

LIVE-IN RELATIONSHIP IN INDIA: RECENT DEVELOPMENT AND CHALLENGES

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ABSTRACT

In India, especially among the younger population, live-in relationships have grown in popularity. However, the legality and social acceptance of such relationships are still debated in the country. An overview of the topic will be provided in this research paper with the latest challenges and developments related to live-in relationships in India. It will examine the public perceptions of such partnerships, the legal and judicial pertaining to them, and the difficulties that live-in couples experience. The paper concludes with some recommendations for the future to address the legal and societal problems related to live-in relationships in India.

Keywords: Live-In Relationship, Cohabitation, India.

INTRODUCTION

Live-in relationships, also known as cohabitation, are becoming increasingly popular in India, particularly among the younger generation. Two people who are living together as partners without marrying are said to be in a live-in relationship. While such relationships have gained acceptance in many Western countries, the legal and social status of live-in relationships in India is still a matter of debate. In fact, India does not have a specific law that governs live-in relationships in India, the issue has been discussed and contested in numerous court judgments and legal forums. The recent challenges and developments related to live-in relationships in India will be analyzed in this paper.

LEGAL FRAMEWORK OF LIVE-IN RELATIONSHIPS IN INDIA

Live-in relationships are not specifically regulated by the law in India, and the legal status of such relationships is uncertain. The Indian legal system recognizes marriages that are solemnized as per the personal laws of the parties involved. However, a live-in relationship does not have the same legal standing as a marriage because it is not governed by any

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personal laws, and hence, it does not enjoy the legal status of a marriage. In the absence of any legal recognition, live-in relationships are not entitled to the legal protections and rights that come with marriage, such as inheritance rights, maintenance, and property rights. However, there are various laws that offer protection to women and children, which can be extended to partners in live-in relationships. The Protection of Women from Domestic Violence Act of 2005 offers safeguards to women who live together and suffer domestic assault. The Act defines domestic violence to include physical, sexual, verbal, emotional, and economic abuse and also covers female relatives living with the aggrieved person.

The Act has been interpreted by the courts to include protection for live-in women who experience domestic abuse. In the case of *Badri Prasad v. Dy. Director of Consolidation* (1978)¹, the Supreme Court made the initial observation that live-in relationships were appropriate. The court determined that a live-in relationship between consenting adults is legitimate under Indian law as long as all conditions are met for marriage, including the legal marriageable age, consent, and soundness of mind, are met. Such interactions are neither permitted nor forbidden by law.

According to the Supreme Court, In the case of *Lata Singh v. State of U.P.* (2006)², while being viewed as unethical, live-in relationships are not prohibited by law. In another well-known case, *S. Khushboo v. Kanniammal and Anr* (2010)³, the Supreme Court determined that although living together is viewed as immoral by society, it is not illegal under Indian law because Article 21 of the Indian Constitution protects the right to life. In *IndraSarma v. VKV Sarma* (2013)⁴, the Supreme Court ruled that it is not illegal for two people who are not already married to be in a relationship together.

Both in the case of *SPS Balasubramanian v. Suruttayan* (1993)⁵ and the case of *Badri Prasad v. Deputy Director Consolidation* ruling from 1978, the same type of observation was made, that if a man and a woman have resided together for a long duration of time unless the reverse is proven, the law will treat them as legally married. Marriage is a strong assumption, yet it is arbitrable, and the burden of proof rests with the individual who disagrees. Furthermore, children born from such a relationship would be entitled to inherit the parent's properties.

¹ *Badri Prasad vs Dy. Director Of Consolidation*, 1978 AIR 1557.

² *Lata Singh Vs State of U.P. & Another*, AIR 2006 SC 2522.

³ *S. Khushboo V. Kanniammal and Another*, AIR 2010 SC 3196.

⁴ *IndraSarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

⁵ *SPS Balasubramanian V. Suruttayan*,(1993) 1 SCC 152.

In another landmark case, *Payal Sharma v. Nikhil Sharma* (2020)⁶, the Delhi High Court held that a live-in relationship between two consenting adults cannot be construed as an offense, and neither party can be subjected to harassment or prosecution.

RIGHTS OF PARTNERS IN LIVE-IN RELATIONSHIPS

Although the law is still unclear as to whether these partnerships are lawful, some rights have been offered by analyzing and changing the rules so that the parties can avoid abusing such relationships. The following sections discuss several pieces of legislation.

ARTICLE 21 OF THE INDIAN CONSTITUTION

The fundamental rights to life and personal liberty are protected by Article 21 of the Indian Constitution, which has been interpreted by several Supreme Court decisions, including *S. Khushboo v. Kanniammal and Anr* (2010) that the right to life and personal liberty includes the right to cohabit without interruption.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

According to Section 2(f) of the Domestic Violence Act of 2005, a domestic relationship is defined as one where two people live exactly the same as “in the nature of marriage.” According to the definition, a domestic relationship is characterized as a union between two persons who are or have been connected by consanguinity, marriage, or a relationship that has the same meaning as marriage, adoption, or who are friends and family who are living as a family. Living together for an extended period of time and presenting oneself as husband and wife give live-in relationships marriage-like traits. In light of the fact, live-in relationships are covered under the Domestic Violence Act of 2005, a woman may file a claim for maintenance and protection under that law. So, this Act makes relationships that aren't marriages legal.

If her husband won't provide for her, a wife may use Section 125 of the Criminal Procedure Code to demand maintenance from him. If a woman establishes a bond that resembles marriage, the court will presume that the two are married and will treat the woman as a wife, making her eligible to receive maintenance from the male. It offers protection to women against domestic assault by bringing partners in live-in relationships under the jurisdiction of

⁶ *Payal Sharma v. Nikhil Sharma*, 2020 SCC OnLine Del 1648.

Section 125 and raising the standard for those partnerships' legal status to that of marriage. Based on the recommendations of the Malimath committee appointed by the Home Ministry, the Supreme Court developed this precedent. Judge Malimath served as the committee's chairman, and its task was to provide recommendations about the aforementioned proposition.

The Committee presented its recommendations in 2009 and suggested that the definition of alimony/maintenance under Section 125 be changed to allow women to receive it. Hence, the Supreme Court determined in the case of *Abhijit Bhikaseh Auti v. State of Maharashtra*⁷ and *Anr* (2009) that a woman may request support under Section 125 of the CrPC without having to prove her marriage in a live-in relationship is likewise entitled to maintenance. Our judiciary's liberal and modern outlook is demonstrated by this judgment.

LATEST HIGH COURT JUDGMENTS

Gulza Kumari v. State of Punjab: The non-marital relationship is not ethically or culturally acceptable, according to Justice H.S. Madaan in *Gulza Kumari v. State of Punjab* (2021). The petition was consequently denied. Live-in relationships have been deemed legal by the Supreme Court in numerous cases, nevertheless, in *Gulza Kumari*, the Court disregarded the precedent, which is the rule of the court as it was provided by the top court of the nation. The *Gulza Kumari v. State of Punjab* (2021) decision has drawn much criticism—and for good reason. In the weeks that followed this judgment, the High Court of Punjab and Haryana made another announcement, but the outcome was quite different.

Pushpa Devi v. State of Punjab: The petitioners in *Pushpa Devi v. State of Punjab* (2021), a female around the age of 21 and a male about the age of 19, asked the court to protect their live-in relationship from their families, who were prepared to kill them solely for their family's reputation. One of the applicants, a boy, was under the legal marriage age of 21, which prevented them from getting married. On the grounds that both applicants have achieved the age of majority and have the ability to make their own decisions, the Court, through Judge Arun Kumar, granted the petitioners the right to life and personal liberty. The relevance of achieving majority age and how it affects how legal protection is granted appear to be highlighted in this instance.

⁷*Abhijit Bhikaseh Auti V. State of Maharashtra and Anr*, AIR 2009 (NOC) 808 (Bom.).

Abhishek Chouhan v. State of Madhya Pradesh: According to Madhya Pradesh High Court in *Abhishek Chouhan v. Madhya Pradesh State* (2022), live-in relationships encourage sexual activity and lascivious behavior, causing sexual crimes. It described such relationships as a by-product of the constitutional protection guaranteed under Article 21 of the Constitution. The Court came to the conclusion that, with some exceptions, India has a conservative culture that has not yet attained such an advanced level of civilization where unmarried girls engage in lascivious activities with boys solely for entertainment, regardless of their religion, unless supported by a certain future promise of marriage, and that, to support her point, a victim should not be required to rely on committing suicide as in the current case.

SOCIETAL ATTITUDES

Traditions and customs, serve as the society's fundamental pillars, on which society is built. India is a culturally rich nation that cannot afford to adopt Western lifestyles. Live-in relationships still encounter opposition and criticism from some segments of Indian society, particularly the elderly and those who adhere to traditional norms. Live-in relationships are often perceived as a threat to morals and traditional family values. Such relationships are frequently viewed as ethically and socially wrong, which results in discrimination and social ostracism for the couples involved. Yet with a booming economy and an increasingly aware populace, India must now take the initiative and join the rest of the world by making live-in relationships lawful.

DIFFICULTIES FACED BY COUPLES IN LIVE-IN RELATIONSHIPS

Partners in live-in relationships frequently struggle to get basic necessities like housing, healthcare, and education as well as deal with public disapproval, a lack of legal protection, and social stigma. It can be difficult for them to demonstrate the reliability of their connection and the existence of a shared understanding between the couples. When conflicts arise, individuals might not have access to legal recourse and may instead be forced to rely on the goodwill of their families or the community.

SUGGESTIONS FOR THE WAY FORWARD

There is a need for a thorough legislative framework that recognizes and governs such partnerships in India in order to solve the social and legal problems associated with live-in relationships. The government ought to think about passing legislation outlining the rights

and obligations of the partners in live-in relationships, as well as providing legal recognition and protection for such relationships. By doing this, it will be made sure that the partners in these relationships can exercise their fundamental rights without facing any discrimination and have access to legal protection and remedies.

CONCLUSION

There has long been debate concerning the legality of live-in relationships in India. Although they are not forbidden, live-in relationships are not as legally protected as marriages. Although the partners in live-in relationships are not entitled to maintenance or property rights, they may seek protection under the Protection of Women from the Domestic Violence Act of 2005 and the Hindu Adoption and Maintenance Act of 1956. The Supreme Court has ruled that a live-in relationship between two consenting adults is legal and does not constitute a crime. The court has also held that a partner in a live-in relationship is entitled to maintenance if she has been financially dependent on the other partner. The court has interpreted various laws with the motive to broaden protection to women in live-in relationships who are subjected to domestic assault or other kinds of abuse.

Indian society is slowly accepting the concept of live-in relationships, and it is high time that the legal framework also recognizes and protects the rights of the partners in such relationships. There is a need for specific legislation that defines the legal status and rights of the partners in live-in relationships. Till then, the courts will continue to interpret the existing laws to extend protection to the partners in live-in relationships.

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