



LIVE-IN – RELATIONSHIP: A STUDY ON LEGAL ACTIONS

Ms. Anupama Yadav¹, Dr. Anand kumar²

Research scholar, BPSMV¹, Assistant professor, BPSMV²

Abstract: *With the advancement of modernization, many foreign cultural trends have been incorporated into India's traditional culture. The live-in relationship is one of these foreign cultures. A guy lives with a woman under the same roof without being married in a live-in relationship. Live-in relationships are becoming more common in India's metro areas, such as Mumbai, Delhi, and Bengaluru. Live-in partnerships are quite rare in India's small towns. Most Indian families are very conservative and do not approve of live-in relationships. Furthermore, a live-in relationship has no legal meaning. The majority of Indian families are opposed to this kind of relationship. This study examines the official status of live-in relationships in India.*

Keywords: *Live-in relationship, Marriage, Institution, Law*

1. INTRODUCTION

India is quickly opening its doors to Western concepts and lifestyles, and one of the significant of them is the notion of live viewing someone. In legal words, a man's relationship with a woman is genuine if it is founded on a valid marriage, and it is illegitimate if it is not founded on Marriage Laws. A live-in relationship is a situation where two unmarried partner cohabitates for an extended period of time in what seems to be marriage.¹

The live-in relationship form is a defining characteristic and way of life for partners, mainly in urban areas. In any event, the meaning and extent of a live-in relationship are very vague; there is no specific law on the issue in India, and the rules are based on court judgments that vary from case to case. A woman's privilege in such a relationship is likewise unclear; nevertheless, the Court has stepped in to recognize their rights. Even though worldwide laws regulating live-in relationships are unclear, they are a frequent cause of inaccessibility and delay in identifying such ties across nations. In the Indian context, it is critical to examine such a connection in

the form of additional legislation that defines the scope of such a relationship and the parties' rights and responsibilities.²

1.1 Meaning of live –In- Relationship

Live-in relation i.e. cohabitation is an arrangement whereby two people decide to live together on a long-term or permanent basis in an emotionally and/or sexually intimate relationship. Typically, the phrase refers to unmarried partners.³

Cohabitation is now a common occurrence in Western countries. Persons cohabit for a variety of motives. These may comprise a desire to ascertain compatibility or financial security prior to marriage. It may be because they cannot marry officially, because they're from the same gender;⁴ for example, some multicultural or interreligious marriages are illegal or prohibited. Other causes include premarital cohabitation to avoid divorce, polygamists or polyamorists evading the law in order to evade the high amount paid for income taxes by some two-earner married couples in the US, affects pension payments adversely (for the elderly), logical hostility to the concept of marriage, and a desire to perceive little difference. Cohabitation is an option for individuals who believe their relationships are personal and private and should be unregulated by governmental, patriarchal institutions, or religious.

1.2 A live-in relationship is not an offence

In different judgments, the Apex Court has said that if a male and a female live together for a lengthy period and have children, the courts would presume they are married. The same laws would apply to them and their relationship. The Allahabad High Court acknowledged the idea of a live-in relationship in *Payal Sharma vs. Nari Niketan*,⁴ where the Bench of Justice M. Katju and Justice R.B. Misra remarked, "In our view, unmarried men and women may live together." Society may find this unethical, but it is legal. Law and morality are different concepts." After that, the Supreme Court decided in *S. Khushboo v. Kanniammal & Anr*⁵ that a live-in relationship between two individuals who are not legally married is not illegal. There was also no legislation banning live-in relationships or premarital sex.

Life and personal liberty are protected as basic rights under Article 21 of the Indian Constitution. In *Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel*⁶, the Court observed that two individuals in a live-in relationship who are not legally married are not criminals. As a result, live-in relationships are permitted in India.

1.3 Essential Factors to mark live-in relationship legal:

A "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005 must consent to some fundamental standards, which the Supreme Court stated in *D Patchaiammal v. D Velusamy*⁷ and *Indra Sarma v. V.K.V.Sarma*⁸ case. Women in such relationships need to fulfil specific criteria that will be beneficial under the Protection of Women from Domestic Violence Act, 2005, such as:

I. Age:

Couples engaged must be of marriageable age, i.e., the couple should be significant according to Indian law. In *Payal Katara vs. Superintendent Nari Niketan Kandri Vihar Agra and Ors*,⁹ the Allahabad High Court governed that "a lady of 21 years, have the freedom to go anywhere and any man and woman, even if they are unmarried, may live together if they want". Although in a recent judgment of *Nandakumar vs. The State of Kerala*⁹, the Kerala High Court held that an adult couple could be in a live-in relationship even if they not attained the corresponding legal ages for marriage. The man in this case was below 21, the legal age of marriage for men.

II. A significant period:

The declaration "at any point of time" is mentioned under section 2(f) PWDA, which means a significant or relevant period to continue and maintain a relationship. Although depending upon the factual situation, it varies from case to instance.

The relationship should not be taken for granted. There must be some sincerity and seriousness towards the relationship to prove it legal. A week or a one-night stand can't be considered a domestic relationship. If the live-in relationship is maintained over an extended period, it can't be described as a "walk-in and walk-out" relationship. An assumption of marriage between the parties is stated in the *Madan Mohan Singh v. Rajni Kant*¹⁰. This approach demonstrates the Court's preference for considering lengthy period living relationships as marriages instead of a novel notion known as a live-in relationship.

The Supreme Court recognized a live-in relationship for the first time. It upheld the legal legitimacy of a couple's fifty-year live-in relationship in *Badri Prasad v. Deputy Director of Consolidation*. Justice Krishna Iyer said that when couples have lived with each other as husband and wife for a lengthy period, a strong assumption in favour of marriage exists. Although the belief is rebuttable, whoever attempts to strip the relationship of its legal basis has a high burden (*Anuja Agrawal, 2012*)¹¹.

III. The couple must have voluntarily cohabited:

Independent decision of the couple with a common intention to cohabit is an essential criterion of a live-in relationship. It includes supporting each other, sharing their respective roles and responsibilities, financial arrangements, socialization in public and so on to prove the loyalty and endurance of their relationship (*Auroshree, 2019*).

Suppose a man uses his 'keep' primarily for sexual purposes or perhaps as a maid/slave and financially supports her. In that case, this is not considered a marital or equal marriage relationship.

1.4 Issues and challenges of live-in relationship

Although the live-in relationship is lawful and numerous judgments favor it, many matters need a pivotal discourse. Several of the more complex grey areas that remain unresolved amicably are described below:

I. Societal and moral acceptance:

Though a live-in relationship is legal, it is still taboo in Indian society and morally and ethically wrong. Indian culture is sceptical about live-in relationships; therefore, couples usually face multifold problems like rejection from family, a problem in getting home for rent, refusal by society, negativity at the workplace, etc.

II. Official documents

In India, for all official documents, there is still no column for a live-in relationship. The couple faces problems in having joint accounts, nominees name, insurance, visas, etc.

III. Cultural issues

India is known for its diverse culture and religion. The impact of globalization on human relations in our country has been unprecedented. The formally dominant family ties and values are witnessing rampant changes. Every religion has its perspective towards a live-in relationship. Anti-religion marriage remains a complicated subject that is permitted exclusively under the 1955 Special Marriage Act. A live-in relationship is advancement, and Hinduism and Islam refuse the concept, although Christianity somehow accepts it. In India, beliefs, customs, usages, and culture significantly impact people's mindsets (Avantika Sarkar 2015)¹². Subsequently, acceptance of new norms depends upon the prominence of their belief rather than any law. The emphasis must be given to address the complications of anti-religion live-in relationships, which is still a sensitive issue.

IV. LGBT couple

Commonly, society is indifferent towards providing reimbursements to the LGBT community and is disinclined to admit their relationship. In fact in any laws and judgments of live-in relationship provision or discussion about LGBT couple is lacking. The Supreme Court struck down Section 377 of the Indian Penal Code 1861, decriminalizing consensual same-sex intercourse; nevertheless, India does not recognize same-sex marriage or live-in partnerships. Regardless of such liberal interpretations by the Honorable Courts in the recent past, the Indian framework still lacks any form of marriage law for the LGBT population.

V. Property rights related to anti-religion and the LGBT community

The primary issue with live-in couples is succession and property rights. Only Hindu law now provides property rights on children born out of a live-in relationship, and only on self-acquired property, not on family property. Muslim law has its own system for property allocation, and it has made no attempt to start any debates on time. There is no protection for the LGBT community, nor are there any provisions regarding property rights. It is illegal for an LGBT couple to give or leave property to their livein partner. Without properly resolving such upcoming issues and codifying relevant laws, there may be room for fraud, cheating and it may give rise to criminal fights in families over property issues¹³.

VI. Gender biased

The 2005 Protection of Women from Domestic Violence Act recognises a woman as a wife if she has shared an extended length of time with a man. Several conditions, including maintenance and property, are also in her favour. Regrettably, it makes no provision for males or LGBT couples. Men are often prosecuted for sexual assault and taking advantage of a woman by making a fake marriage vow. It may be contradictory; there is no provision for men to be strengthened in such a case. Likewise, no protection exists for the sexual abuse of a same-sex spouse. These delicate problems must be addressed appropriately via the codification of specific laws governing live-in relationships.

2. OBJECTIVE OF RESEARCH

- a. To define the concept of a Live-in –Relationship.
- b. To Study the legal status of live-in relationships in India.

3. RESEARCH METHODOLOGY

The investigation was based on the doctrinal research method. The numerous laws cases, panel reports, and preparations under numerous enactments related to living seeing somebody in India and the modern globe are integrated as tools for achieving this investigation cum theory composing. As a result, the investigation activity has incorporated clarifying and experimental approach in the creation and composition of the proposal. Furthermore, the final result and suggestions are appraised using diagnostic and fundamental methods to highlight inadequacies and errors in the legal framework. A comprehensive report will be written based on the determinations, websites, diaries, articles, and books.

Sources

The doctrinal research approach was used in this study. This study has made use of primary, secondary, and tertiary sources of information. The primary source of information used includes law, guidelines, notice, rules, and board of trustees' report. Books, word references, reference books, journals, and papers are examples of optional sources of knowledge. The sites are included in the tertiary sources.

4. LEGAL STATUS OF LIVE-IN RELATIONSHIP IN INDIA

In *Lata Singh v. State of Uttar Pradesh*,¹⁴ the Supreme Court governed that live-in relationships are allowed between not married individuals of straight sex who are of legal age. When Lata Singh's brothers objected to her marriage, they said she was psychologically ill. When doctors evaluated her, however, this was shown to be inaccurate. A long-term live-in relationship can't be named a "walk in and walk out" relationship; marriage must have a presumption.

In *Gokal Chand v. Parvin Kumari*,¹⁵ the Court informed the pair that their legitimacy would be questioned if there was rebuttable proof that they were living together. These judgments aided in the legitimization of

marriages that had been questioned owing to the existence of a long-term live-in relationship. On the other hand, the courts didn't distinguish between live-in relationships and marriage formation, suggesting that the belief in marriage was necessary.

In *SPS. Balasubramanyam v. Suruttayan*,¹⁶ the Supreme Court ruled that long-term cohabitation by a man and woman in the same home, they believe they stay as spouse and wife under Section 114 of the Indian Evidence Act, their children are not unlawful. This decision indicated that long-term live-in partnerships are legally regarded the same as marriages. As this is still a matter of dispute, the courts may define live-in relationship to entail "living together as husband and wife" in order to eradicate individuals who form a live-in relationship "by choice" with no aim of marriage.

In *Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav*,¹⁷ the Supreme Court held that a man cannot marry more than one woman. The "second wife" has no legal right to support under Section 125 of the Code of Criminal Procedure, 1973, although she is unaware that he is already married. Even though their marriage had been annulled, the Court refused to recognize that they had lived together. Even though he had neglected to disclose his prior marriage, the guy was permitted to take advantage of it.

"Due to circumstance" the Supreme Court decided, a woman in a live-in relationship was denied any rights.¹⁸ The Allahabad High Court held in *Malti v. State of Uttar Pradesh*,²⁰ that a woman who lives with a man cannot be considered his "wife". The woman was the man's chef, lived with him, and was intimately connected. It was also decided that "wife" should not be interpreted as including a live-in partner's support rights as defined in Section 125 of the Code of Criminal Procedure, 1973. In *Savitaben Somabhai Bhatiya v. the State of Gujarat*²¹, the Supreme Court went even farther, saying that the fact that the appellant was treated as the respondent's wife was "really irrelevant since it is the legislature's purpose that is significant, not the party's attitude." When it comes to using the estoppels theory to circumvent Section 125 of the Code of Criminal Procedure, 1973, even the appellant's claim that she was unaware of the respondent's previous marriage is "of no use.". Consequently, given Section 125's present criteria, it is impossible to avoid the end that the term "wife" exclusively denotes the "lawfully wedded wife." As a consequence, rather than the second wife, the child got maintenance. Law says a second wife whose marriage has been ruled null and void because the prior marriage has been continued is an unlawfully wedded wife and thus is not permissible to support under this clause.

5. HOW LEGISLATION IS DEALING WITH LIVE-IN RELATIONSHIP

Live-in relationships are completely unrestricted in India. In the eyes of the law, a void marriage is not a marriage. The connection that exists in a void and voidable marriage is contrasted to the bond that exists in a live-in relationship in the conventional sense. As can be seen, several statutes address various rights resulting from live-in relationships. It makes no difference whether the woman or the children born of that relationship have the privilege. The different laws are as follows:

I. Indian Evidence Act

Under Section 114 of the Indian Evidence Act, when a man and a woman have continued to live with each other for a long time as a couple the Court can believe in any reality that it believes is likely to have occurred, with respect to the natural course of events and human action in their relationship to the realities, circumstances, and situation. There is a strong religious emphasis on marriage.

II. Domestic Violence Act 2005

Two people live or have lived with each other in a shared home at some point, whether they are connected by consanguinity, marriage or by another relationship like marriage or adoption or relatives who live as a joint family as mentioned in Section 2(f) of the Domestic Violence Act 2005.

When the Court broadly interprets the expression "relationship in the nature of marriage," which is incorporated in the description of domestic relationship, it presumes that live-in relationships are included within the field of the expression because the terms "nature of marriage" and "live in a relationship" are synonymous in the Indian judiciary.

This Act has been extensively lauded as the primary legal mechanism for identifying the presence of adult heterosexual relationships that are not marital. The Act defines an "aggrieved person" as "any woman who is or was in a local relationship with the respondent and claims to have been subjected to physical or psychological abuse at home."

III. Criminal Procedure Code 1973

According to the Justice Malimath Committee and the Indian Law Commission, a female who has been in a live-in relationship for a long term should be entitled to the spouse's legal privileges. Similarly, the Committee proposed modifying Section 125 of the Criminal Procedure Code's definition of "wife." The word "wife" has been redefined to comprise women who had previously been in a live-in relationship. Now, against her will, his accomplice has abandoned her in order to provide the position of wife to a woman in a live-in relationship. And as soon as she is granted status, she is given the right of maintenance under section 125 of the CrPC, 1973. However, there is a dispute that even if the wife's position is offered to women in a live-in relationship, the partners cannot divorce since they are not legally married. Therefore, how can women assert their right to be maintained under Section 125 of the CrPC, 1973.

6. DISCUSSION

When it comes to legal or financial issues, such as open an account in a bank, filing an income tax return, or asking for loans, Women who are in a live-in relationship are not identified by their partner's surname. They retain their own identities and are not considered "wives" or "domestic partners." As a result, live-in couples may split amicably, deprived of the need for a formal divorce or the involvement of a court.¹⁹

A formal divorce in law between partners is not conceivable in the event of a live-in relationship. A thorough examination of current marital rules reveals that the partners cannot legally split until this type of relationship is not recognized in law. While entering a live-in relationship seems to be easy, whether "by choice" or "by

circumstance," exiting this formal relationship appears to be difficult. While the legal ramifications of this relationship are unclear, there is currently no legislation addressing the split and security of their individual or joint property after parting.

In *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*,²⁰²¹ the Supreme Court used a liberal standard, concluding that the second wife was entitled to support under the 1956 Hindu Adoptions and Maintenance Act. In this case, the husband concealed information about his former marriage when he married her after a 14-year separation. Additionally, the Court cited the 2005 Protection of Women from Domestic Violence Act. It concluded that contradictory support to the second wife would be tantamount to rewarding the respondent for misleading the claimant.

In *Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga*,²⁴ the Supreme Court attempted to differentiate between partnerships' "legality" and "morality."

While the Supreme Court said that a bigamous marriage might be declared illegal under existing statute law because it breaches the Hindu Marriage Act, 1955, it can't be deemed immoral enough to deprive the spouse or in fact the right to alimony or maintenance.

However, the growing number of live-in relationships, particularly those that develop "out of need," confirmed that the need for change was recognized. In 2003, the Malimath Committee Report on "Reforms in the Criminal Justice System" recommended amending Section 125 of the Code of Criminal Procedure to consist of a female who has been "living in" with a male for a "reasonable time."

In *Sumitra Devi v. Bhikan Choudhary*,²² the Supreme Court held in 1985 that when a male and a female cohabit for an extended period and are recognized as husband and wife by the social order, marriage is presumed to award support. Though, the courts have not prolonged this notion to ostensibly cohabiting couples. Notably, the 2005 Protection of Women from Domestic Violence Act was the first to recognize live-in partners equal to married couples. This Act does not provide the same protection on live-in couples as personal law does.

In *M. Palani vs. Meenakshi*,²³ the respondent sought Rs 10,000 in maintenance from the opponent, who was in a live-in relationship with her. The request was made in line with the provisions of Sections 20 and 26 of the Protection of Women from Domestic Violence Act, 2005. According to the petitioner, the respondent was not allowed to support since they had never lived together. They had sometimes engaged in consensual sexual encounters as friends, with no purpose of marrying. Consequently, he said that mere proximity for mutual pleasure (as in their case) couldn't be deemed a "domestic relationship" under the Protection of Women from Domestic Violence Act, 2005.

7. CONCLUSION

To summarize, there is a crucial need for legal provisions on live-in relationships that provide a clear image while taking into account the contemporary Indian social environment, which is founded on the creation of

culture and tradition. Live seeing someone should be legalized, but only after a long time of living together, to protect the rights of partners and children born from these relationships. Living with each other and in connection will typically be a human rights and unusual style. Regardless of its broad presence in the widely held Western nations, India's social texture is very astonishing. This may be seen because marriage is still the most preferred kind of relationship in India. In any event, this is not to say that mature unmarried partners who want to live with each other in the same house should be shunned or despised. The legal executive's attempts to safeguard the rights of people living under such defensive schemes are indisputably a welcome step forward for the more significant benefit of the general public. The administrators' task now is to devise an arrangement that gives legal sanctity to live-in relationships while also ensuring the enthusiasm for Indian traditional social ethics and traditions so that our deeply rooted sanskar of marriage does not become obsolete in the eyes of future generations.

8. SUGGESTIONS

We suggest the following in light of the study's findings:

- Parliament should enact legislation governing "live-in relationships" that addresses the following issues about the people engaged in such a relationship:
 - ✦ Rights of Maintenance of the Parties
 - ✦ Definition & Characteristics of a live-in relationship
 - ✦ Protection from dowry demand & against domestic violence
 - ✦ Rights of custody of children
 - ✦ Issues of Legitimacy as well as Inheritance by children
- Additionally, for such legislation to be effective, it should require mandatory registration of live-in relationships so that the parties have actual evidence of the relationship and may seek redress under the law.
- Additionally, as indicated by research participants, individuals should know their adverse consequences/effects. They should be informed that, at the moment, no legislation protects their rights in the event of a live-in relationship.
They may seek protection or redress only via legal precedents.

BIBLIOGRAPHY

Books

- a. Prof. Vijender Kumar, *Live-In Relationship : Impact on Marriage and Family Institutions*, (2012).

Journal

- b. Anuja Agrawal , "Law and 'Live-in' Relationships in India", xlvii *Economic & Political Weekly*, (2012).
- c. Avantika Sarkar, "Law, Religion and Conjugal Ties: A Study of 'Live-inRelationships' in Contemporary Indian Society",1 *IJHRLR* (2015).

- d. Mr. Yuvraj D. Patil, Socio-Legal Perspective of Live-in-Relationship in India (2011).
- e. Surjit S. Gill, Sikhs in Sabah and Labuan: A Historical Perspective, *Labuan Sikh Society*, (2003)

Cases Laws

- f. *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475
- g. *Gokal Chand v. Parvin Kumari*, AIR 1952 SC 231
- h. *SPS. Balasubramanyam v. Suruttaya*, AIR 1992 SC 756
- i. *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav*, (1988) 1 SCC 530= AIR 1988 SC 644. 6(D)
- j. *Malti v. State of Uttar Pradesh*, 2000 CriLJ 4170, I (2001) DMC 204
- k. *Savitaben Somabhai Bhatiya v. State of Gujarat*, 2005 (2) SCR 638
- l. *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*, A.I.R. 2008 Del. 7
- m. *Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga*, 2005 2 SCC 33
- n. *Sumitra Devi v. Bhikan Choudhary*, (1978) 3 SCC 527
- o. *M. Palani v. Meenakshi*, AIR 2008 Mad 162

Websites

- p. <http://www.legalservicesindia.com/article/211/Live-in-Relationships.html>
- q. <http://projectcloud.info/laws/live-in-relationship-review-and-analysis-srishtiaishwarya/>
- r. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1926477

Endnotes

¹ Mr. Yuvraj D. Patil, Socio-Legal Perspective of Live-in-Relationship in India (2011).available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1926477 (last visited on August 26, 2021).

² Live in Relationship- Review and Analysis by Srishti Aishwarya; available at: <http://projectcloud.info/laws/live-in-relationship-review-and-analysis-srishtiaishwarya/>; (last visited on August 26, 2021).

³ Live-in relationship-its position in India and abroad-pros and cons-legitimacy of child-inheritance of property by Gopal Swathy available at: <http://www.legalservicesindia.com/article/211/Live-inRelationships.html>(last visited on August 26, 2021).

⁴ SCC OnLine All 332.

⁵ (2010) 5 SCC 600

⁶ (2006) 8 SCC 726

⁷ AIR 2011 SC 479.

⁸ CrI. App. No. 2009 of 2013; Decided on 26-11-2013 (SC): 2013 (14) SCALE 448⁹ 2001
SCC OnLine All 332.

⁹ *Nandakumar vs The State Of Kerala* on 20 April, 2018, CRIMINAL APPEAL NO. 597 OF 2018 (Arising out of SLP (CrI.) No. 4488 of 2017)

¹⁰ (2010) 9 SCC 209 : AIR 2010 SC 2933

¹¹ Anuja Agrawal , “Law and ‘Live-in’ Relationships in India”, xlvii *Economic & Political Weekly*, (2012).

¹² Avantika Sarkar, “ Law, Religion and Conjugal Ties: A Study of ‘Live-in-Relationships’ in Contemporary Indian Society”,1 *IJHRLR* (2015).

¹³ *Ibid.*

¹⁴ (2006) 5 SCC 475

¹⁵ AIR 1952 SC 231

¹⁶ AIR 1992 SC 756

¹⁷ (1988) 1 SCC 530= AIR 1988 SC 644. 6(D)

¹⁸ Prof. Vijender Kumar, *Live-In Relationship : Impact on Marriage and Family Institutions*, (2012).

¹⁹ Surjit S. Gill, *Sikhs in Sabah and Labuan: A Historical Perspective*, *Labuan Sikh Society*, (2003)

²⁰ AIR 2008 Del. 7

²¹ SCC 33

²² (1978) 3 SCC 527

²³ AIR 2008 Mad 162

