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## No longer 'fruits of adultery'

Vimla Patil

**A recent SC judgement on the rights of children of live-in parents has raised questions about the sanctity of marriage in today's times,**

**A** recent Supreme Court bench headed by Justice Arijit Pasayat, decreed that children born of a long live-in relationship

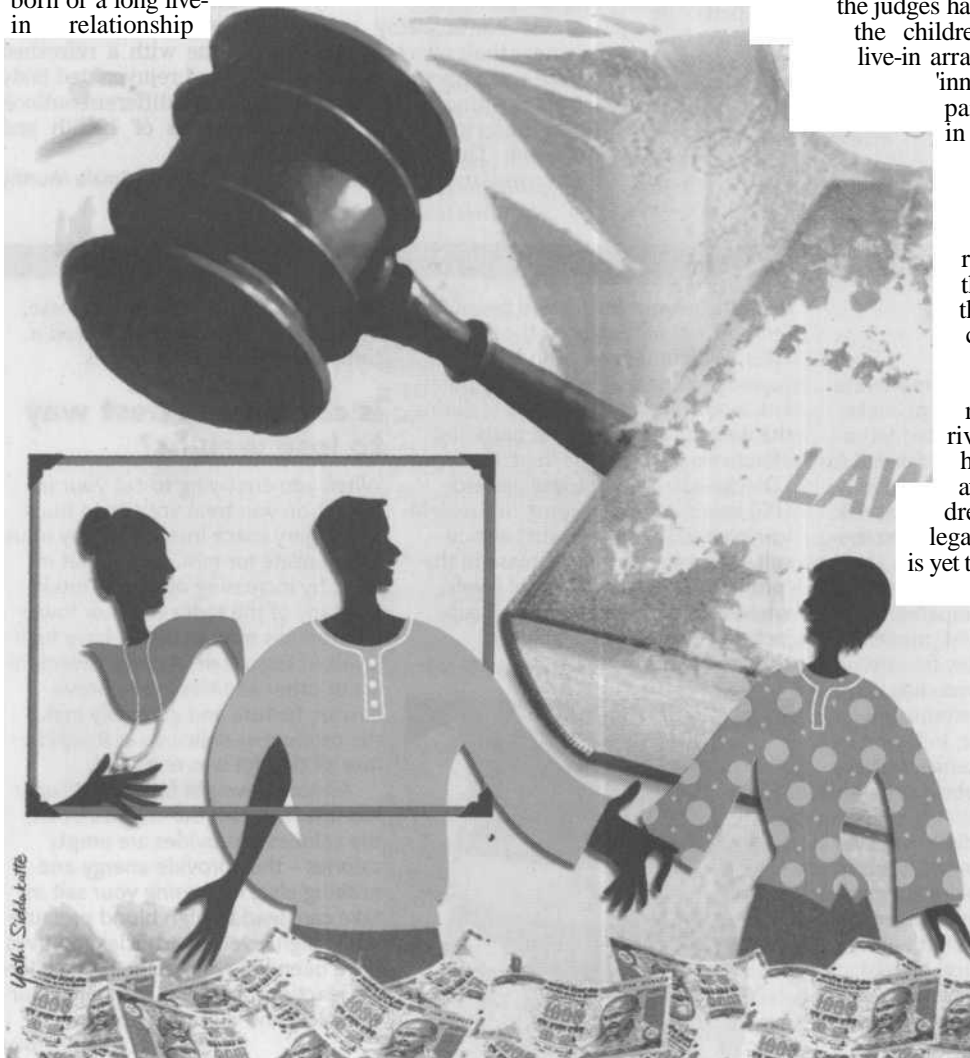
can no longer be called 'illegitimate' or 'fruits of adultery'. It recognised them as equal heirs to their father's property

This judgement has raised many debates on its repercussions on the institution of marriage, joint family property and the rights of children born to married couples. "Hindu Succession Law has hitherto laid tremendous emphasis on the institutions of family and mar-

riage," says former Justice of the Supreme Court of India, Sujata Manohar, "Now this latest judgement has created a new dimension to this law by giving inheritance rights to children born of live in' couples who are not legally married but have lived in a 'marriage like' arrangement for a length of time. The effects of this judgement is yet to be checked out in our conventional and traditional society It seems to me that

the judges have looked at the children of such live-in arrangement as

'innocent' non-participants in their parents' decision to live without a legal marriage. And they opine that such children should not suffer financial deprivation. But how this will affect children born of legal marriages is yet to be seen."



Justice Arijit Pasayat admitted that his judgement on the inheritance rights of a child born of a live-in arrangement will probably influence future judgements in similar cases and be debated for months in the media and legal circles.

### **Relief or trouble?**

"On the face of it, giving financial relief to children who have done no wrong seems a forward looking move," says Nisha Vahia, a mother who is currently in a live-in arrangement. "As our society enters the 21st century, new arrangements between men and women come to light.

For various reasons — including caste or religious differences or previous marriages without divorces — couples decide to live together and have children. Long-term live-in arrangements are like marriages and can be treated as such in a legal definition. But then, what happens to children who are born of one-night stands or short liaisons? They are also innocent and do not know why their parents brought them into the world if they had no intention of being together in a marriage. So there will be mothers seeking property shares for such children too."

There is bound to be some confusion as to who are the benefactors. How long should the parents have lived together to qualify their children for the property share? How many children should get this share? For instance, if a man has a legal wife (divorced) and one child, and his live-in partner has four children, will the major part of his wealth go to the children of the live-in arrangement? What about live-in partners where the man is a Muslim or a Christian? Which laws will apply to the children where the live-in parents belong to different systems of law?

These are confusions raised by the current judgement. Probably, clarifications will come in time.

Sarla Doshi, a staunch opponent of the judgement, says, "This judgement challenges the institution of marriage. For millenniums, every society has sanctified the union of a man and woman with the sacrament of marriage. In our country, by marrying into a family, a woman not only becomes a wife and mother, but also a part of the larger family and is considered to have many rights, which are not necessarily financial. This judgement should not encourage couples to go for this kind of arrangement as in the long run, it will weaken our society with children being brought up by foster parents or in government homes."

### **Is marriage sacred?**

"Live-in arrangements are by their very nature fragile," says Suryakanta Mehta, a young lawyer currently training in a Mumbai firm, "What is the assurance that a man will be loyal to his partner? There are men who refuse to acknowledge their out-of-wedlock progeny. If a man is inclined so, he can father several children by many women. Will the court then give property rights to all such children? How can the law distinguish between children born of long-term live-in relationships and short-term or one-night liaisons? Such a law is discriminatory and may not do any good to our society."

Young people in metro cities, however, feel that the SC's approval of a live-in relationship, is a step forward in social reform. This seal of approval will help live-in couples to hold their chins up in more ways than one, they feel.