial losses born by live-in couples as the status of such couples is not legalised. Neither such couples can enjoy financial benefits as granted to married couples. On the other hand, 21.09% have disagreed to the question & 14.03% are neutral on the point.

Table 7.11: Negative impact of LIR

9. <i>Live-in relationships have a negative impact on children mental and personality development born to live-in couples:</i>	Analysis of responses
a. Agree	52.03%
b. Disagree	28.09%
c. Neutral	18.08%

According to figures analyzed in table 7.11, the researcher has come to know that live-in have a negative impact on children born to such couples both mentally and physically. Fifty-two point zero three percent of participants agree to this statement, 28.09% disagree & 18.08% are in state of dilemma to agree or disagree.

Table 7.12: Status of live-in women

10. <i>Women in live-in relationship should not get the status equivalent to wife:</i>	Analysis of responses
a. Agree	45.02%
b. Disagree	38.01%
c. Neutral	16.08%

As per table 7.12, 45.02% respondents agree with the statement mentioned therein that women in live-in are not entitled to wife's status. Live-in women

should get a different tag & status reserved for them as a component of phenomena of live-in relationship. Whereas, 38.01% of respondents do not agree with this view & 16.08% are neutral on this.

Table 7.13: Reasonable period of time

<i>11. One important characteristic of a relationship to be in the nature of marriage, as held by courts is 'Reasonable period of time' This period of time should be fixed, for availability of legal rights to the live-in partners:</i>	<i>Analysis of responses</i>
a. Agree	69.03%
b. Disagree	13.00%
c. Neutral	17.07%

On analyzing the responses in table 7.13 it is made clear that, the expression 'reasonable period of time' must be made definite. This definitiveness would impart legal rights to live-in couples. The said expression is of the utmost importance for bringing live-in relationships u/d the ambit of another expression in the 'nature of marriage'. A good majority of 69.03% of respondents have agreed to this notion. Small proportions of 13.00% of respondents have disagreed & 17.07% are neutral on the above view.

Table 7.14: Plight of live-in women

<i>12. Female partner in live-in suffer a lot in a situation where her male partner leaves her and puts end to the relationship:</i>	<i>Analysis of responses</i>
a. Agree	62.02%
b. Disagree	16.03%
c. Neutral	21.04%

According to the views of participants on the statement mentioned in table 7.14, the researcher has expressed that more than half of the respondents 62.02% agree to the mentioned statement that in a situation where female partner is disserved by male live-in partner, she suffers in every respect emotionally, mentally, physically, economically and socially. On the other hand, stubborn 16.03% disagree with the statement & 21.04% are again in a confusion to either agree or disagree.

Table 7.15: Social recognition of LIR

<i>13. Live-in relationships match the social recognition provided by the marriage:</i>	<i>Analysis of responses</i>
a. Agree	15.03%
b. Disagree	61.02%
c. Neutral	23.05%

The answer to this statement mentioned in table 7.15 is negative. Sixty-one points zero two percent of respondents believe that live-in relationships do not match the social recognition provided by the marriage. Only 15.03% agree to the statement. On the other hand, 23.05% of respondents are neutral on the proposition. There is a conflict between primacy of marriage institution & choice of live-in relationship.

Table 7.16: Nature of LIR

<i>14. Only the institution of marriage guarantee permanent stable relationships:</i>	<i>Analysis of responses</i>
a. Agree	37.01%
b. Disagree	47.09%
c. Neutral	14.09%

The percentage of responses i.e., positive, negative & neutral to the statement in table 7.16 is very close. The 47.09% of respondents disagree to the notion that 'only' the institution of marriage guarantees permanent stable relationships. Very small percentage i.e. 14.7% agrees with the averment. On the other hand, 36.6% are neutral on the statement. The success of any

relationship does not depend either on the institution of marriage or upon the phenomena of live-in. More is the compatibility & mutual understanding of the couple that couple would be in a harmonious situation as compared to other couples.

Table 7.17: LIR is implicit in society

<i>15. Gandharva vivaha, Muta marriages, Maitri karar are some phenomena resembling the concept of live-in. So, there is no harm in legalizing a concept which is already implicit in the society:</i>	<i>Analysis of responses</i>
a. Agree	60.02%
b. Disagree	17.09%
c. Neutral	21.09%

The percentage of participants in table 7.17 that believe there is no harm in legalizing the concept that is already implicit in the society is 60.02%. Gandharva Vivaha, Muta marriages, maitri karar are some phenomena resembling live-in relationship. On the other hand, 17.6% of participants disagree with the statement & 21.8% of respondents are neutral, they neither agree nor disagree to the above proposition.

Table 7.18: LIR & the institution of marriage

<i>16. Live-in relationships can replace the institution of marriage:</i>	<i>Analysis of responses</i>
a. Agree	17.03%
b. Disagree	71.09%
c. Neutral	10.07%

The response to the said averment in table 7.18 is negative. Maximum of population 71.09% believe that live-in relationships cannot replace the institution of marriage. The institution of marriage is the oldest of all institutions that is legalised by all sects of family laws. It has its own pros and

cons. The biggest advantage of this institution is that it legalizes the union of couple & grants legitimacy to their progeny. On the contrary, phenomenon of live-in is entirely a different concept. It is in its nascent stage. The biggest drawback of this phenomenon is lack of legal & social security as provided by marriage. Consequently, a separate law on live-in is the need of hour. Only 17.03% agree with the statement while, 10.07 % of respondents are neutral.

Table 7.19: Best form of relationship

<i>17. What according to you is the best form of relationship:</i>	<i>Analysis of responses</i>
a. Marriage	76.08%
b. Live-in relationship	11.03%
c. Spending time with someone occasionally	11.09%

Maximum of respondents 76.08% in table 7.19 assert that marriage is the best form of relationship just for the benefits granted by the institution. Only 11.03% of population regards live-in relationship as the best form of relationship. On the contrary, there is a third segment of population i.e. 11.09%, which is of the view that spending time with someone occasionally is the best form of relationship.

Table 7.20: Basis of new law on LIR

<i>18. Countries like U.S.A., U.A.E., etc. have legalised live-in relationships by enacting laws. Therefore, India should enact a law based on the laws of U.S.A., U.A.E.:</i>	<i>Analysis of responses</i>
a. Agree	58.04%
b. Disagree	22.03%
c. Neutral	19.03%

Response to this question of socio-legal survey in table 7.20 is positive in terms of live-in relationship. Majority of respondents i.e., 58.04% agree to the statement mentioned above that, India should enact a law based on the laws of U.S.A., U.A.E. As these countries have legalised live-in relationships. Percentage of 22.03% respondents disagrees on enacting such laws. Whereas,

19.1 percentage of respondents are neutral on the relevance of such laws in Indian context.

Table 7.21: Indian culture & ethical values

<i>19. Live-in relationships do not degrade India's culture and ethical values:</i>	<i>Analysis of responses</i>
a. Agree	43.04%
b. Disagree	38.08%
c. Neutral	17.09%

The above-mentioned statement in table 7.21 has received a positive response of 43.04%, which states that live-in relationships do not degrade India's culture & ethical values. Law & morality are two different sides of the same coin. Law & morality should not overlap one another. On the other hand, 17.6% are neutral on such viewpoint. Whereas, 38.08% disagree with the statement.

Table 7.22: Future of LIR in India

<i>20. Do you see the future of live-in relationship in India:</i>	<i>Analysis of responses</i>
a. Yes	56.06%
b.No	15.07%
c.Maybe	27.08%

On analyzing the responses in table 7.22 on the future of live-in relationship in India, the researcher has come to know that majority of respondents i.e., 56.06% have said yes, there is a future of live-in relationship in India. Acceptance of live-in as a mode of family formation in urban cities & consequent increase in live-in couples gives some positive trends to the phenomenon. A small percentage of respondents 15.07% have said no to the future of such relationships in India & 27.08% are in the state of dilemma as to the future of live-in India.

Therefore, from questionnaire 1 we get some positive & negative perceptions on live-in relationship-

Positive perceptions-

- i. Live-in relationship does not degrade India's culture and ethical values,
- ii. The institution of marriage alone does not guarantee permanent stable relationships,
- iii. Live-in relationship is not a criminal offence. Therefore, couples should be entitled to legal rights from live-in relationship as if rights arise from the institution of marriage,
- iv. One important characteristic of a relationship to be in the nature of marriage, as held by courts is 'Reasonable period of time'. This period of time should be fixed, for availability of legal rights to the live-in partners,
- v. Countries like U.S.A., U.A.E., etc. have legalised live-in relationship by enacting laws. Therefore, India should enact a law based on the laws of U.S.A., U.A.E.,
- vi. A law regulating live-in relationship separately should be enacted, keeping in view the increase in numbers of live-in couples,
- vii. Live-in relationship is not a new phenomena difference being that earlier it was a closed affair. Therefore, society should accept it as a new & distinct form of relationship,
- viii. India looks towards the future of live-in relationship, &
- ix. Trend is shifting towards live-in relationship as it provides both freedom & flexibility to choose the life partner & opportunity to check compatibility.

Negative Perceptions-

- i. Live-in relationship has a negative impact on children mental & personality development born to live-in couples,
- ii. Women in live-in relationship should not get the status equivalent to wife,
- iii. Live-in relationship do not match the social recognition provided by the marriage,
- iv. Female partner in live-in suffer a lot in a situation where her male partner leaves her & puts end to the relationship,
- v. Marriage is the best form of relationship, &
- vi. Couples in live-in relationship do not enjoy the financial benefits enjoyed by the legally wedded couples. Therefore, these couples suffer many financial losses, as their union has no legal recognition.

The negative perceptions on live-in relationship demand a separate law on live-in. These uncertainties can be ruled out only by enacting a separate law on live-in relationship.

QUESTIONNAIRE 2 (Annexure -11)

The questionnaire is a legal variable. This questionnaire consists of five variables i.e. Legal, Social, Psychological, Economic, & Individual autonomy variable. The researcher has analyzed the questionnaire according to variables. Question no's 1 & 2 are general questions regarding age & gender of respondents. Questionnaire had four categories of participants from the age groups i.e. 18-28, 29-39, 40-50 & above 50. Maximum participation was observed from the age group of 29-39 years.

7.4.1 LEGAL VARIABLES-Legal variables contribute 77.86% towards the development of live-in relationship. This percentage is highest in comparison to other variables.

Table 7.23: Legal variable 1

<i>3. There is no law which governs live-in relationship:</i>	<i>Analysis of responses</i>
Agree	72.40%
Disagree	19.27%
Neutral	8.33%

According to the respondents, 72.40% agree to the statement mentioned in table 7.23 that there exists no law for governing live-in relationship. Whereas, a very small percentage i.e. 8.33 % are neutral on the above statement & 19.27% of respondents disagree to the statement. As per their view Hon'ble Judiciary has laid bible on the phenomena of live-in which is law in itself.

Table 7.24: Legal variable 2

<i>4. Live-in couples must be entitled to Legal rights so, as to prevent lawlessness:</i>	<i>Analysis of responses</i>
Agree	83.33%
Disagree	9.38%
Neutral	7.29%

As per responses majority of the respondents i.e. 83.33% agree to the statement in table 7.24 that grant of legal rights to live-in couples would prevent lawlessness. Just a meagre percentage of 9.38% disagrees & 7.29% is neutral towards the grant of legal rights to live-in couples.

Table 7.25: Legal variable 3

<i>5. Female live-in partners should not be entitled to maintenance right like married women:</i>	<i>Analysis of responses</i>
Agree	34.90%
Disagree	46.35%
Neutral	18.75%

According to participants, 46.35% disagree to the statement mentioned in table 7.25 that female partners in the phenomena of live-in are not eligible to maintenance right like married women. Reason being that institution of marriage & phenomena of live-in are two separate concepts & female live-in partners should get the status reserved for them. On the other hand, 34.90% agree to the above-mentioned statement. Nevertheless, 18.75% of respondents are neutral on the point.

7.4.2 SOCIAL VARIABLES-Social variables contribute 62.15% towards the growth of live-in relationship.

Table 7.26: Social Variable 1

<i>6. Do you think mandatory registration of live-in relationship would prevent the abuse of this phenomena:</i>	<i>Analysis of responses</i>
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Agree	78.13%
Disagree	12.50%
Neutral	9.38%

As per the figures shown in table 7.26 majorities of participants, i.e. 78.13% agree to the statement that abuse of live-in relationship could be removed through its mandatory registration. On the other hand, 12.50% of participants regard mandatory registration as the infringement of their Right to Privacy as guaranteed by the Constitution of India. However, 9.38% is neutral on the point.

Table 7.27: Social Variable 2

<i>7. Live-in couples should also get the social welfare benefits like deductions in income tax etc. :</i>	<i>Analysis of responses</i>
Agree	56.77%
Disagree	25.52%
Neutral	17.71%

On analyzing the figures shown in table 7.27 the researcher has come to the conclusion that more than half of total percentage i.e. 56.77% agrees to the mentioned statement that live-in couples are also eligible to social welfare benefits. Nevertheless, 25.52% regard these couples, as without valid legal recognition consequently they are not entitled to any social welfare benefits. However, 17.71% of respondents neither agree nor disagree on the statement.

Table 7.28: Social Variable 3

<i>8. Parents and children bonding arising out of live-in is strongest:</i>	<i>Analysis of responses</i>
Agree	23.96%
Disagree	51.56%
Neutral	24.48%

According to table 7.28, majority of participants disagree i.e., 51.56% to the above-mentioned statement, that bonding between parents and live-in children is strongest. Participants are of the view legal sanction to live-in can only

render bond between parents and children to be strong. Whereas, percentage of participants agreeing & neutral with the statement is almost the same i.e., 23.96% and 24.48%.

7.4.3 PSYCHOLOGICAL VARIABLES-Psychological variables contribute 70.69% to the development of live-in relationship. This contribution is the second highest.

Table 7.29: Psychological Variable 1

<i>9. Increasing incidents of divorce has created havoc in the minds of people. Consequently, young generation is searching alternative modes of family formation:</i>	<i>Analysis of responses</i>
Agree	68.75%
Disagree	20.83%
Neutral	10.42%

On analyzing the responses of respondents in table 7.29 the researcher is of the view that more than half of the percentage i.e., 68.75% agrees to the statement mentioned above that rise in the cases of divorce is disturbing the mental peace of people. Consequently, young generation is looking towards new & alternative means of family formation. On the other hand, 20.83% disagree to the statement & 10.42% are neutral on the point.

Table 7.30: Psychological Variable 2

<i>10. Legalization of live-in would make these relations systematic. Therefore, society should accept it as a different form of family formation:</i>	<i>Analysis of responses</i>
Agree	72.63%
Disagree	14.74%
Neutral	12.63%

According to table 7.30, the majority of participants agree to statement that legalization of live-in would make them systematic. Therefore, these

relationships must be viewed as a different mode of family formation by the society. While 14.74% disagree with this statement & 12.63% are neutral to the statement.

7.4.4 ECONOMIC VARIABLE-Economic variable contribute 40% to the growth of live-in relationship.

Table 7.31: Economic Variable

<i>11. Live-in relationship allow couples to be financially and economically independent:</i>	<i>Analysis of responses</i>
Agree	78.65%
Disagree	10.94%
Neutral	10.42%

As per the responses mentioned in table 7.31, majority of respondents i.e., 78.65% agree with the statement that live-in couples are economically & financially independent. Live-in couples have the advantage to decide the mode of their life. A very small proportion of population i.e., 10.94% disagrees & 10.42% are neutral on the statement.

7.4.5 INDIVIDUAL AUTONOMY VARIABLES-Individual autonomy variables contribute 52.15% to the live-in relationship.

Table 7.32: Individual Autonomy variable 1

<i>12. In case of any unforeseen contingency live-in couples do not have any recourse:</i>	<i>Analysis of responses</i>
Agree	52.15%
Disagree	23.12%
Neutral	24.73%

As per the analysis of responses in table 7.32, more than half of the participants i.e., 52.15% agree to the statement mentioned therein that couples in live-in do not have any recourse in event of any unforeseen contingency.

Lack of any definite & uniform law on the issue is to be blamed. On the other hand, 23.12% of participants disagree with the statement & remaining 24.73% are neutral on the point.

Table 7.33: Individual Autonomy variable 2

<i>13. Live-in relationship does not provide personal autonomy and privacy to couples as compared to marriage:</i>	<i>Analysis of responses</i>
Agree	34.90%
Disagree	49.48%
Neutral	15.63%

According to the responses gathered in table 7.33, researcher has come to know that live-in relationship provide personal autonomy & privacy to couples. Forty-nine point four eight percentages of respondents support this view. Remaining 34.90% do not contest this view & troublesome 15.63% are neutral on the statement.

Table 7.34: Individual Autonomy variable 3

<i>14. Live-in relationships cannot guarantee successful unions:</i>	<i>Analysis of responses</i>
Agree	36.32%
Disagree	46.32%
Neutral	17.37%

According to the views of respondents in table 7.34, 46.32% disagree with statement mentioned above that; live-in could not guarantee successful unions. As success of any relationship depends majorly on the compatibility & commitment between couples. Above all the essence of live-in relationship is based upon mutual trust & compatibility. Whereas, 36.32% agree with the statement & 17.37% neither support nor reject the statement.

Table 7.35: Open-ended question

15. Will you opt live-in relationship. Please specify the reasons.
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The said question in table 7.35 was an open-ended. Purpose of including an open-ended question was to know the in-depth views of respondents on live-in relationship. There are mixed responses over acceptance & non-acceptance of live-in relationship. However, the percentage of respondents favouring live-in is more. Reasons cited by the respondents favouring live-in include career-orientedness, freedom, flexibility, mutual compatibility, avoidance of risk of marrying a strange person, opportunity to decide mode of life, live-in is necessity in the current scenario of hectic lives, marriage is no longer a sacrament; it has just become a compromise, Indian marriages have become pomp & show, fear of divorce, live-in is a good option over broken relationship etc,. Maximum of respondents have expressed positively over the acceptance & a new separate law on live-in relationship. The percentage of respondents disagreed live-in mainly on the account of lack of duties, responsibility & commitment. Children born to such couples are categorized to be from among the non-privileged section. As paternity of such unions are to be proved. Fates of such relationship are under clouds of darkness in the absence of specific law. Because of lack of legal sanction on live-in & social stigma attached to it.

All these negative issues have just one solution i.e., to enact a separate law on live-in relationship.

Therefore, from questionnaire 2 we get some positive & negative perceptions on live-in relationship-

Positive perceptions-

- i. Live-in couples must be entitled to Legal rights so, as to prevent lawlessness,
- ii. Female live-in partners should be entitled to maintenance right like married women,
- iii. Mandatory registration of live-in relationship would prevent the abuse of this phenomenon,

- iv. Live-in couples should also get the social welfare benefits like deductions in income tax etc,
- v. Increasing incidents of divorce has created havoc in the minds of people. Consequently, young generation is searching alternative modes of family formation,
- vi. Legalization of live-in would make these relations systematic. Therefore, society should accept it as a different form of family formation,
- vii. Live-in relationship can guarantee successful unions,
- viii. Live-in relationship allow couples to be financially and economically independent, &
- ix. Live-in relationship provides personal autonomy & privacy to couples as compared to marriage.

Negative Perceptions-

- i. There is no law, which governs live-in relationship,
- ii. Parents & children bonding arising out of live-in is not strong, &
- iii. In case of any unforeseen contingency live-in couples, do not have any recourse.

The negative perceptions from the questionnaire are the void in bereft of specific law on live-in relationship. Consequently, a specific law on live-in relationship is must.

7.5 CONCLUSION-The researcher has received a positive outcome through socio-legal study conducted. Responses gathered through both the questionnaires were stupendous. Maximum of respondents have favored a separate law on live-in relationship. This depicts the progressive outlook of respondents. Majority of respondents have freely expressed their views in the questionnaire. A clear line of demarcation between institution of marriage & concept of live-in relationship is visible. By favouring live-in relationship, respondents have not disrespected or disfavored marriage and its institution. Live-in relationship is a demand to combat the existing scenario of stressful life.

Both the questionnaires have given the same outcome i.e., a new separate & different law is a necessity for live-in relationship. Therefore, a new & separate law on live-in relationship is the demand of time. Researcher is of the view that institution of marriage & phenomenon of live-in relationship are two different concepts. These both should not overlap under the garb of religion, morality & ethics. These are two entirely separate processes with different & unique subject matter. Choice of live-in or marriage is an individual's choice and neither of these can be forced. Marriage is a developed institution dating from time immemorial.

On the other hand, live-in relationship is a new phenomenon in its nascent stage. Consequently, a new & separate law on live-in is quite essential to avoid limitations of this union in the absence of specific law. Rights of women & children in a live-in relationship are to be safeguarded primarily. This is essential to ensure healthy personality & mental development of children. India holds the good future of live-in relationship as shown by the figures of the questionnaire analysis. Neither these live-in relationship are a new concept. People in the present situation keep the space for ethics and development separate.

Researcher is analyzing critically The Uniform Civil Code, Uttarakhand, 2024 in the next chapter.

CHAPTER-8

THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024-A CRITICAL ANALYSIS

8.1 INTRODUCTION-As seen in the previous chapter 7, socio-legal study has yielded that there should be a separate law on live-in relationship in the State of Uttarakhand. The researcher has assessed desirability of separate law on live-in through the medium of two questionnaire analysis i.e., social & legal survey. For the sake of clarity & sensitivity attached to phenomena of live-in relationship, social & legal questionnaire analysis is conducted. The concept of live-in is a highly debatable topic in present scenario. Consequently, keeping in view popularity of phenomena the Hon'ble Chief Minister of Uttarakhand constituted an Expert Committee of five members' u/d the leadership of Justice Ranjana Prakash Desai [Retired] to study the desirability of a new & separate law on live-in relationship. The committee deliberated upon issue & invited the views of stakeholders including religious organizations also to come upon the valid conclusion. The committee answered in affirmative regarding coding & enacting a fresh code on live-in. Consequently, Uttarakhand Uniform Civil Code Bill was passed on February 7, 2024 & on March 13, 2024; the President of India Smt. Droupadi Murmu Ji granted assent to the U-UCC Bill & thereafter, the Bill was accorded the status of Law.

Adoption & enactment of Uniform Civil Code is been notified as a heroic move of Shri Pushkar Singh Dhami government (Raj, 2024). The Chief Minister of Uttarakhand received tremendous impetus & support from the Honourable Prime Minister of India Shri Narendra Modi Ji. With his huge support, the 22nd Law Commission invited views of stakeholders that included public & various religious organizations on 14 June 2023. The commission was led by Justice Rituraj Awasthi (Retd). The purpose of UCC is unification

of different personal laws i.e., Hindu law, Christian law, Muslim law & other laws pertaining to minority groups. Adoption of UCC by Uttarakhand marks the beginning of a transitional with regard to legal fraternity (Raj, 2024). The enacting clause of The Uniform Civil Code, Uttarakhand, 2024 brings the entire matters of marriage, divorce, succession & live-in relations under umbrella legislation i.e., the code itself (The Uniform Civil Code, Uttarakhand, 2024). The motto of Uttarakhand UCC is gender equality. Draft gives special focus to children, women & disabled (Singh, 2022).

Commenting upon the requirement of UCC on live-in relationship, Respected Chief Minister of the State said that Uttarakhand is a state full of colours like a rainbow. The state is regarded as Devbhoomi because Uttarakhand is the storehouse for spirituality, enlightenment in relationship to India's Vedas & Puranas. The State has been the home to some eminent sages too. The Uttarakhandi's regard their cultural heritage, the essence of their soul. Therefore, protecting the State's rich cultural, spiritual heritage is of utmost necessity as Uttarakhand is the spiritual home to devotees at large. Nevertheless, it becomes quite important in present situation to analyze UCC Code with respect to live-in relationships (Singh, 2022).

8.2 FEATURES OF THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024-U-UCC are a comprehensive code consisting of 392 sections & 7 schedules. The provisions pertaining to live-in relationships are provided in Part-3 of the code [Annexure-12] from section 378 to section 389 (The Uniform Civil Code, Uttarakhand, 2024).

8.2.1. CODE PROVIDES REGISTRATION OF LIVE-IN RELATIONSHIPS-Section 378 of the U-UCC say that it is compulsory to register live-in relationships. In this regard, the couples are required to submit statement to the registrar of concerned state. This clause applies equally to all the residents of State. Even residents of Uttarakhand living outside the boundaries of State are under an obligation to give due compliance to the clause. Before granting approval to any couple for residing together, the registrar will conduct summary inquiry u/s 381(2). The process may also

demand certain additional information, evidence or registrar may summon the couple for verification personally u/s 381(3). Even couples planning to enter live-in relationship will have to inform the respective state registrar (Yadav, 2024).

8.2.2. CODE SPECIFIES PROCESS OF CONDUCTING SUMMARY

ENQUIRY-Section 381 of the U-UCC empowers registrar to conduct summary enquiry in course of 30 days after receiving statement from the concerned couple. The result of enquiry would be either registration with issuance of certificate to live-in couple or rejection of the registration. The code further authorizes registrar to examine the degree of relationship between couples u/s 380(1). The code prohibits live-in relationships falling within the degrees of prohibited relationships (Satyarthi & Mukherjee, 2024).

Section 385 of the code obligates registrar to hand over concerned statement of registration of live-in relationship to the police station situated within local limits demanding records of the couple. In a situation where in any of the partner in live-in is younger than twenty-one years at the time of registration, parents/ guardians of such partner shall be informed on the same. According to section 384 of the code in event of termination of such relationship by either of the partners, same procedure of enquiry shall be followed (*“Express View on Uttarakhand UCC”*, 2024).

8.2.3. CRIMINAL NATURE OF THE CODE

The Uniform Civil Code, Uttarakhand, 2024 is criminal in nature. Section 387 of the code prescribes following punishments for various omissions. Failure to submit statement of registration beyond the time frame of one month may attract punishment by judicial magistrate of imprisonment not exceeding 3 months/ a fine not beyond 10,000 Rupees. The punishment for submitting false information or withholding any information at the time of registration is a term of jail of three months with a fine of 25,000 Rupees. In a situation where even one of the partners fails to furnish statement of registration as demanded by notice u/s 386 for the same, couple shall be punished with a 6 months jail-term and a fine of 25,000 Rupees (Singh, 2024).

8.2.4. LEGAL STATUS OF CHILDREN-According to section 379 of the U-UCC, the children born to live-in couples would be deemed as legitimate children of such couples. The Uniform Civil Code, Uttarakhand, 2024 has brought to an end the notion of illegitimate children (Team, 2024). Section 3(4)(a) defines child as a “biological child” of live-in couples, the term further includes adopted children, illegitimate children or children conceived with the aid of surrogacy or by assisted reproductive technology. The code has taken very potent step by giving a broader definition of term “child” & thereby, eliminating the gap between legitimate & illegitimate children.

8.2.5. MAINTENANCE PROVISIONS U/D U-UCC-Section 388 of the U-UCC provides that in event of desertion of woman live-in partner by her male counterpart, the code entitle such women for maintenance by male partner. To fulfill the said purpose of maintenance woman will have to approach the appropriate court that has the jurisdiction over the area where the couple last resided. Nevertheless, the provisions of Chapter-1, Part-5 would apply in the above-mentioned situation *mutatis mutandis* (Tyagi, 2024).

8.2.6. PROHIBITED RELATIONSHIPS & LIVE-IN RELATIONSHIP-The U-UCC does not allow live-in relationships between the persons that fall under the category of prohibited relationships mentioned u/s 3(1) (d). The categories of prohibited relationships are annexed in an annexure. Section 380 of the code further mentions certain restrictive live-in relationships:

- Live-in cannot exist when either of the party is married already or is in a live-in relationship existing before,
- When one of the partners in live-in is a minor,&
- When consent of either of the partners had been obtained by fraud, misrepresentation, force, undue influence or coercion with regard to a material fact/ identity/ circumstances relating to other party.

8.2.7. CONSTITUTIONAL BACKING OF THE CODE-The U-UCC derives its powers from the Article 44 of the Constitution of India. Article 44 under part-iv authorizes state to grant to its citizens uniform civil code

applicable within the territories of India. Consequently, Uttarakhand has u/a 44; through the exercise of its legislative powers under concurrent list enacted the U-UCC. Concurrent list is the third list of seventh schedule. It comprises of 52 subjects that include marriage, divorce, adoption & succession (Vinu, 2024).

8.2.8. U-UCC IS A PROGRESSIVE ENACTMENT-U-UCC is a progressive code. The motto of code is to empower women & children. The expert committee that made all deliberations regarding U-UCC had women & children rights & their plight in mind. It is a special enactment of its kind, which aim women & children as the pivotal subjects (Raj, 2024).

8.2.9. CODE PROMOTES GENDER PARITY-The Uniform Civil Code, Uttarakhand, 2024 gives equal rights, liabilities to men, women & minorities. The code has established the “Rule of Law” wherein the entire subjects of State are equal in the eyes of Law. Rule of Law does not recognize majority & minority. The code further has put end to various practices discriminatory in nature like polygamy, polyandry etc. & various practices creating divide in existing personal laws (Team, 2024).

8.2.10. U-UCC UNIFIES OF PERSONAL LAWS-The enacting clause of U-UCC streamlines the various personal laws with respect to marriage, succession, divorce, live-in relationships & aspects related to them. This unification has simplified legal atmosphere & consequently made the legal system more effective and easy to reach.

8.2.11. U-UCC PROMOTES ELEMENT OF INTEGRATION-The U-UCC fosters sense of oneness amongst entire State by eliminating various differentiations that existed under prior personal laws.

8.3 SIGNIFICANT CONTRIBUTION OF RESEARCHER TO THE THESIS-CRITICAL ANALYSIS OF THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024-While analyzing the U-UCC researcher has come across various drawbacks of the legislation.

8.3.1. APPLICABILITY OF THE CODE IS DISCRIMINATORY-The applicability of said code is not uniform as it excludes Scheduled Tribes from its purview (The Uniform Civil Code, Uttarakhand, 2024). The Uttarakhand has a tribal population of 3%. This population of ST is very hostile to the U-UCC Code. The exclusion of Scheduled tribes from purview of U-UCC makes purpose of the legislation inconsistent with its soul & spirit.

Further, the code has limited live-in relationship according to the definition provided in section 3(4) (b) only to heterosexual relationship. It has not included LGBTQ community within the ambit of definition of live-in relationship. The code is not in harmony with judgement of Hon'ble SC of India in (*Navej Singh Johar v. Union of India*, 2018). The code has also disregarded the landmark verdict of Uttarakhand HC on same-sex couples. In (*Madhu Bala v. State of Uttarakhand & Others*, 2020) Nainital HC had permitted consensual live-in relationship amongst same-sex adult couples. Therefore, gender equality that is the motto of code is not fulfilled in complete sense (Next IAS, 2024).

8.3.2. DEFINITION OF TERM 'RESIDENT' IS AMBIGUOUS-The preliminary clause of code says that it applies to Uttarakhand residents. The term resident u/s 3(1) (n) is couched in very broad picture. The term not only governs residents domiciled in Uttarakhand but also governs the residents who had resided in State only for a short time frame of a year. The definition further includes within its ambit Central Government employees transferred to Uttarakhand also the state residents residing outside the territory of Uttarakhand would not be exempted from the application of Code. However, the definition though very wide does not include residents who ordinarily do not reside in Uttarakhand (Sanjoy Ghose & Sanjoy Ghose, 2024).

8.3.3. ENCROACHMENT UPON THE FUNDAMENTAL RIGHT TO

PRIVACY-The code has conferred arbitrary powers to registrar u/s 381. The continuation of a couples' relationship would be dependent upon satisfaction of the registrar. Submission of statement of registration u/s 378 is in fact against the principles of privacy. It has been ruled by the Hon'ble SC that privacy includes individual's integrity of physical components of the personhood (Drishti IAS, 2024). The SC in (*Joseph Shine v. Union of India*, 2018) has guaranteed the freedom to choose life-partner to citizens & further has decriminalized adultery. Above all Right to privacy includes within itself protection from the unnecessary interference of the state. Therefore, demanding personal information from couples is not logical. The further provision regarding failure to file statement of registration within one-month u/s 387(1) has further taken upon the nerves of couples. Intimating registrar regarding even the intent to enter live-in is devastating and annoying (Biswas, 2024).

8.3.4. DILUTION OF THE ESSENCE OF LIVE-IN RELATIONSHIP-

The essence of phenomena of live-in relationship is mutual compatibility. The couples enter live-in to avoid boundations imposed by marriage. However, code tends to make live-in a form of marriage but under lucrative title. A code that lays the hassles of registration, providing information looks like a familialism that is stratified. It implies State has institutionalized familial values formally. The values are appropriated by State & spread across the social & political environment of society (Yadav, 2024).

8.3.5. PROVISIONS REGARDING MAINTENANCE ARE VAGUE-

Section 388 of the U-UCC is of regressive nature. The code authorizes women in live-in relationship to demand maintenance from their male counterpart, only in the situation where she is deserted by male partner. The procedure to claim maintenance also is not laid down separately in context of live-in relationships. The provisions relating to maintenance in marital relationships laid down under Chapter-5, Part-1 are made applicable to live-in relationships also (Next IAS, 2024).

However, the code is silent on many important maintenance issues like remedy in case of voluntary separation of partners, incompatibility, the manner of distribution of assets acquired by couples during continuation of their relationship. The most important issue that is also the catch-line of code i.e. children welfare is missing as U-UCC has not mentioned the manner by which children born to live-in couples would be maintained by their parents in event of such unforeseen contingencies.

8.3.6. LOOPHOLES IN THE PROVISIONS RELATING TO REGISTRATION-On the one hand, U-UCC has legalised live-in relationships but on the other hand, code has failed to provide provisions for appointment of registrars specifically for live-in. When laws governing live-in are separate laid down in part three of the U-UCC, appointment of registrar should also be autonomous. The code has authorized registrar of marriages & divorce under part one, chapter two u/s 12 to also act as a registrar for the purposes of live-in relationship.

The code u/s 382 provides that purpose of registration u/s 381 (4) (a) is only to maintain the records. Whereas, U-UCC laid down various punishments criminal in nature for omissions like delay in submitting statement of registration u/s 387 (1), giving fraudulent information or concealing any vital fact u/s 387 (2) & non-compliance with the notice of registration u/s 386 r/w section 387 (3) however, the code itself has negated criminal liability imposed upon live-in couples by saying that registration is done only for the sake of records.

U-UCC has made registrar as the only law implementation authority but code nowhere has given rights to the registrar. Code has provided duties to the registrar u/s 385. As per the said section duties of registrar look like duties of an agent who has to provide information to parents or guardians u/d clause 1 & 3 of the above-mentioned section, inform police officer in-charge of police station situated within local limits u/d clause 2 of said section, forward statement of registration u/d clause 1 of the above-mentioned section & inform other partner regarding statement of termination u/d clause 3 of section 385.

8.3.7. SAFEGUARDS OUTDATED CUSTOMS-U-UCC u/s 390(1) of part four promotes obsolete customs, usages & practices (Journal & Journal, 2024). The mentioned section provides that any existing law i.e. statutory or non-statutory, practice, usage, custom before passing of The Uniform Civil Code, Uttarakhand, 2024 shall to the extent they are not in tune with any of the laid provisions of the code, shall become inoperative within the territory of Uttarakhand.

8.3.8. NO COHERENCY AMONGST THE PROVISIONS-According to section 4(iii) of U-UCC marriageable age for girl is fixed at 18 years of age & marriageable age for boys is fixed at 21 years. Whereas, section 385 (1) of the same code authorizes registrar to inform the parents or guardians also the police station within local limits under clause 2 of the said section, as the case may be where any one of live-in partner is below 21 years of age. Same procedure of information would be provided by registrar to respective parents or guardians where statement of termination is filled by any of the live-in partner & either of the partners is below 21 years of age u/s 385 (3) (Sanjoy Ghose & Sanjoy Ghose, 2024).

Most importantly marriageable age for girls is raised upto 21 years at the Union level by Prohibition of Child Marriage (Amendment) Bill, 2021. The code provides no explanation for not raising the marriageable age of women upto 21 years (Vinu, 2024).

The code mentions various categories of relationships u/s 3(1) (d) which are not entitled to contest live-in relationships. Parallely, first proviso to section 380(1) permits such prohibited relationships amongst those individuals whose customs permit them to enter such relationships as if it is a marriage. The second proviso to the same section obligates such customs to be in consonance with public policy as well as morality. Most importantly, code is silent upon the status of Sapinda's. Two persons that are cousins are said to be Sapinda of one another (The Uniform Civil Code, Uttarakhand, 2024).

8.3.9. U-UCC IS A HURRIED LEGISLATION-The opposition has criticized U-UCC bill, as enough time was not given to scrutinize the provisions. Uniform Civil code being a sensitive and an important matter, proper time should have been provided for appraisal of the draft. The opposition has further criticized Chief Minister Shri Pushkar Singh Dhami on the ground that rules relating to conduct of business have been ignored while passing U-UCC (India Today, 2024).

8.3.10. VIOLATION OF THE FUNDAMENTAL FREEDOM TO RELIGION-The Constitution of India is secular in nature. Article 25 (1) of the Constitution guarantees citizens of India to follow, practice & propagate any religion of their choice. Nevertheless, this freedom is restricted to health, morality and public order (Constitution of India, 2023). Before the passage of U-UCC, different religions residing in State were professing their respective personal laws that governed the inter-personal relationships and matters connected therein. However, U-UCC has replaced the entire realm of personal laws into a one common code that applies equally to all. The code does not apply only to Hindus. Even term “Hindu” is very wide which includes Buddhist, Janis & Sikhs. Whereas, U-UCC further extends to Islam, Christianity, Parsi & various minorities (India Today, 2023).

India has a plural society where every sect has its own rules of conduct. In this situation, a formal code imbibing the entire ethos of different categories of religion seems a dream too far. Above all Uttarakhand is a religious State where the maximum population belongs to pahari people. The Uttarakhand has two divisions Garhwal & Kumaon. The ideology of both these divisions is very different from one another (Srivastava et al., 2022). Firstly, code must strike a balance amongst hometown populations only then the purpose of uniform civil code can be realized.

8.3.11. THE CODE DOES NOT PROVIDE APPELLATE AUTHORITY-The big disaster that U-UCC has made is that it has not laid any provision concerning appeals from the order of registrar with regard to live-in

relationships. Live-in couples do not have remedy to approach the competent authority in case of any injustice done to them or for the violation of their fundamental or human right or no satisfaction with the orders or functioning of registrar (Sanjoy Ghose & Sanjoy Ghose, 2024). The code has made registrar an autocrat.

8.3.12. IMPACT OF U-UCC ON VARIOUS SECULAR LAWS-The code is silent on status of secular laws like Bhartiya Nagrik Suraksha (Second) Sanhita, 2023 [Annexure-7] formerly Criminal Procedure Code, 1973. Section 144 of Bhartiya Nagrik Suraksha (Second) Sanhita [Annexure-7], 2023 previously Section 125 of the said code provides secular law for maintenance. Protection of Women from Domestic Violence Act, 2005 governs the instances relating to various forms of domestic violence against women (Shekhar, 2024).

8.3.13. U-UCC IS A REPLICATION-The various provisions of Hindu Marriage Act, 1955, Special Marriage Act, 1954, Indian Succession Act, 1956 & Hindu minorities and Guardianship Act, 1956 are copied & pasted in U-UCC with minor alterations at the desired places. Even the definition of live-in relationship u/s 3(4) (b) has a major catchword “in the nature of marriage” which is similar to definition provided by section 2(f) of the Protection of women from Domestic Violence Act, 2005. In addition, the definition of shared household u/s 3(4) (c) is identical to the definition of term u/s 2 (s) of the Protection of women from Domestic Violence Act, 2005.

8.3.14. U-UCC HAS FURTHER MADE LIVE-IN AS WALK IN AND WALK OUT RELATIONSHIP-The code u/s 384 provides autonomy to couples to terminate live-in relationship on their sweet will. The only requirement couples are required to fulfill is to submit statement of termination regarding live-in relationship.

8.3.15 THE CODE HAS LAID WEAKER REMEDIES-The U-UCC though prohibits certain degree of relations & mentions certain other situations wherein couples are prohibited from entering live-in relations u/s 380.

However, code does not contain provisions regarding punishments in case where such prohibited relations are contested.

8.3.16 PROCEDURAL LAPSES OF U-UCC- The major setback that U-UCC has is the lack of section on implementation of provisions regarding live-in relationships. The code has made registrar the governing body of live-in relationships. Nevertheless, how the powers granted to registrar would be exercised is nowhere mentioned in the code. The code authorizes registrar to conduct summary inquiry u/s 380(2) & (3) before granting certificate of registration to live-in couples. However, code is silent on the manner of conduct of such summary inquiry.

U-UCC has not empowered any authority to scrutinize the working of registrar. Registrar is not under any obligation to pay obedience to any superior authority. The code neither mentions any provisions regarding inspection of registers maintained by the registrar nor the code has prescribed any mode authenticating the details of couples mentioned by registrar in the register.

Until now, no implementation of the code with respect to live-in is seen in the state. The phenomenon of live-in relationship is expanding day-by-day. In the case, law of (*Shubhi Sharma and another v. State of Uttarakhand & others, 2024*) the HC bench comprising Ritu Bahri, CJ. & Pankaj Purohit, J. had directed Government of Uttarakhand to lay down the general instructions based on which live-in couples/ married couples could approach Senior Superintendent of Police for protection. In a significant case of (*Kiran & Anr. v. State of Uttarakhand, 2024*) the HC had ordered the grant of protection to an inter-religious couple. Nevertheless, the HC has obligated the registration of such relationship u/d UCC, 2024. Manoj Kumar Tiwari, J. & Pankaj Purohit, J. have pronounced upon the legal necessity of registering live-in relationships within time frame of one month as mentioned in section 378 of UCC, 2024. People are following live-in without any fear. Researcher would like to quote an alarming situation wherein residents in a locality in Dehradun had to change their residence owing to shameful episodes of live-in that

particular locality. Youngsters are misusing the phenomenon of live-in just to satisfy their sexual needs. They change their partners very easily & frequently as if changing partners are akin to changing clothes. This situation is deteriorating health & mental status of girls in live-in as unwanted pregnancies are much on rise. Most importantly, the situation mentioned above is polluting the environment in general & residents are forced to change their residence out of compulsion. The state must check upon these incidents & prohibit such incidents in residential areas.

The code is further silent on the provisions regarding inheritance, succession of live-in couples & children born to them. Most importantly, there are no provisions on custody of children in the U-UCC.

8.4 INFERENCES- In light of above discussions, researcher humbly put forward the following inferences-

i. The Uttarakhand has stepped forward in terms of promulgating a fresh law on live-in relationships. This piece of legislation was an immediate requirement to cater rising live-in couples, crimes relating to women & children born to live-in, migrators misusing the concept of live-in relationship in the State & to protect its rich heritage. However, the code has many flaws. Therefore, the researcher is of view that State must try to strike a balance between excessive rigidity granted to registrar u/s 381 & an individual's right. The State must ease out & should make the process of conducting enquiry for live-in couple's u/d clause 2 of the above-mentioned section flexible.

ii. The code is silent on various landmark judgments (*Indra Sarma v. V.K.V. Sarma*, 2013) & (*D. Velusamy v. D. Patchaiammal*, 2010) which had shown path to the society when no specific law existed on subject. In the absence of desired law on live-in, judiciary undoubtedly had played a magnificent job towards securing rights of women & children in live-in. Judicial precedents about live-in relationship are much progressive. This had instilled confidence in the minds of citizens that justice will be done to them in case of any misfortune. Hon'ble Judges through judicial precedents have requested

Parliament to enact new legislation on live-in relationship for the sake of clarity on the subject. Judges have even put forth the parameters on which law be drafted. Only a few parameters have been answered by the U-UCC Code. Consequently, the researcher requests the State to give due regard to the recommendations of the Hon'ble Judiciary in the Code.

iii. It is requested that the right to privacy enshrined u/a 21 of Constitution shall not be encroached upon by the Code. Article 21 runs as follows, "No person shall be deprived of his *life or personal liberty* except according to procedure established by law". In other words, live-in relationship couples are entitled to legal protection & prevention from any injustice according to the laws of land. Apart from this, fundamental freedoms to "speech and expression u/a 19(1) (a)" entitles citizens to not to give any information which they consider an undue encroachment upon their privacy & "right to reside and settle in any part of territory of India u/a 19(1) (e)" authorizes the citizens to enter & spend life with partner of their choice. The mandate of Constitution must be respected and Human Rights along with Fundamental Rights of citizens must not be violated. The State must not dilute provisions of Constitution, Fundamental & Human Rights under the garb of regulating live-in relationships.

iv. As discussed in the chapter 5 of thesis constitutional & societal morality is distinct in them. Motive of law is betterment of entire society accordingly, the laws which society need at a particular time and situation is necessary to enact. This is the essence of constitutional morality. It is held authoritatively that societal morality cannot override constitutional morality. Constitutional morality is paramount. Therefore, the State should not enter the bedrooms of couples under due process of law. Intimating registrar regarding even the intention u/s 381(1) to join live-in is over-exaggeration. This will reverse the entire ethos of live-in relationship. Maintaining records of couples in live-in is fine but state has nothing to with the personal views of couples.

v. The code declares that children born to live-in couple shall be legitimate. The code is silent on the rights, maintenance & custody of these children.

Therefore, it is suggested to make necessary changes to the U-UCC Code. In absence of specific law on these aspects, justice to these children is not complete.

The SC in (*Bharatha Matha & Anr v. R. Vijaya Renganathan & Ors*, 2010) along with (The Hindu Marriage Act, 1955) has already declared children born out of live-in as legitimate. Rights are extended to these children through judicial pronouncements & by bringing them under the ambit of established statutes. These children cannot claim the inheritance rights from their father. They are entitled to inheritance rights only if they are born out of live-in relationship after a “reasonable period of time”. Regarding maintenance rights, such offsprings in case of boy can claim maintenance until he is a minor & in case of girls until she gets married (The Hindu Adoptions and Maintenance Act, 1956). (The Hindu Minority and Guardianship Act, 1956) regulate the cases of custody for children born out of live-in relationship.

vi. Rights of couples entering live-in are not determined by the code. The code only provides maintenance rights to women in an event of desertion by her male counterpart u/s 388. The term rights of couple imply rights of both male & female partner entering the relationship. Men also have the right to be guarded. Every relationship is prone to misfortunes therefore; parties must know & have course to follow in the event of separation, death of either partner, etc. Unfortunately, in either of these situations the section that is more vulnerable is women & children. She cannot carry her counterpart’s surname. Consequently, they are not one in the eyes of law. They cannot file the income-tax returns, apply bank loans, and open a joint account together. They cannot be made responsible for each other deeds neither they can be forced to bear their commitments towards one another in case of any misfortune. In addition, the burden of proving existence of such relationships levied upon women must be relaxed.

vii. Instead of collecting information in the form of statements u/s 378, cohabitation contracts shall be introduced. These contracts would be like registered agreements aiming to provide security to couples & their children.

The contracts would specify clearly rights & liabilities of live-in couples. Any violation to these contracts would attract penal consequences.

viii. The State should not try to bring phenomena of live-in relationship under the institution of marriage with innovative name. The institution of marriage & phenomenon of live-in relationship should not be overlapped. Belief that no institution other than marriage can validate relationship between man & woman is not logical. There should not be any resistance to adopt something new that is lessening the divorce rates & improving the relationship quality. The parameter on which justifiability of such relationship should be judged is its end object. The end object should not be any selfish motive or wrongful act.

ix. The government should further take the initiative to create more awareness on the concept of live-in relationship. This knowledge should be uniform both in rural & urban areas. As live-in has gained momentum in terms of acceptance. There is a necessity to educate not only young minds but also society in general on the phenomena of live-in.

x. The definition of term 'resident' u/s 3(1) (n) must be made specific. The wide categories of persons covered by the definition must be made brief in order to lessen the confusion.

xi. The U-UCC must include Scheduled Tribes also. As non-inclusion is imposing question marks on the objective of code. The code aims at unification of all personal laws including minority laws too.

xii. The State should encourage more researches in the field of live-in relationship. Many gray areas need further attention like succession, inheritance, maintenance, custody etc. Since, the phenomenon of live-in is in its evolving phase & State has legalised it, further empirical studies are a necessity to determine fate of the concept. Above all researches on live-in relationship in State of Uttarakhand are very less.

xii. Government through medium of new researches empirical as well as non-empirical must try to overcome cons of the Uniform Civil Code, Uttarakhand, 2024. The expert committee constituted to study the desirability of law on live-in relationship might be reconstituted to further deliberate & find solutions to flaws of the code.

8.5 CONCLUSION-Justice Mittal has commented, “Live-in relationship has entered India through Western nations & the concept has made its place in metro cities. Apart from globalization & modernization increasing consciousness of people regarding their privacy as a fundamental right has boosted this concept of live-in (Kumud, 2023).”

Apart from technological & societal advancements in Indian society, there has been a significant transition in attitudes of Indians. Education & economic policies are contributing in a positive way to further these advancements & prosper the nation. Social strategies with women empowerment have prepared women to be independent, self-reliant, & professional & contribute to the nation’s development (Narayan, Narayan & Deepanshu, 2021). India’s society could not aloof itself from the ideas of westernization as a result traditionalism & conservatism attached to the concepts like marriage, gender equality, live-in relationships, education regarding sex etc. is reducing (Anant, 2021).

Live-in relationship is not for fun & sexual enjoyment. In many situations, people follow these relationships due to poverty, forced marriages, bad experiences by in-laws like dowry, patriarchy, domestic violence, torture, cruelty, divorce etc. (Nitin, 2022). From various previous years the focus of government is on equality nevertheless, there are many regions where inter-caste marriages invite death of the couples (Tripaksha litigation, 2023).

India is a heterogeneous society where people of different ideologies, faith & culture with different sets of moral values reside with one another. At times, these moral values overlap one another. Incidents happen when a particular

group tries to validate actions of other groups according to their ideologies. This leads to conflicts known as moral policing. (Yadav, 2022).

As evident from judicial precedents, the judiciary has already employed a pragmatic rational attitude regarding live-in. Live-in are not declared illegal under any law nor the judiciary has prohibited them in any way. The couples in live-in are human beings like married couples. The judicial activism in relation to cohabitation is dynamic not static judgement in every case depends upon facts & circumstances, thought process of each judge, applicable laws, previous judgments etc. However, the majority of judgments emphasize legal protection to women in live-in & progeny born to them. The judiciary focuses broadly on-

- Appropriate treatment to women in live-in also the recognition of their right to get maintenance legally; &
- Appropriate treatment to offsprings born of such relationships (Amit, 2024).

Earlier public morality was priority over Constitutional morality. Nevertheless, with the passage of time attitude of Courts regarding morality as an ingredient to social well-being & decision-making process has changed. In the popular (*Naz Foundation v. Govt. of NCT of Delhi*, 2009), it had been declared, “Fundamental rights guaranteed by Article 21 of Constitution cannot be curbed or restricted on disapproval by public morality. In present times the focus is Constitutional morality” (Kaur & Mishra, 2024). An individual’s decision to live-in with a partner of his/her choice is not detrimental to other citizen’s enjoyment of fundamental rights. This aspect is purely that couple’s choice u/a 21. This act is not illegal though some proponents of society may regard it as immoral. Most importantly, deeds, which do not curtail any third party’s rights be it Fundamental or Human or Legal cannot be abridged by Law. Nevertheless, it is the prerogative of Courts to safeguard the citizens’ freedom to choice (Rajora, n.d.). The researcher is concluding thesis with her suggestions in the next chapter.

CHAPTER-9

CONCLUSION & SUGGESTIONS

9.1 INTRODUCTION-Live-in relationship is a form of family formation wherein couples reside with one another in a shared household. Couples in live-in are connected to one another emotionally, physically, mentally & financially. Male & female union is regulated through nature. Every individual needs a companion to walk through the path of life. This companionship may take place apart from the marital institution also. Essence of companionship is the desire to connect & get closer to one another. Living life as per one's wishes is the individual's implied freedom. However, in practicality we have to live life according to societal rules. According to social standards, if people follow these societal rules they will be considered as the decent components of society. Nevertheless, these old standards have changed for better in present day situation. Urbanization, globalization & industrialization have made world a global village where ideas are exchanged. In present time, the *sacrosanct* nature of institution of marriage has also been altered (Ijlmh, 2020).

Live-in relationship is the major topic of debate as well as a phenomena wrapped in suspicion. The phenomenon of live-in is not settled yet. The phenomenon is in the process of its evolution. On one hand, a section of people is convinced of the concept of live-in; on the other hand, old, traditional & inflexible people of society disapprove such commitments.

Owing to progressive nature of live-in relationships & subsequent increase in the adoption of this form of family formation, researcher has chosen live-in relationship in the State of Uttarakhand as focal point of study. This research work focuses on the entire ethos of live-in, rights of women entering live-in along with rights of children born to them & analyzing the desirability of specific law on live-in through an empirical study. In a major development

Uniform Civil Code, Uttarakhand, 2024 has been passed on 13 March 2024. The researcher has very diligently tried to analyze the U-UCC. Works on live-in relationship in the State of Uttarakhand is meagre.

In (*Madhu Bala v. State of Uttarakhand & Others*, 2020) Nainital HC had permitted consensual live-in relationship amongst same-sex adult couples. The court has further iterated that Article 21 of the Indian Constitution bestows its citizens an inherent right to choose life partner for himself/herself & to decide one's pattern of life. Hon'ble Sharad Kumar Sharma, J has also pronounced that same-sex cohabitation is neither a crime nor it is illegal (*Court Orders: Search by Case Number*, n.d.).

In the case-law of (*Sachin Singh v. State of Uttarakhand*, 2022) the DB comprising of Hon'ble Manoj Kumar Tiwari, J & Hon'ble Pankaj Purohit, J. of Nainital HC could not provide any type of relief to the petitioner as his wife asserted that she wants to reside with her live-in friend out of her sweet-will. She further asserted that she is not willing to go back to her husband because of episodes of misbehavior on her husband's part (*Court Orders: Search by Case Number*, n.d.).

9.2 CONCLUSION-Live-in relationship is a very peculiar concept which requires due attention. The phenomenon of live-in has found its place in Indian society. Law is a means to maintain social order in society so, law must articulate latest changes taking place around. Nevertheless, in democracy, wishes of citizens cannot be curbed but reasonable restrictions could be imposed so that there is a legal exercise of those desires.

This thesis comprises of nine chapters. The researcher is sharing geist of entire thesis. The thesis studies entire concept of live-in relationship i.e., meaning, definition of live-in relationship & the concept of institution of marriage. The thesis further discusses changes in the institution of marriage. Reasons, which induce couples to opt for live-in, are also studied in detail. This piece of work throws light on the evolution of live-in relationships. It further discusses the fact that live-in relationships existed during historical times too. It is not a new

phenomenon. Therefore, the historical development of live-in is observed under broad categories of Vedic India, Medieval India & British India (before & after independence). The recent landmark judgments on live-in relationships are mentioned in the work. Further, the changes in family structure are shown. The thesis provides comparative study on the status of live-in relationship in other countries. For the purposes of discussion, the matter is discussed under the heads namely historical background, nature of live-in across these four countries & present positions. Western literature is rich because of the phenomenon of live-in is fully established there. Previous literatures study comparative analysis of live-in relationships across the globe. However, these studies are limited to small excerpts that define the nature of live-in at different places. A very limited literature exists on the said point. Therefore, researcher through vast literature review & research has systematically compiled the global comparative study. Through it, the thesis provides in-depth analysis of the concept of phenomena of live-in along with present position in the four countries chosen for analysis. The criteria on which researcher has chosen countries for analysis is New York [U.S.A.]-partial recognition to live-in, Greece-cohabitation contracts, Bangladesh-declared live-in as unlawful & United Arab Emirates in 2020 has decriminalized live-in relationships. The researcher further has shown the impact of these global trends on India. This piece of work also talks about the approach of stakeholders towards live-in relationship. These major stakeholders are society, legislature & judiciary. A gradual shift in the attitude of society in response to live-in is visible. Taboos attached to these relations do not bind people in shackles anymore. Nevertheless, live-in is disregarded by a section of people. However, one has to understand the difference between illegality & morality. India does not have any desired law for live-in. This lacuna has been overcome by the legislature through bringing live-in relationships u/d the ambit of section 2(f) of Protection of Women from Domestic Violence Act, 2005, section 144 of Bhartiya Nagrik Surksha (Second) sanhita, 2023[Annexure-7] [previously Section 125 of The Code of Criminal Procedure, 1973] & section 119 of Bhartiya Sakshya Adhiniym, 2023[Annexure-8] [previously section 114 of The Indian Evidence Act].

Above all judiciary has laid a bible on the concept of live-in through its landmark pronouncements. The hon'ble courts have largely secured the rights of women & children. It has been analyzed that the Constitutional morality prevails over social morality. The thesis put forths approach of religion towards live-in relationship. Views of three major religions i.e., Hinduism, Islam & Christianity have been observed. All these religions regard marriage as pious & condemn live-in relationships. However, folks are adapting to new forms of family making keeping pace with time. Most importantly, no law declares these relationships illegal. Nevertheless, ancient texts indicate the existence of live-in under different names. The sanctity of institution of marriage has been diluted. Divorce provisions inserted to family codes of these religions renders nikah amongst Muslims a civil contract, marriage amongst Hindus a contract to major extent & marriage amongst Christians too a contract. The empirical portion of thesis comprise of socio-legal study. Two separate questionnaires had been circulated to the target audiences in in the districts of Dhanaulti, Pithoragarh, & Haridwar & Dehradun. Urban population is nil in Dhanaulti & Pithoragarh. Haridwar has some urban population but it is the holy religious capital of Uttarakhand. Consequently, researcher has received quality, fair & unbiased responses from the city of Dehradun, which holds 55% of urban population of Uttarakhand. Questionnaire 1 relates to societal aspects of live-in therefore, it is circulated to live-in couples & married couples. Questionnaire 2 is related to legal parameters on live-in. It is circulated to lawyers, law professors & legal scholars. The participants for this study are choosen through random sampling & responses are gathered through purposive sampling. Both of these questionnaires have yielded a positive response in context of live-in. The researcher has attempted to analyze the U-UCC very minutely with respect to live-in relationships. The researcher in the thesis has also provided her valuable suggestions on U-UCC. The chapter highlights the striking features of the code like registration of live-in relationships, grant of registration certificates, summary inquiry u/s 381, U-UCC promotes gender parity & feeling of integration etc,. The Uniform civil code of Uttarakhand has many flaws as legislature has given the legislation cover of 'another type of

marriage'. The code has granted regressive powers to registrar in context of conducting enquiries, submission of statements, demanding additional information etc. u/s 381 & 378 from live-in couples. These uncontrolled powers have posed a chilling effect on the privacy & Right to life of live-in couples. These powers of registrar would promote intensive social interference in the lives of live-in couples. The loopholes of U-UCC have been discussed in much detail in thesis. The legislation is appearing more of a formal way of 'regulatory harassment' rather than a progressive piece of enactment. The researcher has further summarized the entire thesis. The researcher has concluded her research work by providing valuable suggestions on live-in relationships. The researcher has also suggested future avenues for further more studies on live-in relationship. The researcher is concluding thesis with her noteworthy submissions.

9.3 SUGGESTIONS-Therefore, in the light of discussions in thesis researcher has put forward following suggestions to Legislature as Judiciary have already done wonders in illuminating dark road to live-in relationship through landmark judgments-

i. Drafting & enactment of separate legislation for live-in relationship was the paramount necessity of the present scenario. Consequently, the Uttarakhand Legislature has taken a remarkable step & rendered recognition to live-in relationship. The state has promulgated The Uniform Civil Code, Uttarakhand, 2024. Most importantly, this phenomenon is widely accepted and followed by the people. Only a specific law has the potential to remove all chaos & doubts from the minds of people, lawlessness regarding rights & status of women in live-in & children born to cohabitants. Bringing the phenomenon of cohabitation under established statutes provide relief & justice halfway. A new law has the capacity to provide definiteness to live-in relationship. Most importantly, society has confidence in legislations enacted by the Parliament authorized through the Constitution. Views in favour of legalization of live-in relationship-

a. LC has advocated legislative recognition of live-in relationship. In a report titled “Prevention of Interference with the Freedom of Matrimonial Alliance (in the name of Honour and Tradition): A Suggested Legal Framework” the LC has recommended that relationships similar to marital relationships which are not prohibited by law should form the part of word “marriage”. The recommendation implies that live-in couples are also entitled to legal protection. The LC has further commented that it cannot understand reasons that lead to non-acceptance of live-in & not devising specific law on it (Chaturvedi & Baranwal, 2021).

b. Madhya Pradesh State Women’s Commission has suggested that, “Live-in unions must be legalised” (Chhibber & Singh, 2015).

c. Live-in relationship has already been legalised by many countries like Greece. Cohabitation laws here provide equal rights to both the partners. Even in the cases where couples do not hold any obligation towards one another, they are responsible for the offspring born to them (Karaiskaki, 2019).

However, the U-UCC is a hurried legislation. The opposition has criticized the legislation in terms of violation of due process of law. It is contended that opposition was not given sufficient time to go through the UCC draft which contained 192 pages. The UCC draft was hurriedly given a push forward. Normally the proposed law which in future interferes & alters established practices are given a proper consultation & discussion ahead of its passage. However, the opinions of stakeholders were invited by the government before preparing the draft code nevertheless the U-UCC is adopted undemocratically. The U-UCC is labeled as a shoddy legislation securing political purposes (India Today, 2024).

The U-UCC has not served its aim of uniformity, as it is a mere replication of the various provisions of Hindu Marriage Act, 1955, Special Marriage Act, 1954 & Indian Succession Act, 1956. Even the definition of live-in relationship u/s 3(4) (b) of U-UCC [Annexure-12] has a major catchword “in the nature of marriage” which is similar to definition provided by section 2(f)

of the Protection of women from Domestic Violence Act, 2005. In addition, the definition of shared household u/s 3(4) (c) of U-UCC [Annexure-12] is identical to the definition of term u/s 2 (s) of the Protection of women from Domestic Violence Act, 2005. The U-UCC has not rendered any novelty in terms of legislation. The code has just made alterations at desired places in the existing statutes (Shekhar, 2024).

Therefore, it is suggested that studies should be conducted to gather knowledge regarding the culture of Uttarakhand. This would render the purpose of UCC fruitful. Uttarakhand is divided into two major divisions i.e., Garhwal & Kumaon. Kumaon region is characterized as a remote region that is underdeveloped & is sparsely populated. Kumaoni's are conservative people who believe in rigid caste hierarchy based upon class. As a result, social inequalities amongst indigenous people & outside people are much evident in this area. This region further is home to major portion of Scheduled Castes. Nevertheless, Garhwal division is characterized by tourism & immigrants. Garhwal is a beautiful blend of culture, traditions of native residents & immigrant population. Garhwali's are known for imbibing good things from other cultures. Although Kumaon & Garhwal both are administrative divisions of Uttarakhand but there is a rift b/w two regions. The rift is attributed due to certain historical factors. Kumaon & Garhwal were divided by East India Company in 1816 for better managements of these regions. Since then Garhwali's & Kumaoni's look upon one other as being superior to the other (Report of the Expert Committee Vol. 1, 2024). U-UCC must find a solution to this factor & must contain legal provisions for safeguarding & promoting culture of Devbhoomi Uttarakhand only then the purpose of unification would be achieved. Nevertheless, opposition forms an integral facet of Democracy therefore; its views further should be given due regard while formulating any law.

ii. Sec 3(4) (b) of U-UCC defines live-in relationship as an union b/w partners (men & women) cohabiting in a shared household in a form of relationship “in the nature of marriage”. However, this relationship “in the nature of marriage

should not be prohibited in part-3 of U-UCC [Annexure-12]. Nevertheless, U-UCC fails to give any concrete definition or meaning to the phrase “relationship in the nature of marriage” which leads to ambiguity.

Since, U-UCC recognises live-in relationship only “in the nature of marriage”, it becomes quite significant to render meaning & definition to the phrase. However, SC in (*Velusamy v. D. Patchaiammal*, 2010) has equated ‘relationship in the nature of marriage’ with common-law marriages. Hence, live-in relationships to qualify for common-law marriages must fulfill following criteria i.e., couples must represent themselves to society like spouses, couples must possess the legal marriageable age, couples must be competent to perform a legal marriage; they must further possess the competency to decide for themselves to remain unmarried & cohabitation amongst the couples must be voluntary & the cohabitation must continue for a ‘significant period of time’.

The hon’ble courts in numerous judgments have cautioned that live-in relationship are becoming walk-in & walkout relationship (Ijlmh, 2020). However, courts have not clarified the duration or length of cohabitation that would render couples as domestic partners. Therefore, U-UCC should specify time frame for walk-in & walk-out relationships. Further, the legislation should provide a clear differentiation b/w such walk-in, walkout relationships.

Live-in relationship is an emerging phenomenon in its nascent stage. India has opened doors & has welcomed culture of west in the form of live-in. The orthodoxy regarding pre-marital sex & commitment is said a bye in current scenario. The phenomenon is developing & evolving day-by-day according to situations encountered on routine basis. Live-in at present time has its own standing in society. Therefore, legislature must grant inclusive interpretation to live-in. Exclusive interpretation would render the phenomenon of live-in as rigid.

iii. It is suggested that U-UCC must fix age of majority for couples as 21 years of age. Prohibition of Child Marriage (Amendment) Bill, 2021 has raised marriageable age for girls upto 21 years at the Union level .On the one hand,

U-UCC has u/d sec 4(iii) mentioned marriageable age for girls as 18 & marriageable age for boys on the other hand as 21 years. U-UCC has under part-3, sec 385(1) permitted registrar to inform parents or guardians of the couple u/d 21 years of age regarding existence of live-in relationship [Annexure-12]. There is ambiguity in the operation of the above provisions. Both male & female partners must be of 21 years of age while entering live-in relationship. The rationale behind raising age of girls to 21 years is that enough maturity is required to understand the phenomenon of live-in relationship.

iv. The U-UCC should lay in unequivocal terminology, rights & duties of live-in couples. The term couple rights implies rights of both male & female partner entering the relationship. Men also have the right to guarded. The live-in couples should have the rights to-

- a. Social acceptance & dignity,
- b. Determine mode of their life,
- c. Couple should be allowed to act on behalf of themselves,
- d. Couple should be recognised as one for socializing & acting publicly.
- e. Decide whether or whether not to have kids.

Along with rights, live-in couples must acknowledge their parallel duties also-

a. The most important duty that live-in couples have is towards the society. The couple should honour one another in a dignified way so, that no negative message is transmitted to the society. The couple should emphasize their mutual compatibility & commitment, not sexual gratification.

b. The second most important duty of these couples is towards the children born to them. The couple should strive at providing a conducive environment full of love & peace for their children's growth & development. These children should not feel neglected or without parents.

c. Last but not the least, couple should have a reciprocal duty towards one another. Duty to not to desert one another without a reasonable justification,

blaming each other that that child does not belong to them, refusing to maintain one another & children in situation of any unforeseen contingency. The most important duty that these live-in couples should have is to honour one another in private as well as in public. The Greek Law [Annexure-4] has laid down pre-requisites [Article 2, 5, 6 &13], rights & duties [Article 4, 8,9,10 &11] for live-in couples in detail. All these sections are discussed in chapter 4.3 in detail.

v. On observing certain incidents like Shraddha Walker, crimes relating to live-in are growing day-by-day (Purwar, 2022). These incidents of rising IPV amongst live-in couples require stringent laws & punishments be imposed on the offenders. The tribune has classified such crimes as “crimes of passion”. Two incidents similar to Shraddha walker have been reported by tribune in the city of Delhi & Maharashtra (Sharma, 2024).

a. Delhi incident-Sahil Gehlot did not inform his live-in partner Nikki Yadav regarding his engagement ceremony. When Nikki came to know about Sahil’s intentions, he killed her & preserved her body in a dhaba’s refrigerator. This is not the end, on the same day Sahil got married to another girl (Sharma, 2024).

b. Maharashtra incident-In Maharashtra’s District of Palghar the offender had no job. His live-in partner was a nurse & he being jobless often invited incidents of quarrel between the two. In one such quarrel, offender killed Megha & packed her body in a mattress (Sharma, 2024).

These crimes of passion are a serious concern to be addressed in the current scenario. The Tribune further had a talk with these above-mentioned criminals through a psychologist to know the factors that induced them to kill their own live-in counterparts. Lack of patience, ego, patriarchy, jealousy is the various reasons that made these live-in partners, a criminal. Normally, an ordinary man would not think to murder anyone especially a woman he is intimate with, these offenders suffered from some sort of mental disorders (Sharma, 2024).

Accordingly, U-UCC should make provisions for imposing stringent punishments for-

- a. Rape u/d the false promise to marry,
- b. Entering live-in relationship with a woman after threatening her, applying coercion on her,
- c. Murder & abetment to murder in live-in relationships,
- d. Such cohabitation-giving rise to pregnancies with minor girl,
- e. Any of the live-in partners suffering from venereal disease & putting life of other at risk,
- f. Violation of Fundamental Rights & Freedoms, Human Rights of any of such live-in partners.

vi. U-UCC should specify very strong maintenance provisions for live-in couples & children born to them. U-UCC does not contain any specific provisions regarding maintenance. It has brought live-in women & children u/d the ambit of Chapter-v, Part-1 of the code. Sec 388 [Annexure-12] extends maintenance rights to women in case of desertion by male partner only. U-UCC had given very narrow interpretation to the rights of live-in partners & children born to them. U-UCC has not mentioned anything regarding male partner maintenance rights. Every relationship is prone to misfortunes therefore; parties must know & have course to follow in the event of separation, death of either partner, etc. Unfortunately, in either of these situations the section that is more vulnerable is women & children. They require special care & protection. Further, the proposed legislation should throw light on the manner of distribution of assets & properties acquired by live-in partners during their course of cohabitation. The U.S. S.C has laid down the concept of 'palimony' in the case of (*Marvin v. Marvin*, 1976) which is authority on laws of maintenance followed in the U.S [discussed u/d chapter 4.2 in detail].

Belief that no institution other than marriage can validate relationship between man & women are not logical. The parameter on which justifiability of such

relationship be judged is its end object. The end object should not be any selfish motive or wrongful act. One's uneasiness should not aim at violation of other's right to privacy. Democracy, equality & privacy are to respect not to create confusion & chaos.

vii. The U-UCC should provide the course to be followed in a situation where live-in couples want to separate. U-UCC u/s 384 [Annexure-12] only mentions that couples could terminate their live-in relationship by giving a notice to the registrar. Further, the U-UCC should mention the remedy where another partner does not want to terminate the said relationship. The Greek Law as discussed in chapter 4.3 in detail provides three manners of dissolution of a civil union i.e., either by mutual agreement, or through a unilateral declaration or on marriage [Article 7, Annexure-4].

viii. It is suggested that desirability of cohabitation contracts should be assessed. According to Dhingra, J., live-in relationships are contractual. There is an offer as well as acceptance of such relationship by the couples. India should require separate laws to examine the desirability of such cohabitation contracts & to tackle the consequences arising from such contracts. As discussed in chapter 4.3 in detail Greece [Annexure-4] has u/a 1 legalised live-in relationships in the form of Cohabitation agreement or civil union agreement. Civil union agreement is a form of legal agreement in which rights & responsibilities of live-in couples are outlined. These agreements could be used as a process alternative to marriage. These agreements contain within their ambit topics like parenting, inheritance, taxation, property, childcare & social security. These civil union agreements further provide manner to dissolve the relationship. All these points are discussed in detail under Greek Law regulating the Civil Union, Law no 3719 /2008 as amended by the provisions of Law no.4356/2015 (Annexure-4).

ix. Though UCC is not a pre-requisite for framing law on live-in relationship nevertheless UCC may govern live-in. An independent legislation like The Uniform Civil Code, Uttarakhand, 2024 is sufficient to regulate live-in

relationships. UCC fosters sense of solidarity, streamlines legal framework, secularism, women empowerment, Women & children rights & dignity. The France UCC is termed as Napoleonic Code that governs live-in relationships in the form of Civil Solidarity Pacts & Cohabitation regime. Civil Solidarity Pacts are contracts, which bind couples together like in marriage to support one another. These pacts can be entered into by both homosexual & heterosexual couples. Cohabitation regime is an opportunity provided by the law for the couples to reside with one another with lesser duties. France allows unregistered cohabitation but the country does not regulate unregistered cohabitations (Report of the Expert Committee Vol. 2, 2024). Nevertheless, plural country like India may face implementation issues with UCC therefore, it is quite essential to find solutions to potent problems that may arise in implementation of UCC.

x. Right to property is an integral economic right, which everyone has the right to possess. Couples in live-in, their children do not have inheritance rights in practicality. U-UCC grants inheritance rights to only those children live-in relationship of whose parents is registered. U-UCC has rendered legitimacy directly related to registration of live-in relationship. Nevertheless, In the case law of (*Vidyadhari v. Sukhrana Bai*, 2008) the hon'ble court has held that a live-in couple who is residing together since "reasonable period of time" are entitled to inherit each other's property. Some important points are to be kept in mind while dealing with inheritance of live-in couples-

a. Live-in couples can inherit property either through will or through gift (Aishwaryasandeep & Aishwaryasandeep, 2024).

b. Live-in couples are entitled to acquire their other partner's property through the medium of will (Aishwaryasandeep & Aishwaryasandeep, 2024).

c. Any of the live-in partners on his/her own wish during the lifetime may transfer his/her property to the other counterpart of live-in relationship by making a gift (Corpus, 2021).

On the other hand, judiciary in its landmark judgment of (*Revanasiddappa & anr. v. Mallikarjun & Ors*, 2011) has upheld the legitimacy of live-in children. The court has further entitled these children to same rights & privileges, the children born out of legal wedding have. The court in its important pronouncement has declared that children born to live-in couples can inherit both the properties i.e., parental self-acquired properties as well as ancestral (Khurana & Khurana, 2023). Despite such progressive judgement, the status of live-in children is still unclear.

The researcher is of the view that existing literatures do support the above-mentioned status of live-in couples & children regarding inheritance. The present scenario demands in-depth critical analysis of property rights of live-in couples & children. Judicial verdicts grant every right regarding inheritance to these couples & their children. However, practical implementation of these verdicts is not visible. Therefore, when live-in relationships are declared legal by the hon'ble courts & state like Uttarakhand has implemented their UCC to grant legalization to live-in, then what is the point of discrimination against such couples, their children with regard to property rights. Further studies finding solutions to remove such discrimination are the necessity & landmark judgments should be given due regard.

xi. Children custody is the very important area that requires many studies to provide an answer to the question that 'With whom the custody of children will vest in event of separation of parents or in situation of any unforeseen contingency?' Presently the custody matters are dealt in by section 6 clause b of (The Hindu Minority and Guardianship Act, 1956). This section vests natural guardianship of an illegitimate child to mother. Section 13 further provides that while deciding custody matters, welfare of minor shall be the major decisive factor. The section 16 clause 3 gives an illegitimate status to live-in children. Further section 13 restricts the term 'welfare' only to minor children. The code is silent on the status of major children.

Major researches on the nature of custody laws, their implementation, what comprises of 'welfare' of children, legitimacy of live-in children should be done. U-UCC should also contain provisions regarding custody of children. This will lead legislation towards the goal of contemplated gender justice.

xii. The U-UCC must contain provisions regarding LGBTQ community. The U-UCC says in express terms that it is gender neutral & promotes gender justice. U-UCC should not exclude LGBTQ community from its ambit. The SC in (*Navtej Singh Johar v. Union of India*, 2018) has recognised right to enter live-in relationships of LGBTQ community. However, in practical life situation these people are discriminated & much humiliated. Though courts have permitted same-sex couples to reside together nevertheless owing to this community special characteristics a different set of laws governing them are required. The future researches on this gray area are quite essential to harmonize the grant of rights & their practical implementation. LGBTQ couples are much different from heterosexual couples in all respects like adoption, custody, maintenance etc. Much intensive studies are demanded to grant a meaningful implementation of the right provided by SC.

xiii. As discussed in 9.2 researcher has done an empirical study via questionnaire model of legal research. From the analysis of responses gathered through the empirical study researcher has got to know many insights regarding live-in relationship in Uttarakhand. [For the respective points please refer Annexure-10]. The maximum numbers of respondents i.e., 92.04% are conversant to the phenomenon of live-in relationship. The concept of live-in relationship is no longer a novelty or a taboo to talk. Just a meagre percentage of 03.00% respondents are not familiar with the phenomenon of live-in & 04.05% are familiar to live-in but partially [Question 3]. The majority of respondents i.e., 78.08% have agreed to the statement that trend is shifting towards live-in relationship as it provides both freedom, flexibility to choose life partner & opportunity to check compatibility. These two are major factors that are inducing people to opt for live-in [Question-4]. 66.00% of respondents have agreed to the statement that live-in couples are entitled to legal rights in

the same way married couples are eligible. It is nowhere mentioned either in constitution or under any law that live-in relationship is a criminal offence. On the other hand, 16.08% disagree with the statement & 17.03% are neutral. [Question-6]. 70.08% of respondents have agreed to the statement that live-in is not something new. The only difference is that live-in relationships nowadays are an open affair. Therefore, there is no harm in accepting live-in as a new and distinct form of relationship by the society. Whereas only a small portion of 10.03% have disagreed to the above statement & 19.00% are confused over the situation [Question-7]. Response of maximum respondents i.e., 63.08% is positive towards the fact that live-in couples bear financial losses, in the event of separation or any unforeseen contingency. Neither such couples can enjoy financial benefits as granted to married couples. On the other hand, 21.09% have disagreed to the question & 14.03% are neutral on the point [Question-8]. The researcher has come to know that live-in have a negative impact on children born to such couples both mentally and physically. Fifty-two point zero three percent of participants agree to this statement, 28.09% disagree & 18.08% are in state of dilemma to agree or disagree [Question-9]. 45.02% respondents agree with the statement mentioned therein that women in live-in are not entitled to wife's status. Live-in women should get a different tag & status reserved for them as a component of phenomena of live-in relationship. Whereas, 38.01% of respondents do not agree with this view & 16.08% are neutral on this [Question-10]. The researcher has expressed that more than half of the respondents 62.02% agree to the mentioned statement that in a situation where female partner is disserved by male live-in partner, she suffers in every respect emotionally, mentally, physically, economically and socially. On the other hand, stubborn 16.03% disagree with the statement & 21.04% are again in a confusion to either agree or disagree [Question-12]. Q20 remarks upon the future of live-in relationship in India. The researcher has come to know that majority of respondents i.e., 56.06% have said yes, there is a future of live-in relationship in India. Acceptance of live-in as a mode of family formation in urban cities & consequent increase in live-in couples gives some positive trends to the phenomenon. A small percentage of respondents 15.07% have said no to the

future of such relationships in India & 27.08% are in the state of dilemma as to the future of live-in India.

xiv. [Please refer questionnaire-11 for below mentioned points]. 83.33% of respondents agree to the statement that grant of legal rights to live-in couples would prevent lawlessness. Just a meagre percentage of 9.38% disagrees & 7.29% is neutral towards the grant of legal rights to live-in couples [Question-4]. Female partners in the phenomena of live-in are not eligible to maintenance right like married women. Reason being that institution of marriage & phenomena of live-in are two separate concepts & female live-in partners should get the status reserved for them. On the other hand, 34.90% agree to the above-mentioned statement. Nevertheless, 18.75% of respondents are neutral on the point [Question-5]. Through question-7, the researcher has concluded that more than half of total percentage i.e. 56.77% agrees to the mentioned statement that live-in couples are also eligible to social welfare benefits. Nevertheless, 25.52% regard these couples, as without valid legal recognition consequently they are not entitled to any social welfare benefits. However, 17.71% of respondents neither agree nor disagree on the statement. 51.56% of respondents disagree to the statement that bonding between parents and live-in children are strongest. Participants are of the view legal sanction to live-in can only render bond between parents and children to be strong. Whereas, percentage of participants agreeing & neutral with the statement is almost the same i.e., 23.96% and 24.48% [Question-8]. More than half of the percentage i.e., 68.75% agrees to the statement mentioned above that rise in the cases of divorce is disturbing the mental peace of people. Consequently, young generation is looking towards new & alternative means of family formation. On the other hand, 20.83% disagree to the statement & 10.42% are neutral on the point [Question-9]. 52.15% of respondents agree to the statement mentioned therein that couples in live-in do not have any recourse in event of any unforeseen contingency. On the other hand, 23.12% of participants disagree with the statement & remaining 24.73% are neutral on the point [Question-12]. Through question-13, researcher has come to know that live-in relationship provide personal autonomy & privacy to couples.

Forty-nine point four eight percentages of respondents support this view. Remaining 34.90% do not contest this view & troublesome 15.63% are neutral on the statement .46.32% of respondents disagree with statement mentioned above that; live-in could not guarantee successful unions. As success of any relationship depends majorly on the compatibility & commitment between couples. Above all the essence of live-in relationship is based upon mutual trust & compatibility. Whereas, 36.32% agree with the statement & 17.37% neither support nor reject the statement.

These points are quite significant in terms of live-in relationship. Therefore, State Legislature may regard these points while making any change in the law governing live-in relationship i.e., The Uttarakhand Uniform Civil Code, 2024.

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LIST OF APPENDICES

Annexure-1

The Majority Act, 1875

ACT NO. 9 OF 18751

[2nd March, 1875].

An Act to amend the law respecting the age of majority.

Preamble. — Whereas, in the case of persons domiciled in [India] it is expedient[to specify the age of majority]; It is hereby enacted as follows:

—

1. Short title.— This Act may be called the 4 *** Majority Act, 1875.

Local extent. — [It extends to the whole of India 6 [except the State of Jammu and Kashmir].

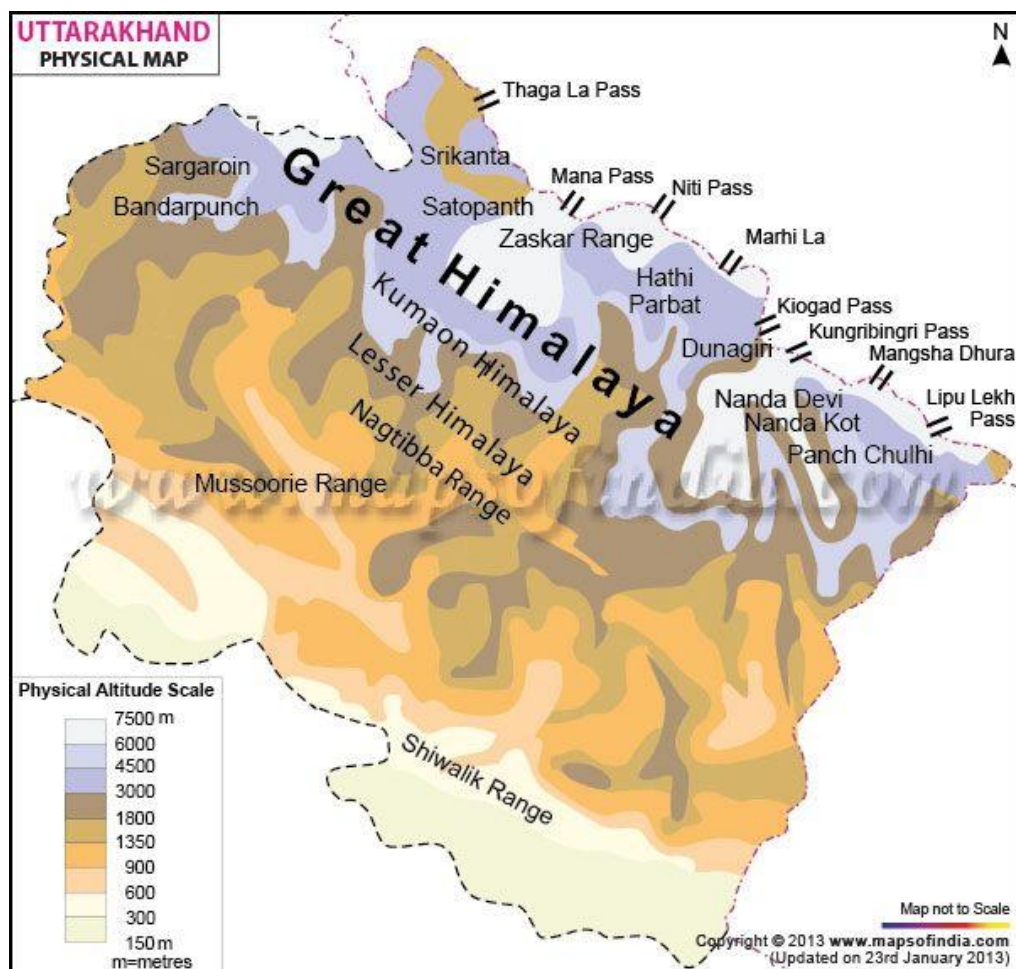
Commencement and operation. —and it shall come into force and have effect only on the expiration of three months from the passing thereof.

2. Saving.—Nothing herein contained shall affect: — (a) the capacity of any persons to act in the following matters (namely), —marriage, dower, divorce and adoption; (b) the religion or religious rites and usages of any class of [citizens of India]; or (c) the capacity of any person who before this Act comes into force has attained majority under the law applicable to him.

[3. Age of majority of persons domiciled in India. —(1) Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before. (2) In computing the age of any person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained majority at the beginning of the eighteenth anniversary of that day.]

Annexure-2
Maps of Uttarakhand

Geographical Divisions of Uttarakhand



District map of Uttarakhand



Annexure-3
Rural Development & Migration Commission, Uttarakhand, Pauri
Garhwal, 2019

Chapter 1
OUT-MIGRATION IN UTTARAKHAND

1.1 Statistics and Key reasons of Migration

Migration from rural to urban areas in Uttarakhand is a major challenge with a comparison between 2001 and 2011 census data showing a slow decadal growth of population in most of the mountain districts of the state. An absolute decline of 17868 persons in the population of Almora and Pauri Garhwal districts between 2001 and 2011 points towards an out flux of people from many hill regions of the state. The state is divided into 2 administrative divisions; 13 districts; 102 tehsils; 95 development blocks; 670 nyaay panchayats; 7950 gram panchayats . There are 16793 census villages (2011 census) of which 15745 are inhabited and 1048 uninhabited (2011 census). In the last 10 years, a total of 3,83,726 persons in 6338 gram panchayats have migrated on a semi - permanent basis, though they come to their homes in the villages from time to time and have not migrated permanently.

In the last 10 years, there are 1, 18,981 permanent migrants from 3946 gram Panchayats. Data indicates that there are more semi-permanent migrants than permanent migrants in all districts of the state.

The analysis of the data in the report of Migration Commission shows that the main occupation of the people living in different villages of the state is agriculture, followed by labor and government service.

The district wise Gross Domestic Product of hill districts like Almora, Bageshwar, Champawat, Chamoli, Pauri, Tehri, Pithoragarh, Rudraparyag and Uttarkashi is less than 40% of that of the plain districts like Dehradun, Udham Singh Nagar and Haridwar. This is perhaps due to their relatively lesser

population and largely rural based economy. When we compare the approximate rate of growth of gross domestic product of the hill and plain districts of the state between 2009-10 and 2016-17, it has increased by about 2 or 2.5 times in case of the former districts(i.e. hill districts) and 3 times or more in case of the latter districts(i.e. plain districts). The contribution of primary sector in the financial year 2011-12 was 14%, which in the financial year 2018-19 has decreased to 10.81 %. The contribution of secondary sector in the state GDP has decreased from 52.13% to 48.28%. The contribution of tertiary sector is approximated to increase to 40.91% from 33.88%. (Economic Survey 2018-19, GoU).

At constant price (year 2011-12), District Economic development of Dehradun is highest at 7.62% while that of Champawat is the lowest at 5.75%.The per capita income of Haridwar, Dehradun and U.S. Nagar was Rs. 2,54,050, Rs. 1,95,925 and Rs. 1,87,313 respectively.(2016-17). All other hill districts had a per capita income lower than the state per capita income with Rudraprayag at the lowest with Rs. 83,521. (Economic Survey 2018-19, GoU).

The contribution of the primary sector to the Gross Domestic Product of the hill districts is much more than the state average even though it is showing a declining trend. This is another evidence pointing to the dependence of people living in the hill districts on primary sector, mainly agriculture and allied activities for their livelihood. In year 2016-17, contribution of primary sector was the least in Haridwar district with only 4.4% in DDP while it was the highest in Almora's DDP at 30.2%. (Source: District Domestic Product Estimates 2011-12 to 16-17)

The decadal growth of various districts has slowed down between 1981 and 2011, with the figure being negative in the districts of Pauri and Almora and relatively very low in Tehri district.

Annexure-4

Greek Law regulating the Civil Union (symfono symviosis = contract of cohabitation)

Law no.3719/2008 as amended by the provisions of Law no.4356/2015 (FEK = Government Gazette A' 181/24-12-2015)

Article 1-Conclusion of a civil union

A contract between two adults, regardless of their gender/sex, governing their life as a couple ("civil union"), shall be entered into means of a notarized instrument in the presence of the parties. The contract shall be valid from the date on which a copy of the notarized instrument is lodged with the civil registrar for the couple's place of residence. It shall be recorded in a special civil register.

Article 2-Conditions

1. Full legal capacity is required in order to enter into a civil union. 2. A civil union may not be entered into: (a) if either of the persons concerned is already married or party to a civil union, (b) between persons who are related by blood in a straight line indefinitely and collaterally until the fourth degree or by marriage in a straight line indefinitely and (c) between an adopter and adoptee. 3. Any violation of the provisions of this section shall render the civil union null and void. Fictitiousness of the contract entails equally its nullity.

Article 4-Surname

The civil union shall not change the (family) name of the parties. Each party may, with the consent of the other party, use the other's surname or add it to his or her own in social relations.

Article 5-Parties' relations

1. If no different special regulation exists in the present or another law, the provisions on the (married) spouses' relations are applicable by analogy on the parties' personal relations. 2. As far as the parties' non-personal relations are

concerned, the relevant provisions on the (married) spouses' relations are applicable by analogy, unless, when drafting the civil union, the parties agree on a different regulation of them, pursuant to the principles of equality and solidarity. The parties may not waive the claim of participation in after-acquired assets before its birth.

Article 6

In case of non-regulated by a civil union cohabitation, the fate of the assets acquired after the commencement of the cohabitation ("after acquired assets") shall be adjudged by virtue of the general provisions on unjust enrichment. The latter are applicable equally in pending trials.

Article 7-Dissolution

1. The civil union shall be dissolved: (a) by an agreement between the parties in the form of a notarized instrument signed in their presence, (b) by means of a unilateral notarized declaration, as long as a call for consensual dissolution has previously been served by a bailiff to the other party and a period of three (3) months after the aforementioned service has elapsed (c) by operation of law if the parties to the civil union marry. 2. The dissolution of the civil union shall take effect once the notarized instrument or the unilateral declaration has been deposited with the civil registrar at the place of registration of the civil union

3. The provisions on the maintenance obligation after divorce are applicable by analogy as far as the maintenance obligation after the dissolution of the civil union is concerned, unless the parties have waived the relevant right when drafting the contract.

Article 8-Inheritance rights

As far as the inheritance rights of the parties are concerned, the provisions of the Civil Code referring to (married) spouses shall be applicable by analogy. When drafting the contract, each party may waive his or her right to a legally reserved portion.

Article 9-Presumption of paternity

The putative father of any child born during the lifetime of the civil union or within three hundred days of its dissolution or annulment shall be the man with whom the mother entered into the union. That presumption may be rebutted only by an irreversible judicial decision. Articles 1466 et seq. of the Civil Code and Articles 614 et seq. of the Code of Civil Procedure shall be applicable by analogy.

Article 10-Children's surname

Any child born during the lifetime of the civil union or within three hundred days of its dissolution or annulment shall bear the surname chosen by its parents by means of a joint and irrevocable declaration contained in the civil union contract or in a subsequent notarized instrument drawn up before the birth of the first child. The surname chosen shall be given to all the children and must be the surname of one of the parents or a combination of their surnames. In no circumstances may it be made up of more than two surnames. If no declaration is made, the child shall be given a composite surname made up of the surnames of both parents. The surname to be put first shall be the one of which the initial letter precedes in alphabetical order. If the surname of one or both parents is a composite name, the child's surname shall be formed by the first of the two names.

Article 11-Parental responsibility

1. Parental responsibility for a child born during the lifetime of the civil union or within three hundred days of its dissolution or annulment shall be held by both parents and exercised jointly. The provisions of the Civil Code concerning parental responsibility for children born within marriage shall be applicable by analogy. 2. If the civil union is dissolved or annulled, Article 1513 of the Civil Code shall apply by analogy for the purposes of parental responsibility.

Article13-Scope

1. This Law shall apply to all civil unions entered into in Greece or before a Greek consular authority.
2. The conditions for the conclusion, the relations between the parties, as well as the conditions for and the consequences of the dissolution of the civil unions not listed in paragraph 1 of the present article, shall be governed by the law of the state where drafted. As far as the hereditary succession is concerned, the relevant provisions of international private law shall be applicable. Besides, civil unions of this paragraph shall not entail in the Greek legal order more results than those provided by virtue of the present law.

Article 14-Amendments on Civil Code provisions

Articles 1354, 1462, 1463 and 1576 of the Civil Code shall be amended as follows:

Article 1354: “Obstacle from existing marriage or from civil union with a third party”

Marriage is hindered before the dissolution or the irreversible annulment of an existing marriage, as well as before the dissolution or the annulment, by an irreversible judicial decision, of the civil union bonding the person about to be married with a third party. Spouses may repeat their marriage before it is annulled.

Article 1462: “Relationship by marriage”

Relatives by blood of the one of the (married) spouses shall be relatives by marriage of the other, in equal line and degree. This is equally applicable in the case of civil union. Relationship by marriage shall be maintained after the dissolution or the annulment of either the marriage or the civil union by virtue of which it has been generated.

Article 1463:

A person’s relationship with his or her mother shall be deduced from birth. The relationship with the father and his relatives shall be deduced from the

marriage or the civil union between the mother and the father or it shall be established by recognition, either voluntary or judicial.

Article 1576: “Automatic dissolution”

If, in non-compliance with the law, the adopter and the adoptee marry each other or conclude a civil union with each other, the adoption shall be automatically annulled and the relation deriving shall be lifted ex tunc. If the marriage or the civil union is annulled, the adoptee may maintain only the property rights derived from the adoption.

Annexure-5

Federal Law by Decree No. (31) of 2021 Promulgating the Crimes and Penalties Law

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates,

- Upon reviewing the Constitution,
 - Federal Law No. (1) of 1972 concerning the Ministries Competences and the Ministers' Powers, and amendments thereto,
 - Federal Law No. (9) of 1976 concerning Juvenile Delinquents and Homeless,
 - Federal Law No. (3) of 1987 promulgating the Penal Code, and amendments thereto,
 - Federal Law No. (35) of 1992 promulgating the Criminal Procedure Law, and amendments thereto,
 - Federal Law No. (43) of 1992 Regulating Penal Institutions,
 - Federal Law No. (9) of 2018 concerning Begging,
 - Federal Law by Decree No. (1) of 2019 concerning Determining Blood Money (Diya) In Cases Of Manslaughter,
 - The proposal of the Minister of Justice, and the approval of the Cabinet,
- Have promulgated the following Law:**

Article (363)

1. No penalty shall be imposed on drinking, possessing or trading in alcoholic drinks in the cases and at places authorized in accordance with the legislation in force. Each Emirate shall have regulations for the use, circulation and possession of or trading in alcoholic drinks.
2. A penalty of incarceration and/or a fine not less than (500,000) five hundred AED shall be imposed on anyone who possesses, manufactures, brings, promotes, sells alcoholic drinks, or prepares or sets up a place for the consumption of alcoholic drinks, or engages in any activity related to the same without a license from the competent entities or in violation of the terms of the

license, in other cases or places than those authorized in accordance with the legislation in force.

3. A penalty of incarceration for a period not exceeding than (6) six months and/or a fine not less than (100,000) one hundred AED shall be imposed on anyone who drinks alcoholic drinks in a public place or in places other than those authorized in accordance with the legislation in force, or is found drunk in a public place and causes a riot or nuisance to others or disturbs public comfort because of his drunkenness.

4. A penalty of incarceration and a fine not exceeding (100,000) one hundred AED shall be imposed on whoever offers or sells alcoholic drinks to any person under (21) years of age, or instigates him to drink them, or buys them for the purpose of offering to such person. Any of such acts shall not be considered a crime if the perpetrator verifies that the age of the person to which the alcoholic drinks is offered or sold is not less than (21) years, based on his passport or any official document. In all cases, a judgment shall be issued ordering the confiscation of the seized alcoholic drinks and funds obtained there from, and the machines, materials, and means used in their production or transportation, and the closure of the shop or place where the crime occurs. The court may order the deportation of the foreigner.

Article (406)

Whoever forcibly has sexual intercourse with a female shall be punished with life imprisonment. The penalty shall be death if the victim is not more than (18) eighteen years of age, or her will is not recognized for any reason, or if she has a physical disability, or suffers from a health condition that renders her unable to resist, or if the perpetrator is one of the victim's ascendants or non-marriageable relatives, one of those who raise or care for her or those who have authority over her, or if the perpetrator is a servant of the victim or any of the aforementioned persons, or if the perpetrators are two or more persons.

Article (409)

A penalty of incarceration for a period not less than (6) six months shall be imposed on whoever has sexual intercourse with a female, or commits sodomy with a male, who has completed (18) eighteen years of age with consent thereof. The same penalty shall be imposed on anyone who accepts to engage in such action. No criminal lawsuit may be filed for the crime stipulated in the preceding paragraph except on the basis of a complaint from the husband or tutor. In all cases, the husband or tutor has the right to waive the complaint, and the waiver shall result in the expiry of criminal action or the stay of execution of the penalty, as the case may be.

Article (410)

A penalty of incarceration for a period not less than (2) two years shall be imposed on whoever have sexual intercourse with a female who has completed (18) eighteen years of age and has given birth to an adulterine child. The female shall be punished with the same penalty. In all cases, no criminal lawsuit may be filed against them if the man marries that woman or one or if both of them acknowledge the paternity of the child, and identification papers and travel documents have been issued for that child in accordance with the laws of the country to which either of them belongs by nationality, subject to the legislation in force in the State. Such marriage or acknowledgment and the issuance of identification papers and travel documents for the child shall result in the expiry of criminal lawsuit or the stay of execution of the penalty, as the case may be.

Annexure-6

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE

ACT, 2005

ACT NO. 43 OF 2005

[13th September, 2005.]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and formatters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

2. Definitions.—

In this Act, unless the context otherwise requires,—

(a) “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;

(f) “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;

Annexure-7

THE BHARTIYA NAGRIK SURAKSHA (SECOND) SANHITA, 2023

BILL NO. 122 OF 2023

[25th January, 1974.]

A Bill to consolidate and amend the law relating to Criminal Procedure. Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER-X

Order for maintenance of wives, children and parents

(1) If any person having sufficient means neglects or refuses to maintain—

- (a) his wife, unable to maintain herself, or
 - (b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
 - (c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or
 - (d) his father or mother, unable to maintain himself or herself,
- a Judicial Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Judicial Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Judicial Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Judicial Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this subsection, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Judicial Magistrate considers reasonable, and to

pay the same to such person as the Judicial Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.—For the purposes of this Chapter,—

(a) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) “wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month’s allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may

consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Judicial Magistrate shall cancel the order

Annexure-8
THE BHARTIYA SAKSHYA ADHINIYAM, 2023

ACT NO. 47 OF 2023

[25th December, 2023.]

An Act to consolidate and to provide for general rules and principles of evidence for fair trial.; Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows: —

119(1) . Court may presume existence of certain facts. — The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations,

The Court may presume that—

- (a) a man who is in possession of stolen goods soon, after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;
- (b) an accomplice is unworthy of credit, unless he is corroborated in material particulars;
- (c) a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;
- (d) a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;
- (e) judicial and official acts have been regularly performed;
- (f) the common course of business has been followed in particular cases; (g) evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it;
- (h) if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavorable to him;

(i) when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

(2) The Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it: —

(i) as to *illustration (a)* — a shop-keeper has in his bill a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;

(ii) as to *illustration (b)* — A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself;

(iii) as to *illustration (b)* — a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable;

(iv) as to *illustration (c)* — A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence;

(v) as to *illustration (d)* — it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course;

(vi) as to *illustration (e)* — a judicial act, the regularity of which is in question, was performed under exceptional circumstances;

(vii) as to *illustration (f)* — the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances;

(viii) as to *illustration (g)* — a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family;

(ix) as to *illustration (h)* — a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked;

(x) as to *illustration (i)* — a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

Annexure-9
Committee on Reforms of Criminal Justice System
Government of India, Ministry of Home Affairs

Report
VOLUME I

INDIA
March 2003

16. OFFENCES AGAINST WOMEN

There are several shortcomings or aberrations in dealing with the offences against women which need to be addressed. The Committee feels that a man who marries a second wife during the subsistence of the first wife should not escape his liability to maintain his second wife under Section 125 of the Code on the grounds that the second marriage is neither lawful nor valid.

The Supreme Court has held that, for proving bigamy, it is to be established that the second marriage was performed in accordance with the customary rites of either parties under the personal laws which is not easy to prove. Therefore the Committee feels that evidence regarding a man and woman living together for a reasonably long period should be sufficient to draw the presumption that the marriage was performed according to the customary rites of the parties.

(115) Definition of the word ‘wife’ in Section 125 of the Code be amended to include a woman who was living with the man like his wife for reasonable long period.

(116) Section 494 of the I.P.C be suitably amended to the effect that if the man and woman were living together as husband and wife for a reasonable long

period the man shall be deemed to have married the woman according to the customary rites of either party.

(117) Section 497 of the Indian Penal Code regarding offence of Adultery be amended to include wife who has sexual intercourse with a married man, by substituting the words “whosoever has sexual intercourse with the spouse of any other person is guilty of adultery”.

Annexure-10

A SOCIO-LEGAL STUDY ON LIVE-IN RELATIONSHIP IN THE FOUR DISTRICTS OF UTTARAKHAND

This questionnaire is for academic purposes. Please answer all the questions and tick-mark the best possible answer from the given set of options. The identities of every participant will be kept anonymous.

1. Age:

- a. 18-28
- b. 29-39
- c. 40-50
- d. Above 50

2: Gender:

- a. Male
- b. Female
- c. Others

3. What is the nature of your relationship:

- a. Yes (Marriage)
- b. No (Live-in Relationship)
- c. Partially (Others)

4. Trend is shifting towards live-in relationship as it:

- a. Provides freedom & flexibility to choose the life partner
- b. Provides opportunity to check compatibility
- c. Both a & b

5. “80% of Indians supports live-in relationship as a way of life,” says poll conducted by Inshorts. A law regulating these live-in relationships

separately should be enacted, keeping in view the increase in numbers of live-in couples:

- a. Agree
- b. Disagree
- c. Neutral

6. Live-in relationships are not a criminal offence. Therefore, couples should be entitled to legal rights from live-in relationships as rights arise from the institution of marriage:

- a. Agree
- b. Disagree
- c. Neutral

7. Live-in relationship is not a new phenomena difference being that earlier it was a closed affair. Therefore, society should accept it as a new and distinct form of relationship:

- a. Agree
- b. Disagree
- c. Neutral

8. Couples in live-in relationship do not enjoy the financial benefits enjoyed by the legally wedded couples. Therefore, these couples suffer many financial losses, as their union has no legal recognition:

- a. Agree
- b. Disagree
- c. Neutral

9. Live-in relationships have a negative impact on children mental and personality development born to live-in couples:

- a. Agree
- b. Disagree
- c. Neutral

10. Women in live-in relationship should not get the status equivalent to wife:

- a. Agree
- b. Disagree
- c. Neutral

11. One important characteristic of a relationship to be in the nature of marriage, as held by courts is 'Reasonable period of time'. This period of time should be fixed, for availability of legal rights to the live-in partners:

- a. Agree
- b. Disagree
- c. Neutral

12. Female partner in live-in suffer a lot in a situation where her male partner leaves her and puts end to the relationship:

- a. Agree
- b. Disagree
- c. Neutral

13. Live-in relationships match the social recognition provided by the marriage:

- a. Agree
- b. Disagree
- c. Neutral

14. Only, the institution of marriage guarantees permanent stable relationships:

- a. Agree
- b. Disagree
- c. Neutral

15. Gandharva vivaha, Muta marriages, Maitri karar are some phenomena resembling the concept of live-in. In present times, also various tribes

follow live-in socially. Therefore, there is no harm in legalizing a concept, which is already implicit in the society:

- a. Agree
- b. Disagree
- c. Neutral

16. Live-in relationships can replace the institution of marriage:

- a. Agree
- b. Disagree
- c. Neutral

17. What according to you is the best form of relationship:

- a. Marriage
- b. Live-in relationship
- c. Spending time with someone occasionally

18. Countries like U.S.A., U.A.E., etc. have legalised live-in relationships by enacting laws. Therefore, India should enact a law based on the laws of U.S.A., U.A.E.:

- a. Agree
- b. Disagree
- c. Neutral

19. Live-in relationships do not degrade India's culture and ethical values:

- a. Agree
- b. Disagree
- c. Neutral

20. Do you see the future of live-in relationship in India:

- a. Yes
- b. No
- c. Maybe

Annexure-11

A SOCIO-LEGAL STUDY ON LIVE-IN RELATIONSHIP IN THE FOUR DISTRICTS OF UTTARAKHAND

This questionnaire is for academic purposes. Please answer all the questions and tick-mark the best possible answer from the given set of options. The identities of every participant will be kept anonymous.

1. Age:

- a. 18-28
- b. 29-39
- c. 40-50
- d. Above 50

2: Gender:

- a. Male
- b. Female
- c. Others

3. Profession:

- a. Lawyer
- b. Law Professor
- c. Legal Scholar

4. Live-in couples must be entitled to Legal rights so, as to prevent lawlessness:

- a. Agree
- b. Disagree
- c. Neutral

5. Female live-in partners should not be entitled to maintenance right like married women:

- a. Agree
- b. Disagree
- c. Neutral

6. Do you think mandatory registration of live-in relationship would prevent the abuse of this phenomenon:

- a. Agree
- b. Disagree
- c. Neutral

7. Live-in couples should also get the social welfare benefits like deductions in income tax etc.:

- a. Agree
- b. Disagree
- c. Neutral

8. Parents and children bonding arising out of live-in are strongest:

- a. Agree
- b. Disagree
- c. Neutral

9. Increasing incidents of divorce has created havoc in the minds of people. Consequently, young generation is searching alternative modes of family formation:

- a. Agree
- b. Disagree
- c. Neutral

10. Legalisation of live-in would make these relations systematic. Therefore, society should accept it as a different form of family formation:

- a. Agree
- b. Disagree
- c. Neutral

11. Live-in relationship allows couples to be financially and economically independent:

- a. Agree
- b. Disagree
- c. Neutral

12. In case of any unforeseen contingency, live-in couples do not have any recourse:

- a. Agree
- b. Disagree
- c. Neutral

13. Live-in relationship does not provide personal autonomy and privacy to couples as compared to marriage:

- a. Agree
- b. Disagree
- c. Neutral

14. Live-in relationships cannot guarantee successful unions:

- a. Agree
- b. Disagree
- c. Neutral

15. Will you opt Live-in relationship. Please specify the reasons.

Annexure-12

THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024

THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024

BILL No. of 2024

A

Bill

*to govern and regulate the laws relating to marriage and divorce,
succession, live-in relationships, and matters related thereto.*

*Be it enacted by the Uttarakhand State Legislative Assembly in the 75th
years of the Republic of India, as follows-*

PRELIMINARY

1. Short title, commencement and extent -

- (1) This Act may be called the Uniform Civil Code, Uttarakhand, 2024.
- (2) It shall come into force on such date as the State Government may, by notification in the Gazette, appoint.
- (3) It extends to the whole of the State of Uttarakhand and applies also to the residents of Uttarakhand who resides outside the territories to which this Code extends.

2. Applicability of the Code to Scheduled Tribes - Nothing contained in this Code shall apply to the members of any Scheduled Tribes within the meaning of clause (25) of Article 366 read with Article 342 of the Constitution of India and the persons and group of persons whose customary rights are protected under Part XXI of the Constitution of India.

3. Definitions -

- (1) In this Code, unless the context otherwise requires -
 - (a) "child", in relation to parents, means their biological child, and includes an adopted child, an illegitimate child, or a child born through surrogacy or assisted reproductive technology;
 - (b) "Court" means a court of original civil jurisdiction and includes a family court established under the Family Courts Act, 1984 (Act No. 66 of 1984) or any court upon which the powers and jurisdiction of a family court are conferred;
 - (c) "custom and usage" signify any rule which, having been

continuously and uniformly observed for a long time and has obtained the force of law among persons in any local area, tribe or community;

Provided that the rule is certain and not unreasonable or against the public policy and morality;

- (d) "degrees of prohibited relationship" - a man and any of the persons mentioned in List-1 of the Schedule - 1 and a woman and any of the persons mentioned in List-2 of the said Schedule are within the degrees of prohibited relationship.

Explanation 1 - Relationship includes -

- (i) relationship by half or uterine blood as well as by full blood, adoption, surrogacy or assisted reproductive technology;
 - (ii) legitimate blood relationship as well as illegitimate;
- and all terms of relationship in this Code shall be construed accordingly;

Explanation 2 - "full blood" - two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife;

Explanation 3 - "half blood" - two persons are said to be related to each other by half blood when they are descended from a common ancestor but by different wives;

Explanation 4 - "uterine blood" - two persons are said to be related to each other by uterine blood when they are descended from a common ancestress but by different husbands;

Explanation 5 - in Explanation 3 and Explanation 4, "ancestor" includes the father and "ancestress" includes the mother;

- (e) "estate" means property of any kind, whether movable or immovable, self-acquired or ancestral/coparcenary/joint, tangible or intangible and includes a share, interest or right in such property;
- (f) "High Court" means the High Court of Uttarakhand;
- (g) "minor" means a person who has not attained the age of eighteen years;

- (h) "notification" means a notification published in the Uttarakhand Gazette and the expression "notified" shall be construed accordingly;
- (i) "parent" means father or mother of a child;
- (j) "person" means an individual, whether female or male, and the expressions "she/he", "her/his", "her/him" and "herself/himself" shall be construed accordingly;
- (k) "prescribed" means prescribed by rules made under this Code;
- (l) "Registrar" means the Registrar appointed by the State Government;
- (m) "Registrar General" means the Registrar General appointed by the State Government;
- (n) "resident" means a citizen of India, whether residing within or outside the territories of the State of Uttarakhand, who -
 - (i) is eligible to be a permanent resident under the notification issued by the State Government in this regard, or
 - (ii) is a permanent employee of the State Government or its undertakings/entities, or
 - (iii) is a permanent employee of the Central Government or its undertakings/ entities, employed within the territory of the State, or
 - (iv) has been residing in the State for not less than one year, or
 - (v) is a beneficiary of any scheme of the State Government or the Central Government, applicable in the State;
- (o) "spouse" means either husband or wife in a marriage;
- (p) "State" means the State of Uttarakhand;
- (q) "State Government" means the Government of Uttarakhand; and
- (r) "Sub-Registrar" means, in a rural area, such village level officer and, in an urban area, such official of the urban local body, as may be notified by the State Government for the purposes this Code.
- (2) In Part - 1 of this Code, unless the context otherwise requires -

- (k) “testator” means the person who executes a Will;
- (l) “Will” means the legal declaration of the intention of a testator with respect to her/his estate which she/he desires to be carried into effect after her/his death.

Explanation - Words and expressions used in this sub-section and not defined but in the Indian Succession Act, 1925, shall have same meaning respectively assigned to them in that Act.

- (4) In Part-3 of this Code, unless the context otherwise requires -
 - (a) “child”, in relation to a man and a woman in a live-in relationship, means their biological child, and includes an adopted child, an illegitimate child or a child born through surrogacy or assisted reproductive technology.
 - (b) “live-in relationship” means a relationship between a man and a woman (hereinafter referred to as “partners”), who cohabit in a shared household through a relationship in the nature of marriage, provided that such relationship is not prohibited under Part - 3 of this Code;
 - (c) “shared household” means a household where a man and a woman, not being minors, live under one roof in a rented accommodation or in a house owned jointly or by any one of them or any other accommodation;
 - (d) “statement of live-in relationship” means a jointly signed statement to the effect that a man and a woman are in a live-in relationship or intend to enter into such a relationship, submitted to the Registrar in the prescribed manner for registration in accordance with the provisions of Part - 3 of this Code; and
 - (e) “statement of termination” means a signed statement by any or both partners to an existing live-in relationship that such relationship has been terminated, and submitted to the Registrar in the prescribed manner.

THE UNIFORM CIVIL CODE, UTTARAKHAND

12. Appointment of Registrar General, Registrar and Sub-Registrar -

- (1) The State Government shall, by notification, appoint such person as it considers appropriate not below the rank of Secretary to the Government of Uttarakhand to be the Registrar General for the State and shall also appoint Registrar for any area(s) as it considers appropriate not below the rank of Sub-Divisional Magistrate and such number of Sub-Registrars as the State Government may notify for such area(s) as may be specified in the notification.
- (2) Registrar General and Registrar shall each maintain a register of appeals and such other registers as may be prescribed.
- (3) The Sub-Registrar shall maintain such registers of marriage and divorce and other registers as may be prescribed.

13. Action on receipt of memorandum under section 10 or section 11 -

- (1) Every memorandum presented under section 10 or section 11 shall be accompanied with a fee to be prescribed by the State Government.
- (2) Within fifteen days of the receipt of a memorandum of marriage or of divorce or nullity of marriage in the prescribed manner, as the case may be, the Sub-Registrar shall either -
 - (i) enter the particulars in the register of marriage and divorce and issue, in the case of registration of marriage, a certificate of marriage and, in the case of registration of divorce or nullity of marriage, an acknowledgement thereof, in such form and manner as may be prescribed. While issuing the certificate of marriage or acknowledgement of divorce or nullity of marriage, as the case may be, the Sub-Registrar shall satisfy herself/himself that the marriage has been duly solemnized/contracted in accordance with the provisions of this Part or that the decree of divorce or nullity of marriage has been duly passed; or
 - (ii) reject the memorandum of marriage or of divorce or nullity of

Chapter – 5

Incidental Proceedings

33. **Maintenance *pendente lite* and expenses of proceedings -** Where in any proceeding under this Part, it appears to the Court that either the wife or the husband or in case a man having more than one wife prior to the commencement of this Code, each of the wives has no independent income sufficient for her/his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the applicant, during the pendency of the proceeding, the expenses of the proceeding and such monthly sum as, having regard to the applicant's own income and the income of the respondent, it may seem to the Court to be just and reasonable;

Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the respondent.

34. **Permanent alimony and maintenance -**

- (1) Any Court exercising jurisdiction under this Part may, at the time of passing any decree or at any time subsequent thereto, on application made by any of the parties to the decree, order that the other party shall pay to the applicant for her/his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's income and estate, the income and estate of the applicant, any mutual agreement/settlement between the parties, if any, the conduct of the parties and other circumstances of the case, it may seem to the Court to be just, and such payment may be secured, if necessary, by a charge on the immovable property of the other party;

Provided that *mahr*, dower, *streedhan* or any other property presented to the wife shall be in addition to her claim for maintenance.

- (2) If the Court is satisfied that there is a change in the circumstances of

either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just and proper.

35. Custody of children -

- (1) In any proceeding under this Part, the Court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the care, education, custody and maintenance of minor children consistently with their wishes, wherever possible, and may, after the decree, upon application for the purpose, make from time to time, all such orders and provisions with respect to the care, education, custody and maintenance of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending, and the Court may also from time to time revoke, suspend or vary any such orders and provisions previously made;

Provided that the application with respect to the care, education, custody and maintenance of such children shall, as far as possible, be disposed of within sixty days from the date of service of notice on the respondent.

- (2) In making any such order under sub-section (1), the best interest and welfare of the child Court shall be the paramount consideration;

Provided that the custody of a minor child who has not completed the age of five years shall ordinarily be with the mother.

36. Disposal of estate -

- (1) In any proceeding under this Part, the Court may, for the benefit of the wife or the husband or their children, make such provisions in the decree as it deems just and proper with respect to any estate which may belong, either individually or jointly, to the parties whose marriage is the subject of the decree.
- (2) In making any such provisions in the decree under sub-section (1), the Court shall have regard to the existence of any mutual agreement/settlement between the parties, to the marriage and may vary or modify any such agreement/settlement so made for the benefit of the wife or the husband or their children as may be deemed just and proper.

Part – 3
Live-in Relationship

378. Submission of statement by partners to a live-in relationship -

- (1) It shall be obligatory for partners to a live-in relationship within the State, whether they are residents of Uttarakhand or not, to submit a statement of live-in relationship under sub-section (1) of section 381 to the Registrar within whose jurisdiction they are so living.
- (2) Any resident(s) of Uttarakhand staying in a live-in relationship outside the territory of the State may submit a statement of live-in relationship under sub-section (1) of section 381 to the Registrar within whose jurisdiction such resident(s) ordinarily resides.

379. Children of a live-in relationship - Any child of a live-in relationship shall be a legitimate child of the couple.

380. When live-in relationships not to be registered- A live-in relationship between two persons shall not be registered-

- (1) where the partners are within the degrees of prohibited relationship as defined under clause (d) of sub-section (1) of section 3:
Provided that the prohibitions will not apply to person(s) whose customs and usage permit the relationship, if it were a marriage;
Provided further that such customs and usage are not against the public policy and morality: or
- (2) where at least one of the persons is married or is already in a live-in relationship: or
- (3) where at least one of the persons is a minor: or
- (4) where the consent of one of the partners was obtained by force, coercion, undue influence, misrepresentation or fraud as to any material fact or circumstance concerning the other partner, including her/his identity.

381. Procedure for registration of live-in relationship -

- (1) Partners in a live-in relationship, or persons intending to enter into a live-in relationship, shall submit a statement of live-in relationship to the Registrar concerned in such format and in such manner as may be prescribed.
- (2) The Registrar shall examine the contents of the statement of live-in relationship so submitted and satisfy herself/himself by conducting a summary inquiry that the live-in relationship is not of such a kind as is mentioned under section 380.
- (3) In conducting summary inquiry under sub-section (2), the Registrar may summon the partners/persons or any other person for verification in the prescribed manner and require the partners/persons to supply additional information or evidence, if necessary.
- (4) After conducting such summary inquiry as may be deemed appropriate, the Registrar shall, within thirty days of the receipt of the statement of live-in relationship under sub-section (1), either-
 - (a) enter such statement in a prescribed register for registering the live-in relationship, and issue a registration certificate in the prescribed format to the partners/persons; or
 - (b) refuse to register such statement, in which case the Registrar shall inform the partners/persons of the reasons in writing for such refusal.

382. Registration under this Part only for record - Registration regarding live-in relationship under clause (a) of sub-section (4) of section 381 shall be only for the purposes of record.

383. Empowerment of Registrar under this Part, and maintenance of registers-

- (1) The State Government may, by notification in the Uttarakhand Gazette, empower a Registrar appointed under Part-I to act as Registrar under this Part.
- (2) The Registrar shall maintain registers for statements of live-in relationships and statements of termination of live-in relationships and such other registers and in such manner as may be prescribed.

384. Submission of statement of termination of live-in relationship - Both partners to a live-in relationship, or either of them, may terminate it and submit a statement of termination in the prescribed format and in the prescribed manner to the Registrar within whose jurisdiction such resident(s) ordinarily resides, and provide a copy of such statement to the other partner in case only one of the partners terminates the live-in relationship.

385. Duties of Registrar -

- (1) Any statement of live-in relationship submitted under sub-section (1) of section 381 shall be forwarded by the Registrar to the officer-in-charge of the local police station for record, and in case either of the partners is less than twenty-one years of age, also inform the parents/guardians of such partner(s).
- (2) If the Registrar comes to the conclusion that the relationship is of such a kind as is mentioned under section 380, or that the contents of the statement under sub-section (1) of section 381 are incorrect or suspicious, she/he shall inform the officer-in-charge of the local police station for appropriate action.
- (3) On any statement of termination being submitted under section 384 by one partner to a live-in relationship, the Registrar shall inform the other partner about such statement, and in case either of the partners is less than twenty-one years of age, also to the parents/guardians of such partner(s).

386. Notice for registration of live-in relationship - Where any partner(s) to a live-in relationship has failed to submit the statement of such relationship, the Registrar, either of her/his own motion or on receipt of a complaint or information in this regard, shall by notice require such partner(s) to submit a statement in a prescribed manner within thirty days from the date of receipt of such notice. On such statement being submitted, the Registrar shall act in accordance with the procedure laid down in the preceding provisions.

387. Offences and punishment -

- (1) Whoever stays in a live-in relationship for more than one month from

the date of entering into such relationship without submitting the statement of such relationship under sub-section (1) of section 381 shall be punished on conviction by a Judicial Magistrate with imprisonment for a term which may extend to three months or with fine not exceeding ten thousand rupees or with both.

(2) Any person who makes any averment in the statement of live-in relationship submitted under sub-section (1) of section 381 which is false and which she/he knows or has reason to believe to be false, or withholds any material fact therefrom affecting the decision of the Registrar whether to register such live-in relationship or refuse to do so, shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding twenty-five thousand rupees, or with both.

(3) Any partner to a live-in relationship who fails to submit the statement of live-in relationship on being required by a notice to do so under section 386 shall be punished on conviction by a Judicial Magistrate with imprisonment for a term which may extend to six months or with fine not exceeding twenty-five thousand rupees or with both.

388. Maintenance - If a woman gets deserted by her live-in partner, she shall be entitled to claim maintenance from her live-in partner for which she may approach the competent Court having jurisdiction over the place where they last cohabited, and in such a case the provisions contained in Chapter - 5, Part - 1 of this Code shall *mutatis-mutandis* apply.

389. Power to make rules- The State Government may, by notification in the Uttarakhand Gazette, make rules for carrying out the purposes of this Part.

Part – 4

Miscellaneous

390. Repeal and Savings -

- (1) Subject to the provisions of section 2 of this Code, any law (statutory or otherwise), practice, custom or usage in force in the State immediately before the commencement of this Code relating to the matters covered by this Code, shall cease to have effect within the territory of the State, in so far as they are inconsistent with any of the provisions contained in this Code.
- (2) Nothing contained in this Code shall affect any right, responsibility or obligation accrued or proceedings initiated under any law for the time being in force prior to the commencement of this Code relating to the matters covered by this Code, such proceedings shall continue as per the law (statutory or otherwise), practice, custom or usage existing on the date of commencement of this Code.
- (3) For removal of doubts, The Uttarakhand Compulsory Registration of Marriage Act, 2010 (Uttarakhand Act No, 19 of 2010) is hereby repealed.

391. Power to make rules -

- (1) The State Government may, by notification in the Uttarakhand Gazette, make rules for carrying out the purposes of this Code.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely –
 - (a) facilitating the processes by putting in place electronic and digital systems, and allowing parties to make submissions and applications through designated web portals;
 - (b) facilitation and encouragement of registration of marriages including compulsory registration for availing benefits under government sponsored welfare schemes; and
 - (c) any other matter which is required to be, or may be, prescribed or provided for by rules.

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