



Live-in Relationships and Indian Laws

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Abstract - The law has been essential in bringing about social transformation. A society is made up of different people. Both the law and society make an effort to control how people behave. Since marriage is a cornerstone of society, society's interests are properly preserved through preserving a robust marriage institution. Each religion in India has its own law governing marriage and other family concerns because the issue of marriage falls under the ambit of personal law. Law must respond appropriately whilst bearing in mind societal and constitutional ideals as we see shifting societal life patterns. There isn't a law in India that specifically addresses living together. In addition to establishing their succession and property rights, the Hindu Marriage Act of 1955 grants legitimacy to children born out of "void" and "voidable" marriages. The Indian judiciary has recently taken the lead in illuminating the correct way for the advancement of society. In this article, I've attempted to examine the trend in Indian law regarding live-in relationships. Article 141 of the Indian Constitution states that the Supreme Court's rulings are to be obeyed and respected because they are regarded as the law. The judiciary is expected to have a consistent stance by society.

Key words - live-in relationships, Indian Judiciary, Legality, Marriage, Indian society and Couples

I. Introduction –

Indian law is rather restrictive when it comes to live-in partnerships. Live-in relationships are rather frowned upon in Indian culture, despite the fact that they are neither illegal nor sinful. The idea of a live-in relationship has given the man-woman relationship a new depth, particularly in a country like India where marriage is considered as the social underpinning for legalizing a man-woman bond. India's social dynamics have improved somewhat with the passage of time and modernity. The prehistoric beliefs of Indian civilization have been questioned by a number of rulings. Live-in relationships are a common illustration of how many society facts are still

rejected and seen from a patriarchal perspective. Although some Indians have embraced it, a sizable majority still doesn't agree with it.

Live-in relationships are subject to a variety of judgments; most seem advanced and some are conservative. We must review earlier decisions made by various Indian courts to dispel any confusion on the matter in light of these recent discordant judgments. Because of this, the goal of this essay is to examine the legal repercussions of live-in relationships in India. It begins by examining the meaning, acceptability, and problems of live-in relationships. It then goes on to list the advantages for couples who decide to live together, including a claim to maintenance, the right to inherit property, the legitimacy granted to children born from live-in relationships, etc.

What is a live-in relationship - Although it can be confusing to define, a "live-in relationship" is when two single people share a home. Living together full-time is more and more common among couples. It may be claimed, nonetheless, that the incidence is higher in metropolitan areas and tier-1 cities, particularly among young people with aspirations for upward mobility. Before deciding to be married, couples frequently start live-in relationships to see how well they get along. It enables them to better understand one another and make wise decisions about important commitments like marriage.

Live-in relationships enable separation without the involvement of the government, which is crucial in nations like India where divorce is stigmatized and frowned upon. On the other side, pre-marital sex is taboo in Indian culture. Living together prior to marriage is so generally seen as culturally inappropriate, unethical, and contrary to social norms. Because of this, even if some people have openly accepted the idea of live-in relationships, it nevertheless encounters social rejection based on conventional beliefs.

Types of live-in relationships in India - Three fundamental categories can roughly classify live-in relationships. This division into categories makes it



easier to determine if these groups fall within the wide definition of the phrase "relationship in the nature of marriage." Three situations cast doubt on the idea of a "relationship in the nature of marriage," to continue the analogy. The first option is the domestic cohabitation of two single heterosexual individuals. The second is adulterous interracial partnerships. Domestic partnerships between same-sex couples are the last category. The most well-known, typical, and accepted type of live-in relationship is one in which two single heterosexual individuals consciously reside. However, the second and third of the aforementioned scenarios are where the majority of public antagonism and legal issues occur.

Prominent issues with live-in relationships -

Here are various problems to consider when it comes to live-in relationships. Specifically, identified as follows:

- ❖ Is Indian society prepared to accept this new style of relationship?
- ❖ What are the ramifications of accepting or rejecting such connections for the survival and growth of society?
- ❖ Should India adopt new legislation to govern such relationships?
- ❖ What are the ramifications for married couples of legalizing such a relationship?
- ❖ Should existing regulations governing maintenance, guardianship, succession, and inheritance be modified to accommodate such relationships?
- ❖ How important is the Indian judiciary in the formation of such relationships?

Live-in relationships and Indian Judiciary - The Indian judiciary has proven the most consistent in acknowledging such links thus far. However, when it comes to preserving women's rights in such situations, the Indian judiciary is ready to bring justice to society's most vulnerable individuals. In the case of *Sarma v. V.K.V. Sarma*¹ the Supreme Court established the following rules to decide whether or not a relationship is 'in the nature of marriage'. "Ms. Indra Sarma, an unmarried woman, left her job and began a "live-in" relationship with Mr. V.K.V. Sarma for a period as long as 18 years, despite knowing that he was married. Mr. Sarma abandoned Ms. Sarma in a state where she could not maintain herself. Under the Protection of Women from Domestic Violence

Act, 2005, failure to maintain a woman involved in a "domestic relationship" amounts to "domestic violence." Two lower courts held that Mr. V.K.V. committed domestic violence by not maintaining Ms. Sarma, and directed Mr. Sarma to pay a maintenance amount of Rs.18,000 per month. Thereafter, on appeal, the High Court of Karnataka set aside the orders of the lower courts on the ground that Ms. Sarma was aware that Mr. Sarma was married and thus her relationship with him would fall outside the protected ambit of "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005. On further appeal, the Supreme Court, while affirming the High Court's order, created an exception to the general rule. The Supreme Court clarified that a woman who begins to live with a man who is already married to someone else, without knowing that he is married, will still be considered to be in a "domestic relationship" under the Protection of Women from Domestic Violence Act, 2005; thus, the man's failure to maintain her will amount to "domestic violence" within the meaning of the Act and she will be eligible to claim reliefs such as maintenance and compensation. This case is important because it established for the first time such an exception and calls for legislative action to protect women like Ms. Sarma whose contributions in a joint household are often overlooked."

The Supreme Court ruled in *Lata Singh v. State of U.P. & Anr*² that heterosexual majors who are not married can only be in live-in relationships. *Gurwinder Singh & Anr v. State of Punjab. And.Ors*³. The Supreme Court's most recent ruling on the idea of a live-in relationship is this one. After being denied protection by the Punjab and Haryana High Court on the grounds that live-in relationships are socially and morally wrong, the petitioner couple proceeded to the Supreme Court. Due to their inter-caste connection, the petitioners Gurwinder Singh and Gulzar Kumara encountered hostility from their families. the woman's side of the family had threatened and endangered them, so they moved to the Punjab and Haryana High Court to ask for protection. But the Court took a backwards approach and refused to provide them protection. This infuriated the Couple, who then

² (2006) 5 SCC 475

³ Special Leave to Appeal (Crl.) No(s). 4028/2021

¹Criminal Appeal No. 2009 of 2013 @ Special Leave Petition (CRL.) No.4895 of 2012



sought justice in the Supreme Court. The petitioners had spoken with the police superintendent, but the top court noted that the police had not taken note of their complaint. The court ruled that, despite the High Court's order, the Superintendent of police must act quickly in accordance with the law and provide the couple with the necessary protection because they have been apprehended and are facing threats. This is because the matter involves the couple's life and liberty. As a result, the petition was dismissed.

In *Suneeta and Another vs. State Of U P And Others*⁴, the Allahabad High Court recently rejected a writ petition brought by a married woman and her live-in partner who sought police protection because they believed her husband was harming their ability to live peacefully. The bench of Justice Renu Agarwal further explained that the Court is not against live-in partnerships but rather against illicit relationships. "While dismissing a plea filed by an interfaith live-in couple seeking protection against alleged harassment at the hands of the police, the Allahabad High Court recently observed that the views expressed by the Supreme Court pertaining to 'live-in' relationships 'cannot be considered to promote such relationships. Observing that traditionally, Law has been biased in favour of marriage, the Bench of Justice Sangeeta Chandra and Justice Narendra Kumar Johari also stressed upon the need to create awareness in young minds regarding the emotional and societal pressures and legal hassles which may be created by such relations."⁵

The Supreme Court recently dismissed a PIL seeking framing of norms for registration of every live-in relationship with the Centre and termed it a "hare-brained" idea. A bench, headed by Chief Justice D Y Chandrachud, asked the counsel for petitioner, lawyer Mamta Rani if she wanted to foster the security of these people or wanted them not to get into live-in relationships. The counsel replied that the petitioner wanted the relationship to be registered to enhance their social security.

⁴ [WRIT - C No. - 2723 of 2023]

⁵ *Kiran Rawat And Another vs. State Of U.P. Thru. Secy. Home Lko. And Others* [CRIMINAL MISC. WRIT PETITION No. - 3310 of 2023]

Indian Laws related to live-in relationships

Despite the law remains vague on the validity of these kind of relationships, certain privileges have been offered by evaluating and changing the rules to ensure both parties are unable to abuse such relationships. Various pieces of legislation are discussed below.

Article 21 of the Indian Constitution - Article 21 of the Indian Constitution protects the fundamental right to life and personal liberty, and many Supreme Court decisions, such as *S. Khushboo v. Kanniammal and Anr*⁶, have held that the right to life and personal liberty encompasses the ability for cohabitation with no interference.

The Protection of Women from Domestic Violence Act, 2005 - Section 2(f) of the Domestic Violence Act of 2005 defines a domestic relationship as one that is "in the nature of marriage" between two people who share a home. A domestic relationship is defined as an association between two people who live or have lived together in the same home at any time and are linked by consanguinity, marriage, or a relationship in the nature of marriage, adoption, or who are friends and family living together as a family group. Because the couples live together for an extended period of time and continually represent themselves as husband and wife, live-in relationships have the hallmarks of marriage. As a result, they are covered by the Domestic Violence Act of 2005, and a woman in a live-in relationship can seek protection and maintenance under this Act. As a result, this Act legalizes unions other than marriage.

Protection of Women from Domestic Violence (Amendment) Act, 2013 - The Domestic Violence Act of 2005 has been amended to add "relationship in the nature of marriage" as part of the definition of "domestic relationship." Live-in relationships are included, and women in these situations have a right to protection under the Act.

Indian Penal Code 1860 - The Indian Penal Code establishes criminal liability for crimes like rape, adultery, and bigamy, which may also apply in situations when two people live together.

The Code of Criminal Procedure, 1973 - If her husband refuses to support her, Section 125 of the Criminal Procedure Code authorizes her to seek maintenance from him. If a woman is able to create a marriage-like relationship with a man, she is eligible to get maintenance from that guy since the

⁶ (2010) 5 SCC 600.



court can assume that such a relationship is a marriage and the woman is regarded a wife. The principal purposes of bringing live-in relationships under Section 125, jurisdiction is to protect women from domestic violence and to raise the legal threshold for partners in live-in relationships to that of marriage.

The Supreme Court built on this precedent based on the recommendations of the Malimath committee, which was established by the Home Ministry. Justice presided over the committee. In 2009, the Committee presented its conclusions, proposing that the definition of alimony/maintenance under Section 125 be changed to allow women to get it. As a result, in the case of *Abhijit Bhikaseh Auti v. State of Maharashtra and Anr*⁷, the Supreme Court declared that a woman does not need to show marriage to seek maintenance under Section 125 of the Cr.PC, implying that a woman in a live-in relationship is equally entitled to maintenance. This ruling exemplifies our judiciary's liberal and progressive approach.

Legality of a live-in relationship - In India, there is no formal legislation or custom that governs live-in partnerships. Thus, the Supreme Court has broadened the concept of live-in couples and established guidelines for dealing with such relationships through decisions. In the case of *Badri Prasad v. Dy. Director of Consolidation*⁸ the Supreme Court initially recognized live-in partnerships as legal. According to the Court, a live-in relationship between consenting adults is permissible under Indian law if the prerequisites of marriage, such as legal age of marriage, consent, and soundness of mind, are met. There is no regulation that allows or prohibits such linkages.

Legitimacy and rights of children born from a live-in relationship - Section 16 of the Hindu Marriage Act of 1955 and Section 26 of the Special Marriage Act of 1954 provide legitimacy for offspring borne from void and voidable marriages. Such children have no right to inherit anything other than their parents' property. Such offspring lack coparcenary rights in the Hindu undivided family's property and hence cannot claim their parents' heritage assets.

*S.P.S. Balasubramanyam v. Suruttayan*⁹ established the legality of children born from live-in partnerships. According to the Supreme Court, if a man and a woman live in the same residence and cohabit for an extended period of time, there is a presumption of marriage under Section 114 of the Indian Evidence Act, 1872. As a result, their offspring will be recognized as genuine and able to inherit a piece of the family assets. In *Bharatha Matha v. Vijaya Renganathan*¹⁰, the Supreme Court granted children born from live-in relationships a portion of their parents' property. The Court held that children born in live-in relationships may not be considered illegal if the relationship lasts long enough.

II. Conclusion

According to all indicators, the concept and legalization of a live-in relationship in India has merely evolved over time, alongside numerous rulings by the Apex Court and the High Courts assuming an extremely crucial role. Marriage is regarded as a spiritual bond that is both recognized and valued in the societal arena. The courts have acted as a check and balance in society as whole allowing spouses to carry on living harmoniously with one another as well as receiving the same dignity in the wider society. presently no explicit law in our nation governing live-in partnerships. Although recognized by the legal system, a live-in relationship lacks cultural acceptance and is stigmatized. Adequate legislature is required to protect such individuals' interests and rights. In general, even though there is no explicit statute in India governing live-in relationships, the Indian legal system has granted couples who are in such relationships certain legal protections and entitlements to rights through various judgments and rules.

⁷CRIMINAL WRIT PETITION NO.2218 OF 2007

⁸AIR 1978 SC 1557

⁹[1993] INSC 436 (13 October 1993)

¹⁰[(2010) 11 SCC 483]