

# Homosexual Live-in relationship in India: Socio Legal Dimension in reference to Right to life or Social stigma

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**Abstract:** *Live-in relationship is a long-lasting oratory issue for last one decade, but the law related to live-in relationship in India concern to LGBT (lesbian, gay, bisexual, transgender) not clear and apposite yet. In Indira Sharma vs V.K.V Sharma<sup>2</sup>, Honorable Supreme Court gave an innovative and milestone decision by describing five kinds of live-in relationship in India. The fifth one is about homosexual live-in relationship in India. The researcher seek to elucidate in this article that to legalize the homosexual live-in relationship in India surge the societal censure, threatens and demoralize the traditional marriage concept, In contradiction of natural progression, Standardization of immorality and peculiarity, No procreation of children that assimilates gay and lesbian in this heterosexual society, Increase the unusual and non-traditional marriages and relationship-polygamy, bigamy, bestiality, incest and more, Boost the Homosexual relation in society that is against the natural cohabitation of men and women, Inharmoniousness of many religions to belief such immoral kind of relationship. The article also tries to put light on some grey and undiscussed issue of homosexual cohabitation that adoption right, succession right, maintenance right, protection of Domestic Violence Act 2005 sec 2(f) executed or not on homosexual live-in relationship. In writing this article, the author no intention to denigrate or criticize any individual. In cerebrally contrasting individuals or administrations endorsing the homosexual live-in relationship, the author's only intention is the resistance and protection of traditional marriage institution, the family harmony, and the precious, valuable assortments of Indian traditional culture.*

**Keywords:** *Homosexual, procreation, bestiality, cohabitation, incest, live-in relationship*

## I. Introduction

In India, LGBT live-in relationship introduce first time after decide the Indira Sharma vs V.K.V Sharma case, it's termed homosexual live-in relationship. On 6<sup>th</sup> September 2018, part of Section 377 of Indian Penal Code 1860, was decriminalized a five-year bench of judges. Naz foundation vs Government of NCT of Delhi<sup>3</sup>, is a landmark decision by two-bench judges decided homosexual relationship is fundamental right in India. National legal service authority (NALSA) vs Union of India<sup>4</sup>, declared 'transgender' people is 'third gender' and decided their fundamental rights as same as any other citizen of India. The main drawback to such kind of relationship if queer individuality people adopted children, there will desperately affected child progress and growth whom the

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<sup>2</sup> 2013 SC 4895

<sup>3</sup> (2009) 160 Delhi law Times 277

<sup>4</sup> WP (civil) No 400 of 2012

forthcoming leader of nation. Despite of that, is against the natural arrangement, homosexual relationship cannot be as equal as men and women relationship. Many effects behind it such as no procreation of children, grievous loss of our incredible virtue and tradition, conflict of same gender, disharmony of societal 'husband' and 'wife' recognition and purposes. In brief, the societal gesture of domestic format will be transformed as unusual cohabitation without any joy, peace and satisfaction of family.

## **II. Homosexual live-in relationship effects on socio -legal perception**

Despite the legalization of homosexual live-in relationship, this topic will remain to be antagonistic problem what's the socio-legal effect of homosexual live-in relationship in our society? Why it is threatening to marriage institution?

- **Adversative effect on Expansion of child evolution and personality**

If homosexual partner allowed to adopt children, the most hazardous condition occur when child has both similar gender guardians, both Male and both Female. It's Natural arrangement of requirement that both father and mother take care well of growing child. Homosexual live-in partners are incompetent to hold a growing child future<sup>5</sup>. Many guidance gives by mother, and many more by father to child to develop a good character in life. If anyone is absent whether father or mother, children agonize by psychological protection and security of their childhood.

- **Excise or Tax Cumulative problem**

Validation of homosexual cohabitation in India there is the most drawback happen to increase in tax reimbursements, the government will be stimulated to increase taxes in direction to afford these additional expenditures.

- **Ambiguity of Legal dimensions**

In India, the legislation defines itself both female and male people as family, homosexual live-in relationship surge vagueness of couple relation as same sex in traditional terms in India. It generates hazard to legal terms of numerous legislations.

- **Societal threatening to marriage institution**

Indian society is a traditional, prolonged, unified, multicultural and multi-religious society forever. homosexual live-in relationship hazardous to our World-acclaimed pious and traditional marriage framework.

- **Contrary to Legislature rules and Regulations**

After decriminalized section 377 of Indian Penal Code, homosexual cohabitation legalized but this legalization generates haziness in Adoption and Maintenance Act 1956, Hindu Succession Act 1956, Special Marriage act 1954, Sodomy law, Hindu Marriage Act 1955. After the legalization of section 377 Indian Penal Code there is an Ambiguity occur the definition of 'husband' and 'wife' in Hindu Marriage Act<sup>6</sup> because 'husband' means male and 'wife' means the female person include. In homosexual relationship how can justified husband or wife? Similarly,

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<sup>5</sup> Homosexual parenthood and child development: present data.  
Fond G1, Franc N, Purper-Ouakil D.

<sup>6</sup> 1955, section 3

section 13 of Hindu Marriage Act 1955, provides grounds for divorce to wife, in homosexual relationship an ambiguity ensues for 'wife'. Likewise, In Indian Penal Code 1861, part XX section 493, 494, 497, 498, 498-A to offences related to marriage there is ambiguity also.

- **Ruined Child expansion, progress and evolution**

Homosexual live-in partners by Artificial Insemination propagate the child, in such condition the child whole personality and identity ruined because the depraved upshot of homosexual guardians. Such child's social link never be engendered, social sphere not developed, Even Sometimes bullying happen in school with child. The children always feel dejected and depressed, it's all place worse consequence on child's psychological and physical growth.

- **Misapprehension not ceremony**

Marriage ceremony has constantly been a promise between a male and a female which is methodical to the procreation of children and the harmony, welfare, support, security and unity of the couple. Supporters of homosexual live-in relationship, contends that there are no physical, biological, psychological variances between homosexual partners. The main drawback of homosexual live-in relationship that this kind of relationship is not a complementary relationship. It contradicts the prime persistence of relationship the endurance of the humanoid race and the upbringing of children by natural progression.

- **Contradictory to the Natural law**

It is a natural phenomenon since beginning, male (Adam) and female (Eve) created the whole world. If we gone through whether male and female biological structure or either their voice, habits, nature, life style, mental qualities, physical strength, character, priorities all are different. So how can we say homosexual relationship is natural?

- **Promote Single parenting**

In heterosexual relations children get mother and father's care, attention, love and guidance equally. On the other side, in homosexual relationship children always feel the empty space of either mother or father, because of same gender homosexual parents never be an example of perfect parenting. In most of cases found that such children lost their temperament, confidence, self- strength, and cannot face life downfall. Homosexual relationship always ensures that the child will get love of only father or mother.

- **Intimidation to traditional values and morality**

The rule and regulations of law regulates the offences in the society and it safeguard of traditional values. Homosexual live-in relationship abolishes the perpetual form of relationship such as marriage, family, husband-wife compatibility, kids etc. homosexual cohabitation exceeds the unrestrained relationship which endorse the wickedness and immorality in society.

- **Right to life or Moral Wrong**

Homosexual live-in relationship activist argue that such kind of relationship is a right to life or right to racial equality. In Marriage Institution the two Individuals Man and Woman accomplish the necessities of nature, but homosexual live-in relationship divergent to nature. Homosexual copartner always has horrendous biological predilection. Inborn and unchanged ethnic qualities

- **Intensification of Naturally Sterile Union**

The most adverse aspect of Homosexual live-in relationship provides essentially Sterile Unification. Where the traditional Marriage ceremony Originate procreation of children, there Homosexual live-in relationship is the source of intensification the sterile and non-abundant people in the society.

- **Against to apparent socio- legal progress of nation**

In marriage relation, the permanent bonding of family is present. Grandparents, mother, father, sister, brother, cousins, all share the blood relationship and natural affection. It plays a vital role to firm a strong and truthful character society as well as nation. Homosexual relationship deters the road of success of society in the form of immorality and vulgarity.

- **Sexual Revolution or Sexual disparity**

The origin of Homosexual live-in relationship in western countries where some people demand such kind of relationship as Sexual freedom or sexual revolution. It is a sexual disparity of natural law which advocates 'Man and Woman' relationship as a couple, not as vice versa. The upshot of this sickness is in the heinous form of depression, sex transferred diseases like HIV, pedophilia, bestiality, incest.

- **Contravention to all the religions**

India is the land of spirituality, 'the land of god', world famous for its great virtue and morality of many religions. No religion favors the sex relation of two same gender person or unnaturally sex behavior.

- **Ambiguity for the Right to inheritance of Property**

The Government bodies are unable to ascertain about the right to inheritance of property in case of death of one homosexual copartner due to ambiguity of the lifestyle of the deceased. The laws of succession are vague for homosexuals yet. Lot more needs to be done to dust it off. E.g. Laws of right to property are different for Hindus and Muslims. How will the law interpret about right of succession for ancestral property if the homosexuals belong to Hindu and Muslim community?

### **III. Google forms Survey**

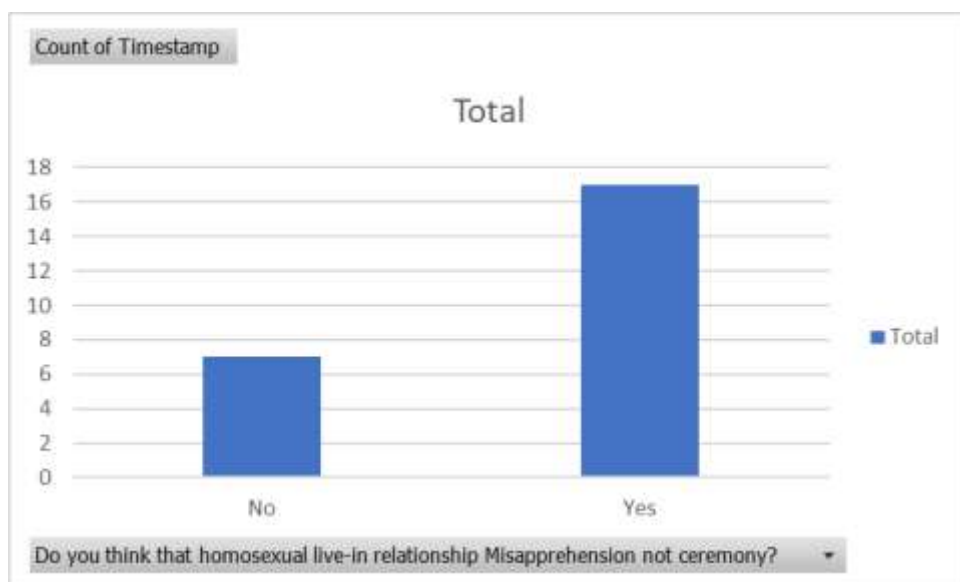
The researcher surveyed a group of people living in different parts of India (Maharashtra, Gujarat, Rajasthan and Tamil Nadu) and world (Canada, US, and Australia). The respondents were asked to fill up a google questionnaire survey form through email. The respondents were representing different socio-economic strata of the society. The age group of the respondents was of 35 to 40 years. All respondents belonged to various professions like academics, hotelier, lawyer, corporate professionals, businessman, Chartered accountant etc.

The respondents were asked about homosexual live in relationship, its effect on child and an individual, threat to society and marriage as an established institution, legal repercussions on right to property, taxation by various Govt. departments, (e.g. Property registration tax variance for men and women). Mental sickness and trauma of a unhealthy family life for all those involved.

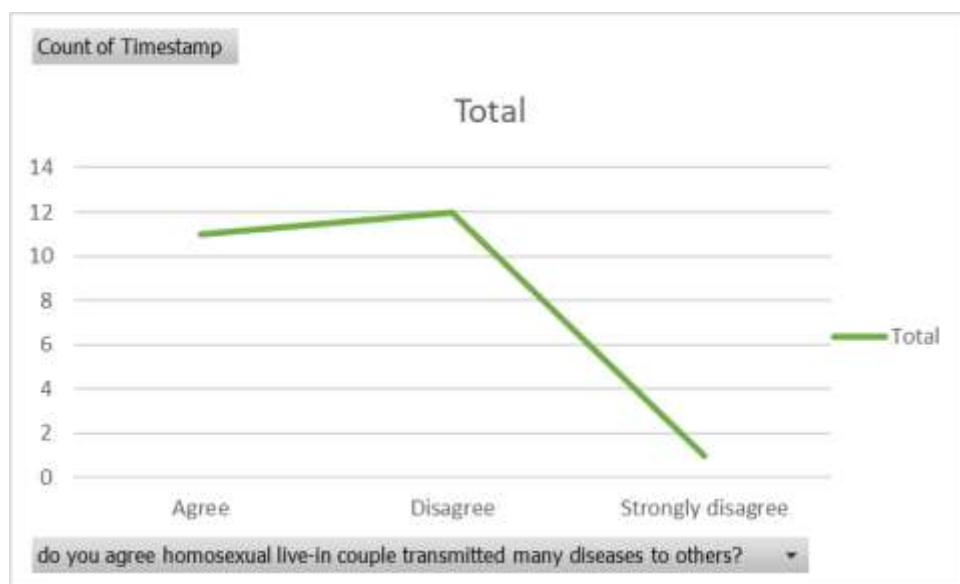
The researcher was interrogated many questions to respondents, through Questionnaire, the most significant questions outputs are as follows:



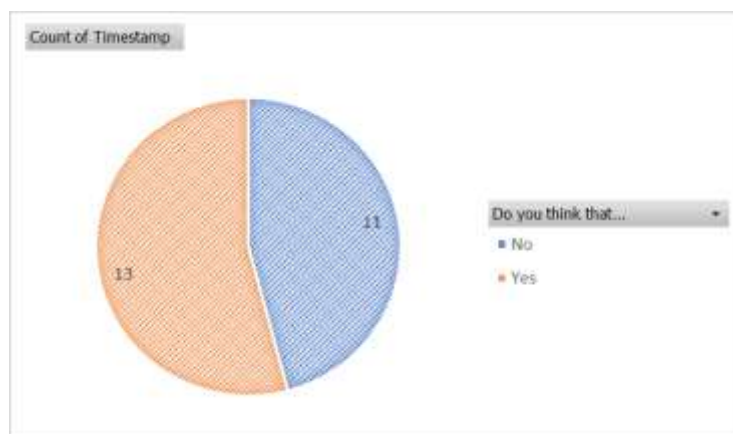
2.1 Do you think that homosexual live-in relationship is a Social disparity?



2.2 Do you think that homosexual live-in relationship Misapprehension not ceremony?



2.3 Do you agree homosexual live-in couple transmitted many disease to others?



2.4 Do you think that live in relationship is threatening to marriage institution?

#### IV. Conclusion and suggestion

In this article the researcher throws light on the adverse and life-risk effect of homosexual live-in relationship, by arise many questions. The main concern is relating with life -style of homosexual couple to life-threatening risks of physical injuries and grievances, STD-Sexually Transmitted Diseases just like HIV, mental sickness, psychological syndromes and even a panic and short life duration. In India many Research clinic revealed homosexual live-in couple infected from psychiatric sicknesses, including depression, drug and drink abuse, and suicide efforts, hazardous physical relations which is the main cause of mental disorder. Many research reports certify homosexual couple life duration losing up to 30 years of remaining life.<sup>7</sup> In my opinion, homosexuality is a mental disorder or sickness. In Same-sex live-in relationships, homosexual live-in couple are deprived of many

<sup>7</sup> Same-sex legal marriage and psychological well-being: findings from the California Health Interview Survey. Wight RG1, Leblanc AJ, Lee Badgett MV.

legal, social and economic rights which inevitably conferred to marriage couple. These contain employment reimbursements right, the capability to file joint tax returns right, beginning of AIDS – health rights and whenever death of a partner, including interstate inheritance right too.<sup>8</sup> It should be ban because it's a sex crime, Unnatural heinous kind of sex and atrocious way of sex It increases the immorality in our society, Sex exploitation like having sex with minors, workplace sex exploitation where gay or lesbian relationship is very common for example in film industry, fashion glamour world. In conclusion, homosexuals are kind of sex criminals who not only spoils their own life but also indulge children future and even humankind's future. Finally, in my opinion homosexuality should be treated as a mental disorder and it should be nipped in the bud. Firstly, the family should keep strict watch on any abnormal activity of the child behaving homosexually and go through proper psychiatric procedure. Secondly the society should accept that homosexuality is a disease which can be cured if treated well. Lastly, the Government should frame such laws that prevents homosexuality with utmost penalty and punishment.

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