

JUDICIAL APPROACH TOWARDS 'LIVE-IN RELATIONSHIP' AND ITS IMPACT ON INSTITUTION OF MARRIAGE

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ABSTRACT

The idea of cohabitation has come under more public and legal attention in India due to the country's changing social standards. Live-in relationships have gained legitimacy through increasing judicial interpretations, especially under the constitutional protections of personal liberty, autonomy, and the freedom to cohabit without marriage, even though they are not expressly recognized by statutory law. This paper examines the judicial approach toward live-in relationships with reference to landmark Supreme Court and High Court decisions, including their stance on protection of partners, maintenance rights, legitimacy of children, and the application of the Protection of Women from Domestic Violence Act, 2005. It also explores how judicial acknowledgment of such partnerships influences, contradicts, or coexists with the traditional institution of marriage in India. The report contends that although courts have frequently taken a liberal and rights-based stance, they are nonetheless wary of abuse and continue to strike a balance between individual liberties and public morals. The research finds that the judiciary's shifting perspective reflects a progressive movement toward admitting multiple forms of companionship, so redefining current understandings of family, marriage, and personal choice.

Keywords: Court, Judicial, Legislature, Live-In- Relationship, Marriage.

I. INTRODUCTION

Marriage in India is considered as a sacred or sacramental link according to traditional beliefs, whereas modern perspectives accept it as a contractual relationship. Contemporary laws describe the rights of several parties within a marriage, including conjugal rights, the presumption of validity for children, divorce, inheritance, alimony, succession rights, protection against domestic violence, adultery, and bigamy.

As part of their Dharma, the man, his wife, and their offspring must uphold the long-standing Vedic concept of marriage.¹One According to ancient Hindu religious literature such as the Vedas and other legendary scriptures, marriage is considered a sacrament that cannot be dissolved. However, throughout the previous century, both society and individuals have seen major transformations. The way people regard marriage has changed as a result of changing lifestyles, attitudes, and perspectives. Divorce is now allowed under the Hindu Marriage Act of 1956, and it is no longer seen as an unbreakable connection. Nowadays, couples have the option to separate if they so want.

Existence of Live-in Relationships

Although live-in relationships have been around for a while, social pressures used to make people reluctant to disclose their status. However, today, a part of the Indian population has become more open to embracing such relationships.

This type of partnership is a common occurrence in the Western world for a while, despite the fact that it is frequently perceived as unstable. This makes it crucial to comprehend the rights and responsibilities of people who live together without getting married, a condition that occurs all over the world. Live-in relationships have become popular as an alternative to traditional marriage in India's major cities, where people prioritize their personal independence while eschewing the obligations and responsibilities that come with being married.

In India, the term "live-in relationship" has neither a codified definition nor a set legal definition. It is commonly considered to be a situation in which unmarried partners cohabit while preserving a long-term bond like to

¹ Diwan Paras, & Diwan P. Modern Hindu Law. Allahabad: Allahabad Law Agency; 2008.

that of a marriage.² Despite many obstacles, India has stayed united since obtaining independence. India's Constitution guarantees safeguards for people from all regions, religions, cultures, and languages because it is a secular state that welcomes people from a wide range of socioeconomic backgrounds.³

The increase of cohabitation in India can be attributed to a number of factors. The fact that it enables couples to assess their compatibility prior to marriage is the most important. Additional considerations include circumstances in which marriage is prohibited by law, such as those involving same-sex partners, interfaith unions, or couples who wish to avoid the pressures of matrimony. Live-in partnerships offer a compromise in these situations, enabling couples to cohabitate without the social or legal restrictions of marriage.

Causes for the Increasing Live-in Relationship in India

a. **Compatibility is Essential for Couples:** The idea of cohabitation was historically uncommon in a nation like India, where norms and rituals are deeply ingrained in society. Surprisingly, though, live-in partnerships are becoming more and more common, especially among young people. The main explanation for this is that living together enables couples to evaluate their compatibility. In contrast to marriage, if they discover that their relationship is weak, they can quickly separate without going through the legal process.⁴

b. **Inter-religion or Love Marriages:** In the past, families and society in India arranged marriages. The elders' preferences were used to select the bride or groom. However, the idea of love weddings is now more common, as are marriages between people of different castes and religions. The true problem is when people choose to live together instead of being married out of love. Two individuals can live together without going through the formalities of marriage in a live-in relationship, which is a type of cohabitation. Furthermore, the idea of cohabitation is secular, enabling people of all ages, origins, religions, and beliefs to coexist without being restricted by caste or religion.

c. **Fear of Marriage Failure:** People in today's fast-paced society are preoccupied with their careers and don't have time for interpersonal connections or conversation. Due to their inability to manage their time and resolve conflicts, this busy lifestyle frequently causes marriages to fail. Because these couples can better manage their time and choose occupations with similar hours, they are more likely to have better communication and fewer arguments. As a result, many people choose to live together.

d. **Globalization World :** With the implementation of liberalization, privatization, and globalization policies in 1991, India opened its doors to the international economy and strengthened its ties to the outside world. As a result, ideas, technology, and culture were shared. The idea of cohabitation was one of the cultural customs that foreign MNCs and individuals brought with them. Many Indians started to see that living in a relationship is harmless as these foreign influences spread throughout the country. This idea, which enables people to form partnerships while retaining their freedom and avoiding the pressures usually associated with traditional family arrangements, is widespread in many foreign nations.⁵ Finding a compatible live-in partner is made possible by the abundance of social media platforms and dating applications available in other nations.

e. **Use of Social Media :** These days, middle-aged and younger people actively share their personal and professional life on social media sites like Facebook, Instagram, and Twitter. Additionally, they use social media to establish relationships and meet new acquaintances. Apps like Instagram and Tinder have grown in popularity as ways to meet new people, which can lead to romantic chances if two people are compatible. Social media's widespread use, which provides a safe and private setting for people to conceal their identities and communicate with others, has greatly contributed to the rise in live-in relationships in India. Social media platforms facilitate the formation of links between anonymous individuals, particularly in major cities.

f. **Delay in Marriage Age :** During British colonial times, females as young as 14 were getting married in India, where the average marriage age was relatively low. There was little opportunity for people to enjoy being

² <http://www.thegeminigeek.com/what-is-live-in-relationship>

³ <https://www.acubeias.com/article/salient-features-of-indian-society>

⁴ <https://www.legalserviceindia.com/legal/article-4562-live-in-relationship-legal-perspective-and-problems.html>

⁵ <https://www.qries.com/What-is-the-reason-behind-the-increasing-live-in-relationships-in-India>

single or think about living together because child marriages were so prevalent. However, marriage ages have risen throughout time. Due to variables including schooling, job searches, and increased unemployment, people now have more opportunity to explore live-in relationships, which causes marriages to be postponed.

g. **Economic Independence of the Younger Generation:** Young people in metropolitan areas are increasingly pursuing financial independence in order to live independently of their parents and make their own decisions. Many young people have gravitated to online platforms like YouTube and web series creation since the pandemic in order to make money. As a result, they are able to live independently and become less financially dependent on their relatives. They can follow their own lifestyles, including cohabitation, when their financial situation improves.

h. **To Reduce Stress and Maintain Independence:** Young people frequently experience stress from a variety of sources, including job, family obligations, and other obstacles in life. Many people seek someone with whom they may live freely and without outside demands in order to have a stress-free existence. An escape from these pressures is provided by live-in partnerships, which give people a place to enjoy life free from the weight of family obligations or societal expectations.

Judicial response

Due in large part to the absence of any legislation on the matter, Indian courts have adopted a complex stance regarding cohabitation. Because of this, judicial interpretation, human reasoning, and significant subjectivity have molded the legal concepts pertaining to cohabitation, especially with regard to their legitimacy and social acceptability.

In order to shield couples from attacks by their family, the judiciary has attempted to handle a variety of issues pertaining to cohabitation from the outset. In *Lata Singh v. State of U.P.*

& *Anr.*,⁶ the Supreme Court decided that as marital rules do not forbid such relationships, a couple living together without marriage is not guilty of any crime. The Court further stated that the only thing parents can do if they don't agree with their kids' nonmarital partner choices is to cut off social contact. It instructed police nationwide to prevent violence in relationships and to take criminal prosecution of those who commit such acts of violence.

In the case *Re: India Woman Claims Gang-raped on Orders of Village Court*⁷, the Supreme Court took suo motu cognizance of a West Bengal gang rape case that was mandated by a village panchayat because a woman was living with an unmarried man. The Court reiterated that, in accordance with Article 21 of the Indian Constitution, the state must defend a person's basic right to select a spouse. The Court stressed in *Vikas Yadav v. State of Uttar Pradesh & others*⁸ that self-imposed ideas of honor cannot compromise a woman's freedom and independence.

In cases involving cohabitation, the Supreme Court and High Courts have granted specific legal protections, especially for women and children. In the 2013 case of *Indra Sarma v. V.K.V. Sarma*, the Supreme Court recognized that long-term cohabitation can be regarded as de facto marriage, giving people maintenance rights. In general, even while cohabitation is not the same as marriage, the courts have attempted to provide legal protections in areas like such as inheritance, maintenance, and domestic abuse.

In India, the legal standing of cohabitation is still unclear. Nonetheless, the Supreme Court has given people in these kinds of partnerships additional legal safeguards. Additionally, by classifying these connections as "Domestic Relationships" under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005, the Indian Parliament has partially recognized these ties.

In the case of *Payal Sharma v. Nari Niketan*⁹, the Allahabad High Court addressed the most important matter concerning the absolute validity of live-in partnerships. The court strongly maintained that cohabitation is a

⁶ (2006) 5 SCC 475.

⁷ (2014) 4 SCC 786.

⁸ (2016) 9 SCC 541.

⁹ *Payal Sharma v. Nari Niketan*, AIR 2001 All 254.

personal decision made by the parties involved and that living together cannot be prohibited by the law. Even if a relationship is viewed as immoral by society, this does not automatically make it unlawful or violate someone's freedom. The court distinguished between morality and legality, ruling that while cohabitation may be considered immoral by cultural norms, it is neither unlawful nor a crime. People who live together are not criminals.¹⁰

After been upheld in a number of rulings, such as Guljar Khan¹¹, Shahjahan Khan¹², Lata Singh¹³, and Gaytri v. Rajasthan¹⁴, this viewpoint is now well-established in Indian family law. Twelve The Supreme Court reaffirmed this position in S. Khushboo vs. Kanniammal & anr.¹⁵, placing it in the framework of the right to life and liberty.

The Delhi High Court ruled in Alok Kumar v. State¹⁶ that a live-in relationship is marked by a lack of commitment and does not establish a legal bond between the parties. The court stressed that people who want a legally binding connection should choose marriage, where there are legal obligations and the link cannot be simply dissolved, referring to the live-in arrangement as a "walk-in and walk-out."

The Court examined the concept of a "relationship in the nature of marriage" in the context of the Domestic Violence (DV) Act in D. Velu Samy v. D. Patchaiammal¹⁷, comparing it to a common law marriage. According to Section 2(s) of the DV Act, the parties had to have cohabitated in a "shared household." For the purposes of the DV Act, however, only live-in partnerships that meet the requirements for common law marriages would be regarded as relationships in the type of marriage.

The Bombay High Court stressed in Reshma Begum v. the State of Maharashtra¹⁸ that the possibility of a formal marriage is a prerequisite for creating a "domestic connection" under Section 2(f) of the Act. The contested clause should not be construed in a way that encourages adulterous relationships, the Court decided. As a result, it determined that the petitioner was not entitled to any relief under the Act since the connection in question was not "in the nature of marriage."

According to the Hindu Succession Act, 1956¹⁹, children born to a man and woman who live together under one roof and cohabit for a number of years are deemed to be the couple's legitimate children and are entitled to succession rights²⁰.

In a similar vein, the Punjab High Court, presided over by Justice Harnaresh Singh Gill, decided in Sapna v. State of Punjab²¹ that a couple's right to cohabitation is unaffected by one partner's lack of marriageable age. According to Article 21 of the Indian Constitution, the Court reiterated that they have a basic right to live together.

The Uttarakhand High Court ruled on June 12, 2020, in Madhu Bala v. State of Uttarakhand & Anr.,²² that the legislature has recognized the concept of live-in relationships and that female partners in such relationships are protected by the Protection of Women from Domestic Violence Act, 2005.

While recognizing the legitimacy of cohabitation, the Allahabad High Court emphasized in Smt. Aneeta & Ors v. State of U.P. & Anr.²³ that cohabitation should not compromise the nation's social cohesion. A married lady who

¹⁰ Ramdev Food Products Ltd. v. Arvind bhai Ram bhai Patel, (2006) 8 SCC 726.

¹¹ Guljar Khan v/s The State of Madhya Pradesh and Ors., WP No. 1714 of 2022.

¹² Shahjahan Khan vs State Of U.P. And Ors., 2002 (1) AWC 598.

¹³ Lata Singh vs State of U.P. & Another (AIR 2006 SC 2522).

¹⁴ Gaytri and Another v. State of Rajasthan, 2022 LiveLaw (Raj) 250.

¹⁵ S. Khushboo vs Kanniammal & Anr (2010) 5 SCC 600.

¹⁶ (2010) SCC 2645.

¹⁷ MANU/SC/0872/2010: (2010) 10 SCC 469

¹⁸ Reshma Begum v. State of Maharashtra, (2018) 3 AIR Bom R (Cri) 482.

¹⁹ Section 2, The Hindu Succession Act, 1956.

²⁰ Section 50 & 114 of The Indian Evidence Act, 1872.

²¹ CRWP-11728-2021

²² Habeas Corpus Petition No. 8 of 2020

²³ WRIT- C No. 14443 of 2021.

sought protection while living with her lover was fined Rs 5,000 by the court, which made it clear that it was against illegal relationships rather than live-in relationships in general.

The Allahabad High Court rejected protection in *Smt. Geeta & Anr. v. State of Uttar Pradesh & Ors.*²⁴, pointing out that cohabitation with an already married individual was prohibited. The Court emphasized that although freedom of life is guaranteed under Article 21, it must be used within the bounds of the law.

In *Adarsh Yadav v. State of U.P.*²⁵, the Allahabad High Court acknowledged that, regardless of the legality of the marriage, it is sufficient to demonstrate that the woman and the accused were living together as husband and wife at the pertinent time for charges under Section 304-B (Dowry Death) and Section 498-A (Cruelty).

According to the Allahabad High Court's ruling in *Raksha and Others v. State of U.P.*²⁶, live-in relationships involving a person with a living spouse are not permitted by law since they could lead to legal chaos and damage the social fabric. The growing popularity of live-in partnerships underscores the need for precise, codified regulations, notwithstanding these differing rulings that both support and contest the recognition of such relationships. The Judiciary's Response on "Live-in Relationship" and Its Impact on the Institution of Marriage, particularly with regard to issues like inheritance, maintenance, and the legitimacy of children born from such relationships, must be addressed by Parliament through the enactment of specific legislation that clarifies the rights of individuals in such relationships. This would guarantee that people are aware of their rights and obligations and help to clear up any confusion.

II. SUGGESTIONS

a. **Definition of a Live-In Relationship:** Indian law currently lacks a precise definition of "live-in relationships," which has resulted in ambiguity and confusion. The lack of a proper definition contributes to societal issues such as extramarital affairs and other forms of non-marital living together.

b. **The Parties' Declaration:** Both partners must submit a declaration form indicating their intention to be controlled exclusively by regulations pertaining to live-in partnerships before the relationship may be legally registered. This statement would resemble the official written declarations mandated by other legislation, such as the Special Marriage Act of 1954 and the Muslim Women (Protection of Rights on Divorce) Act, 1986. Following the declaration, the registration procedure shall start on the declaration date. The partners must have lived together for at least two years at the time of registration in order to be eligible for rights similar to those of married couples.

c. **Recording of Living Situations:** India might implement a nonmarital cohabitation registration system modeled after Canada's Quebec Civil Code. If the couple later chooses to be married, their marriage will be seen to have started on the date of their cohabitation registration under this system.

d. **Live-in Partners' Property Rights:** Property that both live-in spouses acquire throughout their cohabitation—whether jointly or separately—should be shared according to co-ownership principles, with equal shares unless demonstrated differently. In a live-in relationship, this will help safeguard each partner's property rights.

e. **New Laws Regarding Live-In Partnerships :** It is necessary to pass a comprehensive law that addresses live-in partnerships in particular. With an emphasis on protecting women and children, this law would clarify the rights and obligations of cohabiting couples.

f. **Pre-nuptial Contracts :** To safeguard the rights of both parties, pre-nuptial agreements ought to be required in every cohabitation. An agreement should outline how the pair will manage separate or joint bank accounts, split costs, own property, and distribute assets in the event that one partner passes away or the relationship terminates. In the event of a divorce or the death of one partner, property gained during cohabitation, including the home, furniture, and other valuables, may be contested. The agreement should specify each partner's rights to the property in detail to prevent legal issues.

²⁴ WRIT- C No. 7542/2021.

²⁵ 2024: AHC:153514.

²⁶ WRIT - C No. - 1546 of 2024.

III. CONCLUSION

In conclusion, it is evident that couples who live together are not married and do not intend to be married. For a variety of reasons, they share a home and enjoy each other's presence. The idea of cohabitation has evolved over time as society has altered. The importance of compatibility, interfaith or love marriages, fear of divorce, drawn-out divorce court proceedings, commercialization of marriage, pursuing higher education in different cities, globalization, changing lifestyles, use of social media, delayed marriage age, younger generations' economic independence, the desire to reduce stress and maintain independence, and the growing work pressure in modern life are some of the factors contributing to the rise of live-in relationships.

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