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Status of Live-In Relationship under Hindu Law

By Ashlesha Suryawanshi¹

Abstract

The Indian society is based on a traditional culture according to which, marriage is the deepest and most intricate web of human relationship, formalized via a wedding ceremony. Therefore, it is recognized as a social union. In India, the legitimacy of the relationship between a woman and a man is based upon their marriage, and any man and woman cannot live together without marriage. Though the cultural belief is deep-rooted in our society, the changing Indian society gave way to the emergence of Live-in relationships which has become popular in the western societies. So, today's culture is not purely Indian-oriented but, it is an amalgamation of both Indian culture and western culture. In a Live-in relationship, two adults have a mutual agreement to live together in a relationship similar to that of a husband and wife, but without the relationship of marriage. It is not a legal relationship and doesn't comprise any responsibilities that arise from marriage. The main aim of a Live-in relationship is lower expectations, total freedom and open love which we could not see in a marital relationship. This article analyses the position of Live-in-Relationships in India under Hindu law.

¹ 3rd Year Student of B.A LL.B at Maharashtra National Law University, Mumbai (Batch of 2025)

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Introduction

India has a legacy of ancient civilisation with a long traditional history, cultures and values, and marriage is a social institution regarded as having the utmost sacredness and sanctity. On the other hand, we have Live-in relationships, the relation in which there is no marriage between the parties, they live together as a couple but there are no legal obligations of marriage. It is a stable and continuous relationship also known as a 'Common law marriage'. In the modern age, we see a male and female staying together as a friend without marriage. Live-in relationship concept is not so new, it is recognised as 'Mitru-Sambandh'.² Though it's not new, however, with changing society the concept also changes. Our society is based on moral norms and therefore any new concept which ignores ethics is eventually not accepted by communities. In such a moral and ethical society, it sounds absurd when a female and male live together like a couple but not as a legally married couple, they spend their time with each other without any legal relation. Therefore, ideas like pre-marital sex and Live-in relationships have faced continuous criticism.

Live-in relationship has greater flexibility and comfort because there is no chaos of family drama and lengthy proceedings. Also, in case the partners want to breakup, they can easily move on from their relationship but in the case of the marriage relationship, they have to face lengthy court proceedings. Though these relationships are more compatible in nature but many times some incidents like misdeeds by partners or problem with legitimacy of children born out of such relationships are happening. Partners go for this relationship so that they do not want any kind of responsibility and duties to perform.

In Hindu personal law, there is no provision to deal with Live-in relationships. However, there are many judgements given by the Courts in India and they have also from time-to-time made interpretations regarding the status of live-in relationships according to the factual situation. The research project titled 'Status of Live-in Relationships under Hindu Personal Law' analyses the concept of live-in relationships under Hindu Law. This research aims to determine the status of live-in relationships under Hindu law and its impact. In this research project, the Secondary method of research is used (qualitative data) for further study of the topic. The information used in this research project has already been collected and published by other researchers. The journals, web articles and books referenced in this project have been accordingly mentioned. This research firstly deals with the history and emergence of Live-in relationships in Indian society and thereafter, critically analyses the impact of Live-in relationship.

²Shahistapathan, *Emerging concept of Live-in Relationships*, Legalserviceindia.com, sept 6 2021, <http://www.legalservicesindia.com/article/1013/Emerging-Concept-of-Live-in-Relationships.html>.

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Concept of Live-in Relationship in India

The concept of Live-in relationships emerged in the 21st century as the Indian society moved towards modernization and began incorporating western ideals and values in its culture. People started looking for an alternative to marriage and hence found their way to Live-in Relationships. They realised that marriage has its own set of problems which can be evaded by being in a Live-in relationship, including many commitments, rituals, long court proceedings etc. In the modern society, youngsters have the option to choose their partners as well as to decide whether they want to marry or enter in Live-in relationships. There are many reasons behind people preferring Live-in relationships, like many people want to test their compatibility with their partners before entering into legal relations since many legal and social difficulties may arise if separation takes place after marriage. Hence, they go for Live-in relationships. Many people also want to maintain their single status for financial reasons etc.

According to Hinduism, marriage is a very sacred relationship and a bond that can never be broken. This has been the generally accepted norm. If we go back to Ancient India, the Hindu Scriptures depict the history of the Live-in relationship. According to Manu, premarital relationships existed in the Vedic period as well as after the Vedic period. It is also known as 'Mitra-karar' and 'Mitru-Sambandh'.³

Also, the concept of 'Gandharva Marriage' is a Love marriage in which there is no consent of parents for marriage and it is similar to a Live-in relationship, except that in Gandharva Marriage there is marriage and in a Live-in relationship marriage is absent. In modern times more people are career-oriented, they spend their entire time busy with office work and spend very less time with their family. As a result, employees in various sectors are not able to give enough time to their family, children and in-laws which eventually leads to breaking of the marital bond.

To get relief from this marital responsibility and to enjoy liberty, many women and men choose the option of a Live-in relationship. In many circumstances like, when youngsters live away from home in search of job or for education, they are in control of their liberty which encourage them to enter into Live-in relationships. In India, there are several personal laws such as Hindu law, Muslim law, Christian law, etc which protects the marital ceremony of particular communities.

³Himashripawaskar, Live-in Relationships : Legal perspective and problems, Legalserviceindia.com, sept 6 2021, <https://www.legalserviceindia.com/legal/article-4562-live-in-relationship-legal-perspective-and-problems.html>.

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Live-in relationship is a western concept so there is no legislation governing the Live-in relationship in India. Consequently, there are no legal obligations for the couples who are in Live-in Relationships. The reason for not having any legislation for live-in relationships is because in Indian society, people with conservative mindsets are opposed the concept of live-in relationships. But there are also many people who do not follow traditional norms and they move towards modernization. Most importantly, the youth has gotten influenced with this concept and therefore India finally has to step ahead to bring some kind of legislation regulating Live-in relationships.

Live-In Relationships: Under Hindu Personal Law

The Hindu Marriage Act of 1955 recognises marriage and protects the marital bond of a married couple. But, being a western concept, Live-in relationships do not have any legal implications under the Hindu personal law and therefore, other things related to live-in relationships including children born out through these relationships or rights of Inheritance, right of property, dowry-related matters are also not addressed by the Hindu personal law.

The Supreme Court set up the Malimath Commission in 2003 which addressed the reforms in the criminal justice system. This commission released its report mentioning the demand of women in live-in relationships for their right to alimony. This issue was further brought up by the National Commission of Women in the year 2008.⁴

There is no such express condition that live-in partners should be unmarried, as a result, a married person may also be in a live-in relationship which leads to bigamy since one of the partners is already married and hence, the position of another married partner is disadvantageous in such a situation. The law does not give any security to a live-in partner and also recognises Bigamy as a ground for divorce under section 13(2) of the Hindu Marriage Act. The Supreme Court in the case of *Payal katara v. Superintendent, Nari Niketan kalindri Vihar, Agra and Others*⁵, addressed the issue of cohabitation of the plaintiff. The plaintiff was a live-in partner of Rajendra Prasad who was already married and while the court recognized the plaintiff's right to cohabitation, it also needed to address the questions regarding the right of Rajendra Prasad's wife, whose rights and status would be compromised if Rajendra Prasad is allowed to

⁴ Arindam Baruah, *LIVE-IN RELATIONSHIPS IN INDIA- RECOGNITION UNDER HINDU PERSONAL LAW*, Journal of Contemporary issue of Law (JCIL), Vol.2 Issue 6, page 3, (2015).

⁵ *Payal Sharma v. Suprintendance, Nari Niketan Kalindri Vihar, Agra*, HC Writ Petition No. 16876 of 2001, <http://sconline.com/DocumentLink/7Bfj4h0Y>.

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continue cohabitating with his live-in partner. The protection of the right of a live-in relationship is addressed under the Protection of Women from Domestic Violence Act, 2005.

The Supreme Court in the case of *S. Khushboo v. Kannijammal and Another*⁶ held that living together is considered a part of the Right to life. In this case, the issue of pre-marital sex and nuisance caused by a partner of the plaintiff was in question. The Court gave a judgment in favour of Plaintiff thereby upholding the distinction between law and morality.

In the case of *SPS Balasubramanyum v. Sruttayan*⁷, the legal status of children born out of Live-in relationships arose and the Court held that, "If a man and woman are living under the same roof and cohabiting for several years there will be presumption under section 114 of the Evidence Act that they live as husband and wife and the children born to them will not be illegitimate"⁸. This is a landmark case that addresses the issue of the legitimacy of children born out of Live-in relationships. Also, in the case of, *Bharata Mehta and Ors v. R. Vijay Ranganathan*⁹, the court stated that the child born out of Live-in relationships is the successor of inheritance in the property of parents.

Along with the legitimacy of children, maintenance for women and children is also a core issue in Live-in relationships. Provisions for the maintenance of a married woman are available under personal law, under section 125 of the CrPC, 1973 as well as under section 20(1)(d) of the Protection of women from domestic violence act 2005¹⁰. Due to the unsubstantiated nature of Live-in relationships, there is no certain law for the maintenance of women in live-in relationships mentioned anywhere. Therefore, the right to maintenance in Live-in relationships was decided by the Court by relying upon the Domestic Violence Act, 2005. In the case of *Ajay Bhardwaj v. Jyotsna and Others*¹¹, the issue of maintenance of women under Live-in relationships arose before the court. It was held that a relationship similar to marriage should align with marriage.

⁶*S. Khushboo v. Kanniammal & Anr*, (2010) INSC 327 (28 April 2010), <http://sconline.com/DocumentLink/9K23dCC5>.

⁷*SPS Balasubramanyum v. Sruttayan*, <http://sconline.com/DocumentLink/L3k7TA2H>.

⁸*Astha Saxesena, Live-in relationships And Indian judiciary*, SCC Online, <https://www.sconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>, 12 Oct 2022.

⁹*Bharata Mehta and Ors v. R. Vijay Ranganathan*, AIR 2010 SC 2685, <http://sconline.com/DocumentLink/x2VNJf0F>.

¹⁰*Abhay Nevagi Associates, Right of Maintenance to Women in Live-in Relationships*, legallyindia, Sept 6 2021, <https://www.legallyindia.com/views/entry/right-of-maintenance-to-women-in-live-in-relationships>.

¹¹*Ajay Bhardwaj v. Jyotsna and ors*, <http://sconline.com/DocumentLink/mhrcT070>.

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Section 21 of the Hindu Adoption and Maintenance Act, 1956¹² deals with the maintenance of children born out of marriage, but it does not grant any maintenance to a child born out of a Live-in relationship. An exception is the case of Savitaben Somabhai Bhatiya Vs State of Gujarat¹³ in which the child was granted maintenance.

Under the Hindu Succession Act of 1956, the legitimate child has the right to become a legal heir to the joint family property. The main condition for inheritance rights under Hindu laws is a reasonable period and in the landmark case of Vidyadhari Vs Sukhrana Bai¹⁴, the Supreme Court granted inheritance to the child born out of Live-in relationships and gave the status of legal heirs. In the case of Koppiseti Subbarao Subramanian vs State of Andhra Pradesh¹⁵, by making a landmark judgement on dowry demand in Live-in relationships, the Supreme court protected the female partner from harassment and demands of dowry. The Court said that the claim made by the defendant under section 489A did not apply in this case because dowry can occur in marriage relationships and here, he was not married to the woman so the court rejects his claim.

In many landmark cases, the Court ruled judgements that are binding for Live-in relationship partners. Live-in relationships do not have any legal status but the concept of Live-in relationships is slowly emerging and there have been a lot of recent developments which are visible due to recent court rulings and judgements.

Impact of Live-in Relationships: Critical Analysis

The Live-in relationship is being one of the most controversial legal and social issues in the recent times. These relationships are not restricted to the rules of civilised society where society or family help to search for a life partner with whom marriage can be solemnized and marriage as a sacred union gets legal effects and high respect in society. The issues of live-in relationships are steadily increasing in the present society and any special legislation to exclude the chances of misuse of such relationships is yet to be enacted. But in advanced generations, individual freedom is on top priority amongst youth and they do not want the typical responsibilities of marriage and family. Having someone who is for emotional support, having sexual relations without any legal social commitment, which eventually help to build trust, will help to learn each other's habits,

¹²The Hindu maintenance and Adoption act 1956, section 21, Act No.78 of 1956 Acts of parliament [21st December, 1956].

¹³ Savitaben Somabhai Bhatiya Vs State of Gujrat, 399 of 2005, <https://indiankanoon.org/doc/1590152/>.

¹⁴ Vidyadhari & Ors vs Sukhrana Bai & Ors on 22 January, 2008, <https://indiankanoon.org/doc/350765/>.

¹⁵ Koppiseti Subbarao Subramanian vs State of Andhra Pradesh, <http://scconline.com/DocumentLink/lgoLZGzt> .

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mood, attitude, manners so living together will make it easier for both the partners to live together or to walk out so there is no contract or obligations. But our main objective behind Indian rules and customs is everyone has a moral liability to adhere to life-enriching norms which eventually help the future generations. Also, we can give our legacy of cultural traditions to the next generation by following and practising norms and ethics. But Live-in relationships break this chain which causes ill-effects on the society's moral fabric which throw India's custom to the winds. Live-in relationships form after a man and woman, by their own will, enter into a relationship where there is no sexual right and obligations, no financial and legal trouble as well as no social and cultural responsibilities on both of them. There is no explicit consent from parents of partners which creates a weak relationship between family and live-in partners. This relationship is against responsibility and a more open relationship so any of the partners can not interfere in the physical and emotional life of another partner. This flexibility makes relationships more toxic because here no one is answerable to each other. There is no assurance for safe sex, because if one partner having sexual intercourse with more than one person then there is a high chance of infection with venereal diseases. So, it impacts negatively on partners because there is always a conflict of ideas and opinions.

Live-in relationships sometimes are unpredictable because such relationships have no legal and social obligations and therefore there is always fear to break up. Live-in relationships erased the picture of family and make several families of an unmarried couple, families without children, single partner family etc. It is not like a marriage relationship in which a couple is always together no matter what the situation is and they provide mental support to one another. The essence of marriage is based on mutual respect, commitment, honouring each other, accepting each other's views and most importantly valuing each other equally. One cannot enjoy family life in Live-in relationships, and in today's world where any relationship is worthless, only family can support a person. But current emergence of Live-in relationships breaks family bonding and children are not able to enjoy the love and affection from their grandparents.

Conclusions and Suggestions

Conclusion

Indian society is composed of traditions and customs which are the foundational pillars of our society. Our society has a huge cultural heritage and legacy, rituals and beliefs are important sources of law. Therefore, citizens have to follow these norms and customs which eventually benefit their next generation. Our culture considers marriage as a sacrament and according to

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these norms, husband and wife are considered as one and therefore, marriage is a social institution. The reason behind this is that marriage helps to build commitment between a man and woman, mutual communication, share one another's problem and solutions. It also helps each other to become more responsible and productive, but these all are not included in Live-in relationships. Though live-in relationships promote open communication and total freedom and lower expectations, it is not legally binding and therefore partners can't seek any remedy if there is any violation of the rights and any kind of uncertainties due to one of the partners, because it is voluntary. People view it as an alternative to marriage and an easier way out from responsibilities, but many live-in partners are subjected to domestic violence, depression, arguments, they could not find each other supportive and there is long term commitment like marriage. Hence, there is much insecurity in a live-in relationship. Many live-in relationships form for use of women and sexual pleasure and once their aim gets fulfilled then they break out the relationship. Women suffer the most as society and people judge the character of women. The children born out of such relationships have no status and they are tagged as illegitimate children. After the couple breaks up, such children are at high risk. Separation of parents also impacts their mentality. Looking at the current situation, matters of divorce increase rapidly and therefore many couples think that a Live-in relationship is better than the life of a divorcee. After spending some time with one another and understanding each other, the couple decides that they should get legally married or not. According to the interpretation of the Apex Court, Live-in relationship is not an offence but it is continuously a subject of debate because of the ethical brigade. Also, live-in relationships create many unanswerable questions like what if one partner leaves then the relationship gets lost? What is the status of the child born out of such relationship? Will such a relationship empower women? Currently, the law is unaware of the legality of such relationships and therefore, the need of the hour is not bringing live-in relationships under any legislation but to enact new different law which deals with the problems born out by live-in relationships so that any person not get misused. It is essential that the law of the country changes with the passage of time.

Suggestions

In light of research conduct, we recommend the following suggestions:

1) Since the status of Live-in relationships is undefined, we need proper legislation (Law) so there should be a law for Live-in relationships which includes every aspect of Live-in relationships including maintenance for a partner (woman), custody of children, issue of inheritance, protection from dowry demand etc.

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2) There should be mandatory registration of Live-in relationships so that partners have concrete proof of their relationships and they can seek proper remedy if any dispute arises.

References

- The following articles from the web source (online) referenced in this search project are used:

- 1) Shahistapathan, Emerging concept of Live-in Relationships, Legalserviceindia.com, sept 6 2021, <http://www.legalservicesindia.com/article/1013/Emerging-Concept-of-Live-in-Relationships.html>
- 2) Himashripawaskar, Live-in Relationships : Legal perspective and problems, Legalserviceindia.com, sept 6 2021, <https://www.legalserviceindia.com/legal/article-4562-live-in-relationship-legal-perspective-and-problems.html>
- 3) Arindam Baruah, LIVE-IN RELATIONSHIPS IN INDIA- RECOGNITION UNDER HINDU PERSONAL LAW, Journal of Contemporary issue of Law (JCIL), Vol.2 Issue 6, page 3, (2015).
- 4) Avantika Sarkar, Law, Religion and Conjugal ties: A study of Live-in relationships in Contemporary Indian Society, Academia.edu, https://www.academia.edu/25103378/Law_Religion_and_Conjugal_Ties_A_Study_of_Live_in_Relationships_in_Contemporary_Indian_Society , 12 Oct 2021.
- 5) Lawyer Bharat, Woman maintaining relations with married man whether “aggrieved person” within meaning of Domestic violence Act, https://www.academia.edu/19851299/Woman_maintaining_relation_with_married_man_whether_her_children_are_entitled_to_get_maintenance_under_domestic_violence_Act , 12 oct 2021.

- **Cases Referenced:**

- 1) Payal Sharma v. Suprintendance, Nari Niketan Kalindri Vihar, Agra, HC Writ Petition No. 16876 of 2001, <http://sconline.com/DocumentLink/7Bfj4h0Y>
- 2) S. Khushboo V. Kanniammal & Anr, (2010) INSC 327 (28 April 2010), <http://sconline.com/DocumentLink/9K23dCC5>

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- 3) SPS Balasubramanyum vs Sruttayan, <http://sconline.com/DocumentLink/L3k7TA2H>
- 4) Bharata Mehta and Ors Vs R. Vijay Ranganathan, AIR 2010 SC 2685, <http://sconline.com/DocumentLink/x2VNJf0F>
- 5) Abhay Nevagi Associates, Right of Maintenance to Women in Live-in Relationships, legallyindia, Sept 6 2021, <https://www.legallyindia.com/views/entry/right-of-maintenance-to-women-in-live-in-relationship>
- 6) Ajay Bhardwaj Vs Jyotsna and ors, <http://sconline.com/DocumentLink/mhrcT070>
- 7) Savitaben Somabhai Bhatiya Vs State of Gujrat, 399 of 2005, <https://indiankanoon.org/doc/1590152/>
- 8) Vidyadhari & Ors vs Sukhrana Bai & Ors on 22 January, 2008 <https://indiankanoon.org/doc/350765/>
- 9) Koppiseti Subbarao Subramanian vs State of Andhra Pradesh, <http://sconline.com/DocumentLink/lgoLZGzt>

- **Bibliography**

- 1) Dr. Jayanta Ghosh, Live-in Relationship and Hindu Marriage : Legal Analysis, Lambert Academic publishing, April 2015.