

# A STUDY ON THE PHENOMENON OF LIVE-IN RELATIONSHIPS IN INDIA

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## **ABSTRACT**

Live-in relationships are conspicuously increasing in India as a straightforward approach just like weddings. It's outlined as a domestic habitation between an adult couple who aren't married. Apparently, it seems like a stress-free fellowship with non-legal obligations; conversely, it's several complications, responsibilities and legal liabilities. Recently an attempt are made to bring it into the reach of some laws. It's not an offense in India and plenty of guidelines concerning maintenance, property, and also the position of a baby are issued in numerous Judgements of the Apex Court. Still it's a debatable issue in India. There are several gray areas which require acceptable attention like, official documentation, cultural problems, property rights, can and gift rights, anti-religion standing, LGBT community and so on. The first focus of the article is on comprehending the construct of live-in relationship with the assistance of secondary sources. Thereafter, a shot has been created to review the issues and challenges moon-faced by the couples with the assistance of descriptive and analytic methodology. Lastly, the article argues on the necessity for framing a separate, profane and gender-sensitive law for the couple opting to domiciliate in a live-in relationship.

## **INTRODUCTION**

Live-in relationship is an association where 2 individuals domiciliate out of wedlock. The construct is already accepted and legalized in several countries around the world. As per the Apex Court, for a person and a lady in love to live alone is a component of the right to life'; thus, a live-in relationship isn't any longer an offense. The Malimath Committee in 2003 paved the approach for providing landmark recommendations. It's pertinent to say that primarily it shed light-weight on the term 'wife' and considers a woman in an exceedingly live-in relationship alike wife. Thereafter, the Protection of women from domestic violence Act (PWDVA) 2005, that is thought to be the primary piece of legislation, provided legal recognition to relations out of wedlock, by

covering it underneath the reach of relations 'in the character of wedding. Several attempts have been made to bring it into the orbit of some laws like violence, maintenance, property, and also the status of a baby, so as to control the dynamics of this new social order. Still, on ethical and social group grounds it's forever debatable and continues to be a taboo in India. weddings in Indian culture have been thought-about as a holy bond since the religious text times. The concept of wedding has systematically advanced with time. With the continual development in society and human science, the construct of wedding and relationship has likewise advanced. This generation is a lot generous and liberal regarding the construct and concept of habitation. although it sounds like a quiet, comfy and relaxed companionship and with none legal obligation towards one another, on the contrary, it conjointly has several complications, responsibilities and legal liabilities

Research methodology during this article, the analysis methodology is belief in nature. The first focus is on comprehending the concept, laws, Act, books, news, and cases concerning a live-in relationship in India and understanding the dynamics of this new social order. Thereafter, a shot has been created to review the issues and challenges faced by the couples with the assistance of descriptive and analytic methodology. Lastly, within the context of the issues being faced by those that volunteer to embrace this rising trend of habitation, the paper argues on the necessity for framing a separate, profane and gender-sensitive law for the couple opting to domiciliate in an exceedingly live-in relationship

### **MARRIAGE AND LIVE-IN RELATIONSHIPS**

In India maniage, since the Vedic period has been thought-about as a sacred bond. Weddings in India occur either following the provisions of the Special Marriage Act or personal law of the religion to which a person belongs. Marriage, as per the law, constitutes a contract between a man and a lady, within which the parties undertake to measure along and support one another. The notion of wedding has advanced with time. a wedding typically outlined joined the basic civil rights of the official ceremony. it's legal significance and envisages many obligations and responsibilities, within the matter of inheritance of property, successorship, and so on. Marriage, consequently, includes lawful conditions of custom, exposure, selectiveness and every one the lawful outcomes that stream out of that relationship. A live-in relationship has however not been socially accepted in India, in contrast to several different countries. Yet, with steady social group advancement and comprehensive

intricacies of wedding, individuals are choosing another establishment like live-in-relation to make an enduring matrimony, that is like a wedding , however out of wedding.<sup>1</sup>

## **LIVE-IN RELATIONSHIP IN INDIA<sup>2</sup>**

Live-in relationships are not considered an offence in India because the Indian Constitution guarantees the right to freedom and personal liberty to every citizen. The right to live with a person of one's choice is an essential aspect of personal liberty and privacy.

The Supreme Court of India has held in various cases that adults have the right to live together in a relationship of their choice without interference from the state or society. The court has also observed that live-in relationships are not immoral or illegal and are a matter of personal choice and preference.

It is important to note that while live-in relationships are not an offense in India, they do not enjoy the same legal status and protection as a valid marriage. For instance, laws related to inheritance, maintenance, and custody of children may not apply to couples in a live-in relationship. However, the courts have recognized the need to protect the rights of women in such relationships and have issued guidelines to ensure that they are not exploited or abused.

## **IMPORTANT ELEMENTS FOR ESTABLISHING THE LEGALITY OF COHABITING RELATIONSHIPS<sup>3</sup>**

### **1. Age:**

The meant couple should be of age to marry, i.e The couple ought to be major in step with Indian law. The Allahabad tribunal, declared "a woman of concerning twenty one years more matured being a serious, has right to travel anyplace which anyone man and woman even while not obtaining married will live along if they wish"

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<sup>1</sup>Barandbench,<https://www.barandbench.com/news/litigation/live-in-relationships-have-become-part-and-parcel-of-life-approved-by-sc-allahabad-high-court>, Jan 29th, 2023

<sup>2</sup>Vakilsearch,<https://www.google.com/amp/s/vakilsearch.com/blog/live-in-relationship-what-does-the-indian-law-say/amp/>,Dec 30th,2022

<sup>3</sup> Priya Sepaha,Live-in Relationship in India: Laws and Challenges,Volume 1,LCJLS,Pg 10, 2021

## **2. A significant period:**

The expression 'at any purpose of time' is mentioned below section 2(f) PWDA, which implies a major or reasonable Time to keep up and continue a relationship. though relying upon the factual scenario, it's going to vary from case to case

## **3. Voluntarily cohabited:**

Independent call of the couple with a standard intention to dwell with one another is a vital criterion of live-in relationship. It includes supporting one another, sharing their individual roles and responsibilities, money arrangements, socialization publicly then on to prove the loyalty and endurance of their relationship

## **ISSUES AND CHALLENGES OF LIVE-IN RELATIONSHIP**

Although the live-in relationship has been legalized and lots of judgments are in favor of it, nevertheless even currently there are several problems which require a crucial discourse. a number of the foremost complexed gray areas that also have to be compelled to be self-addressed amicably are mentioned below:

### **1. social group and ethical acceptance:**

Though a live-in relationship is legalized, it's still a taboo in Indian society and is taken into account as virtuously and ethically wrong. Indian society is skeptical concerning live-in relationship; thus, couples typically face multifold issues like rejection from family, a tangle in obtaining home for rent, refusal by the society, negativity at the geographical point then on.

### **2. Official documents**

In India, for all official documents, there's still no column for a live-in relationship. The couple face issues in having joint accounts, nominees name, insurance, visas then on.

### **3. Cultural problems**

India is understood for its various cultures and faiths. The impact of the economic process on human relations in our country has been new. The once dominant family ties and values are witnessing rampant changes. Each faith has its perspective towards a live-in relationship. Anti-religion wedding remains an advanced issue and is

just allowed below the Special marriage Act,1955. Live-in relationships could be a step ahead, and Hinduism and Islam don't settle for the idea, though Christianity somehow accepts it. In India belief, custom, usages and culture have a major impact on people's mentality afterwards, acceptance of latest norms depends upon the prominence of their belief instead of any law. the stress should learn to handle the complications of antireligion live-in relationship, that remains a sensitive issue.

#### 4. LGBT couple

Commonly, society is indifferent towards providing advantages to the LGBT community and unwilling to simply accept their relationship. Even in any laws and judgments of live-in relationship provision or discussion concerning for LGBT couples is lacking. in spite of the Supreme Court has decriminalized accordant same sex intercourse by scraping Section 377 of the Indian legal code, yet, India doesn't recognise same

#### **HOW LEGISLATION IS DEALING WITH LIVE- IN RELATIONSHIP** <sup>4</sup>

Live- in relationships are comprehensively unrestricted in India. In the eyes of the law, a void marriage isn't a marriage. The connection that exists in a void and voidable marriage is varied to the bond that exists in a live-in relationship in the conventional sense. As can be seen, several bills address colorful rights performing from live- in connections. It makes no difference whether the woman or the children born of that relationship have the honor. The different laws are as follows Indian substantiation 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 passed, with respect to the natural course of events and mortal action in their relationship to the realities, circumstances, and situation. There's a strong religious emphasis on marriage. II. Domestic Violence Act 2005 Two people live or have lived with each other in a participated home at some point, whether they're connected by consanguinity, marriage or by another relationship like marriage or relinquishment or cousins who live as a common family as mentioned in Section 2( f) of the Domestic Violence Act 2005. When the Court astronomically interprets the expression" relationship in the nature of marriage," which is incorporated in the description of domestic relationship, it presumes that live- in connections are included within the field of the expression because the terms" nature of marriage" and" live in a relationship" are synonymous in the Indian bar. This Act has been considerably lauded as the primary

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<sup>4</sup> Ms. Anupama Yadav,Dr. Anand kumar, Live-in Relationship: A Study On Legal Actions,Volume 9,IJCRT,Pg 6, 2021

legal medium for relating the presence of adult heterosexual connections that aren't connubial. The Act defines an "displeased person" as "any woman who is or was in a original relationship with the replier and claims to have been subordinated to physical or cerebral abuse at home." III. Criminal Procedure Code 1973 According to the Justice Malimath Committee and the Indian Law Commission, a lady who has been in a live- in relationship for a long term should be entitled to the partner's legal boons. also, the Committee proposed modifying Section 125 of the Criminal Procedure Code's description of" woman The word" woman" has been readdressed to comprise women who had preliminarily been in a live- in relationship. Now, against her will, his abettor has abandoned her in order to give the position of woman to a woman in a live- in relationship. And as soon as she's granted status, she's given the right of conservation under section 125 of the CrPC, 1973. still, there's a disagreement that indeed if the woman's position is offered to women in a live- in relationship, the mates can not disjoint since

### **JUDICIAL PRONOUNCEMENT**

**1. Payal Sharma v. Superintendent, Nari Niketan Kalindri Vihar, 2001 SCC OnLine All 332<sup>5</sup>**

by the Allahabad judicature, wherever it's determined by the Bench consisting of Justice M. Katju and Justice R.B. Misra said, "In our opinion, a man and a woman, even while not obtaining marriage, will live together if they need to. This could be thought to be immoral by society, however it's not criminal. there's a distinction between law and morality."

**2. S. Khushboo v. Kanniammal, (2010) 5 SCC 600<sup>6</sup>**

The Supreme Court determined that live- in relation between 2 adults while not a formal wedding can not be construed as an offense. Further, it's accessorial that there was no law prohibiting live-in relationships or pre-marital sex. Article twenty one of the Constitution of India guarantees right to life and private liberty as a basic right.

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<sup>5</sup> Payal Sharma v. Superintendent, Nari Niketan Kalindri Vihar, 2001 SCC OnLine All 332

<sup>6</sup>S. Khushboo v. Kanniammal, (2010) 5 SCC 600

**3. D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469<sup>7</sup>**

is a case that was heard by the Supreme Court of India. The case was about whether a man and woman living together without getting married can be considered as a “relationship in the nature of marriage” under the Protection of Women from Domestic Violence Act (PWDVA), 2005. The court laid down certain criteria that have to be fulfilled by women in such relationships to be benefited below PWDA

**4. Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755<sup>8</sup>**

the Supreme Court held that a live-in relationship between two consenting adults cannot be construed as an offense even if it does not culminate in marriage. The court observed that individuals have the right to choose their lifestyle and partners, and the state cannot dictate their choices in such matters

**5. Lata Singh v. State of UP & Another" (2006) (5) SCC 475<sup>9</sup>**

In this case Delhi High Court held that two adults in a live-in relationship had the right to cohabit peacefully, and that any attempt to interfere with that right would be a violation of their fundamental rights.

**FEW SUGGESTIONS IN LIGHT OF THE FINDINGS ABOUT LIVE-IN RELATIONSHIPS**

- The concerns for those involved in "live-in relationships" should be addressed by the parliament and new laws shall be enacted<sup>10</sup>
  - a. Maintenance Rights of the Parties of Live-in relationships are defined and have certain characteristics.
  - b. Defense against domestic violence and dowry demands
  - c. Rights to children's custody Issues relating to children's inheritance and legitimacy

<sup>7</sup> D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469

<sup>8</sup> Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755

<sup>9</sup> Lata Singh v. State of UP & Another" (2006) (5) SCC 475

<sup>10</sup> Ms. Anupama Yadav, Dr. Anand Kumar, Live-in Relationship: A Study On Legal Actions, Volume 9, IJCRT, Pg8, 2021

- In order for such laws to be effective, live-in relationships must be required to be registered, giving the parties concrete proof of their connection and allowing them to pursue legal remedies.
- Individuals should also be aware of their negative effects, it is important to let them know that no laws currently exist that would protect their rights in the event of a live-in relationship.
- Only via the use of legal precedents may they request defense or redress

## **CONCLUSION**

A live-in relationship can be an objectionable and new thought in India, however it's burgeoning everywhere. During this modern way, that is partly rising thanks to the speedy impact of globalization, individuals aren't able to take responsibilities and fancy a regular devoted relationship. For the youth, voluntary relationships between couples supported the broader understanding of domestic living together in addition as recognition of pre-nuptial agreements, overall tolerance towards sexual preferences, etc. may be a new attraction. Live-in relationship attracts them as a stronger thanks to a live -in wedding with no complications and worries, on the contrary, it desires far more responsibility and awareness of socio-legal views. Today, the society and alternative organizations have jointly joined the judiciary in facilitating the legitimisation of the thought of live-in relationship, because the country is slowly closing its door to Western culture, concepts and lifestyles. A notable step has been taken by the Madhya Pradesh State Women's Commission that counseled that such unions be accorded status to secure the rights of social group girls in live-in relationships. Moreover, a singular event was unionized by an ngo in Ahmedabad to assist willing single senior citizens realize companions. The thought is bit by bit being accepted by society currently as a substitute for weddings however as a more and more viable difference. it's currently legalized, and PWDVA 2005 protects a number of the rights of girls during this relationship. all the same, there are several grey areas which require a polar discourse. There's a desire for a separate law that ought to emphasize socio, legal and profane aspects conjointly to resolve these complexities that still exist within the live-in relationship.