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## Laws pertaining to Live-in-Relationship in Indian Society

1Shilpa Tank

1Advocate

1Law College Mohanlal sukhardia university, Udaipur

Our Indian society is full of different cultures and as modernization is taking place, the various shades of Indian society is also changing. This is true that our Indian society is not able to accept these changes, but the law is protecting it for the complete modernisation. It would be wrong to say that western culture has merged with our culture and has become a part of our life. Foreign culture is being adopted in large numbers in our country and it has also been included in our fundamental rights. One such culture is **Live-in-Relationship**. The culture of Live-in-Relationship changed the way of thinking of people on one side and on the other side it broke the heart of all those people who spoke great about Indian culture. The concept of Live-in-Relationship changes India positively as well as negatively. The country which accepts only the Marriage as a pure relationship of Man and Women, the concept of Live-in-Relationship was

unacceptable. In modern Indian society this concept is taking place very fast by the young generation and with the help of law, this concept of Live-in-relationship is being successful in India but still we do not have any recognised legal provision about Live-in-relationship but some laws in Indian are able to deal in this way.

### Meaning of Live-in-Relationship

The Live-in-Relationship is a union between a man and woman, as husband and wife without having a registered legal marriage. When two people with the consent of each other started to live together in the same house and shared all their personal life which includes mental and

physical relationship. But they are not legally married, such a relationship is known as Live-in-Relationship.

Both the people under this relationship must be major and competent as according to Indian Contract Act. Unlike marriage, in live-in relationships couples are not married to each other but live together under the same roof that resembles a relationship like marriage. In other words, this relation is the same as a relation of marriage, the only exception is that there is no legal marriage at all. The live-in relationship is being so popular among the youth generation, the reason behind choosing it is to check the compatibility between couples before getting legally married. The most important fact about live-in-relationship is that it is not an illegal act at all, the law protects all the rights regarding the same.

## Legal Status of Live-in-Relationship in World

Many countries have accepted the provision of Live-in Relationship, it is accepted by society as well as by legislation. The United States permitted the concept of live-in-relationship but that is neither joined by marriage nor a civil union. Some places, including the state of California, have laws that recognized cohabiting couples as Domestic Partners. According to Australian Family law (Section 4AA) De facto relationships are permitted by law in which the couples have lived together or apart only on a temporary basis and that partners are not legally married. According to French newspaper LE MONDE, every year, over half a million people in France begin living together long-term, but neither getting legally married nor having any civil partnership. In 2004, the United Kingdom represented the live-in-relationship under the Civil Partnership Act. Ireland represented live-in-relationship by Civil partnership and Certain rights and obligations of Cohabitants Act, 2020. In India certain laws are also permitted the concept of live-in Relationship.

## Legal Status of Live-in-Relationship in India

Even in the absence of specific legislation. Judiciary through its wisdom has contributed to understanding the problems relating to live-in-relationship and has maintained a balanced position. The Apex Court in the recent case of **Moyna khatun and others VS State of Punjab AIR 2021** held that the deed of live-in-relationship dated 4th march 2021 and certain terms and conditions have been settled in the deed of live-in-relationship by the way of mutual consent, the said deed specifically stated that both the parties have agreed that their live-in-

relationship is not a “marital relationship” and further, the parties will fully cooperates with each other without any dispute.

The Punjab & Haryana High Court on 10th march 2021, registered its disapproval of the new concept of contractual live-in-relationship backed by a deed, wherein parties stated that their live-in-relationship is not a marital relation.

The bench of Justice Arvind Singh opined that “especially stating (in the deed) that it is not a Marital Relation is nothing but the misuse of the process of law as it cannot be morally accepted in society”.

With the help of this actual case we can clearly understand that, in India the Live-in-Relationship is a topic of controversy and dispute, just because we did not have the enacted law for this topic, the courts in various cases applied the Doctrine of Justice, Equity and Good Conscience for the fair judgment, but there are some Indian Laws with are dealing with the concept of live-in-relationship in some way.

## **Domestic Violence Act , 2005**

It is the only act defining the relationship in nature of marriage in the definition of “Relationship in nature of marriage” under Section 2 (f) of the act. The provision has been invoked by the court to provide the relief to the woman victims in the live-in-relationship as per Section 2 (f) the act not only apply to a married couple but also to a relationship in a nature of marriage a women in domestic relationship can claim remedies in the occurrence of physical, mental, verbal and economic abuse. The women have been granted certain rights & protection under this act. If a Magistrate has convinced any of domestic violence he can pass orders prohibiting the accused from conducting activities which are detrimental to a victim. In addition Magistrate can pass restraining orders accused to provide monetary relief to the abused which include medical expenses, reimbursement for loss of earnings or profits and give maintenance to the woman.

In the case of **Indra Sharma VS V.K.V Sharma AIR 2013**, the court defined the criteria for live-in-relationship which includes duration of the period of the relationship, shared household, pooling of resources & financial arrangements, domestic arrangements, sexual relationship, children socialisation in public, intention and conduct of the parties.

The Supreme court after analysis set a criteria to decide whether a live-in relationship comes under a preview of protection of women from domestic violence.

## Indian evidence Act , 1872 -

The Section 50 and Section 114 of Indian Evidence Act describes “presumption of marriage”- if a man and a woman are living under the same roof and cohabit for a number of years , that duration is considered as an evidence for the proof of live-in-relationship.

In **A.Dinohamy VS WL Blahamy AIR 1927** the Apex court laid down a general principle where a man and women are proved to have lived together as a husband and wife, the law will presume, unless the contrary be clearly proved, that they are living together in consequence of a valid marriage and not in state of concubinage .

Presumption of marriage is a law which could be used to recognise live-in-relationship, as a marital arrangement and a female living partner as s wife.

## Code of Criminal Procedure , 1973

The code defines the meaning of “Wife” under Section 125 (1) Explanation (b) which includes a woman who has been divorced by or has taken divorced from,her husband has not remarried .

In 2003, the Malimath Committee report on Reforms in the criminal justice system, recommended an amendment if the word “wife”in Section 125 of CRPC to include a woman who is living with a man for a reasonable time period. But the status of women in live-in-relationship not that of a wife and also lack social approval.

On the matter of maintenance, the supreme court held that granting maintenance to a woman from her partner who was in a long term non marital relationship . This particular kind of maintenance is approved by the supreme court in certain cases. And at the same time in another case the court also denied this right to a woman, who is not a legally wedded wife, on the subsistence of his first marriage, the second wife can claim maintenance under Section 18 of Hindu Adoption and Maintenance Act,1956.

In the case of **D Veluswami VS D Patchaiammal AIR 2011**,it was held that a woman in live-in-relationship is not entitled to maintenance unless she fulfills certain parameters like (1) the couple must hold themselves out to society as being akin to spouses. (2) they must be in a legal age of marriage, and voluntarily cohabited for a significant period of time.

## The Constitution of India , 1950

The Article 21 of Indian Constitution gives a wide range of various rights which are very essential for an individual, this right is a part of our common life. Article 21 guarantees that one person shall be deprived of his life and personal liberty except according to procedures established by the law. It means that every person has a right to live his life according to his choice and no one can question him after his manner, but this is not an absolute right the constitution made a bar on it and that is the government under certain circumstances can stop this right of privacy for the welfare of society.

The concept of live-in-relationship is protected by Article 21 of our Constitution, which declares that the person who is major and competent , completely sound mind and fit can live his life according to his personal choice, this Article easily includes the concept of live-in-relationship into it.

In **Radhika VS State of Madhya Pradesh** , the supreme court observed that a man and woman are involved in live-in-relationship for a long period, they will be treated as a married couple and their child would be considered as a legitimate child of that couple.

In **Bharata matha & Ors. VS Vijaya reenganathan & Ors** , it was held by the supreme court that a child born out of a live-in-relationship may be allowed to succeed inheritance in the property of the parents, and the mother considered to be first natural guardian for the purpose of custody.

Live-in-relationship is not recognized by the Hindu Marriage Act,1955, or any other law but it is not illegal in the eye of law, all the above statutes are protecting all those persons who are a party under live-in-relationship.

## Live-in-Relationship and Indian Society

India is a country of various cultures and religions, In Indian Society marriages is a very essential institution for a happy life, it is whether considered as a SACRAMENT or a CONTRACT. We often think that this new concept of live-in-relationship is not a part of our society but it is not completely true, when we learn about the Ancient Laws of India, we find a place for

live-in-relationships as a **Gandharva vivah**( man and women mutually consent to marriage,neither involves the family of the couple nor a particular ritual to solemnize the marriage) which was practiced by various peoples at that time.

So, this concept is not new for Indian society as according to Ancient laws. The marriages like a Gandharva vivah is considered as an **unapproved form of marriages** and also became a centre of criticism by the people but it is successfully present in Ancient India. According to MANU “premarital relationships existed both in the Vedic history and afterwards, but was a rare occurrence”

But in modern India, according to research 70% Indian support Live-in-Relationships, and in a large number of cases the courts are supporting it. India has witnessed a drastic and massive change in the way the present generation perceives their relationships.

## Conclusion

The India is a developing country, it is still developing and the concepts like live-in-relationships and Same-sex marriages are being a part of this development. Though the common man is still hesitant in accepting this kind of relationships, but somewhere in some amount these concepts are being a part of our common life, but what is important under these kinds of relationships is the true intention and good faith of the parties then only the law will protect it.