

LIVE-IN RELATIONSHIP: AN IN-DEPTH SOCIETAL & LEGAL PROBE

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ABSTRACT

The concept of development and change in a society has a lot of ambiguity and contradictions. When it comes to changing a community's, mindset based on an ancient view, it can go through a lot of debate. One of the most common exemplars of this is live-in relationships. For a long time, Indian society did not allow live-in relationships. The practice was considered a taboo in the country, and the Hindu Dharma believed that "one man, one wife" was the ideal wedding method. However, as people started to evolve, the generations that followed were ready to accept some of these practices. The paper explores the support that India's judiciary gives to live-in relationships and the defiance that often accompanies them. It covers the various legal aspects of live-in relationships, such as maintenance and the dispensation of the child consummated out of it.

KEYWORD

Legality, co-habitation, ancient practice, society, changing mindsets, judicial views.

INTRODUCTION

In this world, change is the only thing that remains constant. In the past few years, the Indian society has undergone a drastic change. People have started to open up to the idea of live-in and pre-marital relationships, though these concepts are often criticized and are not accepted by society.

In a live-in relationship, couples don't get married to each other, but they still live together as if they were married. This type of relationship is referred to as cohabitation, and in India, it is only recognized if the marriage between a man and a woman has taken place.

The reason behind people who live-in with their partners is that, they are often looking for compatibility before getting married. It also eliminates the risk of family drama and the endless court proceedings that would follow if the couple breaks up. In a society where marriage is regarded as a sacred institution, more couples are choosing to have live-in relationships instead. Due to the increasing number of couples living together as if they were married, various social and legal issues have been raised. Over time, there have been several instances where partners in live-in partnerships or a child born out of them have been vulnerable due to the legal status of these relationships. Since they have no responsibilities or duties, the partners in these relationships and also the society have often abused them both mentally and emotionally

Manu believed that premarital and live-in relationships were first observed during the Vedic period, and they were rare occurrences thereafter. This means that the concept of premarital relationships is not a new one in India. Even though marriage was the norm in ancient times, Hindu scriptures also acknowledge and support the existence of such relationships.

During medieval times, concubines were allowed to have significant offspring when wives were unable to bear children. Although this practice was common throughout the world's history, it had a legal status in medieval times that was similar to that of marriage. There were various sexual slavery instances that occurred during this period, and the legal status of these partners varies.

When British Indian Laws and social reformers started to emerge in India, they laid out a plan to put an end to harmful practices. This led to a decrease in the incidence of concubinage, among other such evils. Even after India's independence, the practice of concubines was still carried out. In Gujarat, a woman would enter into a contract with a man, stating that she would not claim the man after their relationship ends. This type of contract was very common during this period.

Although the concept of live-in relationships is new to the world, ancient Vedic astrology has the necessary tools to deal with it.

LEGAL FRAMEWORK

In India, the concept of marriage is typically decided by the laws of the individual. Even though the legislature does not officially recognize the concept of living-in relationships, courts have maintained their validity.

The Constitution of India gives its citizens various rights and freedoms. Among these is the freedom of expression and speech, which are protected under article 19. It states that everybody in the country has the right to reside in any part of it. Article 21 also provides that everyone has a right to life, and the right to choose a partner is protected by these rights, though they are not absolute.

In a case¹ was decided by the Supreme Court in 1978, it was stated that a couple of partners, who have been living as husband and wife for an extended period of time, can assume a presumed marriage. "A strong presumption arises in favor of wed-lock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of its legal origin," ruled the SC.

Pertinence of various laws in a live-in relationship

1. "Domestic Violence Act (Protection of Women from Domestic Violence Act, 2005)"²: The Act provides protection and rights to women who are in a relationship similar to marriage, and are subjected to domestic violence. This includes women in live-in relationships as long as they fulfill certain criteria like cohabiting for a significant period and being financially dependent on the partner.

¹ Badri Prasad Vs Board of Consolidators

² Tripaksha Litigation, July 6th, 2023, Legality of Live-in Relationship in India.

<https://tripakshalitigation.com/legality-of-live-in-relationship-in-india/>, accessed 20th August, 2023

2. Hindu Marriage Act, 1955: While this law primarily deals with the solemnization of marriages, Indian courts have extended certain rights and protections to couples in live-in relationships of certain duration, treating them as akin to a de facto marriage.
3. Section 125, CrPC, 1973: This section provides for maintenance to wives, children, and parents. In some cases, Indian courts have held that women in long-term live-in relationships are entitled to maintenance under this provision.
4. Children's rights: In cases involving children born out of live-in relationships, courts have generally taken the stance of safeguarding the child's rights, including issues related to maintenance, custody, and inheritance.

Landmark Judgments regarding Live-in relationship in India

1. D. Velusamy v. D. Patchaiammal³: The case is regarded as a significant step in the recognition of the rights of partners who live together. The Apex Court ruled that an alliance that is "in the nature" of espousal is covered by the 2005 Domestic Violence Protection Act. It also required protection for partners in such relationships depending on their status.
2. "Indra Sarma v. V.K.V. Sarma"⁴⁵: The Apex Court in this case highlighted the concept of "palimony" (similar to alimony) in India and recognized that a woman in a live-in relationship might be avail maintenance if certain conditions are met, such as the duration of the relationship and the pooling of resources.
3. Chanmuniya v. Virendra Kumar Singh Kushwaha⁶ : "The Supreme Court ruled that a female in a cohabiting relationship is entitled to maintenance under Section 125 of the

³ AIR 2010 SC 1775

⁴ Sanjay Kumar Sah. Live-in Relationship: Laws In India. Legal Service India. <https://www.legalserviceindia.com/legal/article-10718-live-in-relationship-laws-in-india.html>. Accessed August 20, 2023.

⁵ AIR 2014 SC 309

⁶ (2011) 1 SCC 141

Code of Criminal Procedure, provided the relationship meets the criteria of a 'relationship in the nature of marriage' as outlined in earlier judgments."⁷

4. *Khushboo v. Kanniammal*⁸: While this case didn't directly deal with live-in relationships, it addressed issues of morality and pre-marital sex. The Supreme Court held that living together without marriage is not an offense and that such relationships are part of changing societal norms.
5. *Abhijit Bhikaseeth Auti v. State of Maharashtra*⁹: The court noted that if a couple is living together for a long time, then they are considered to be living without a proper marriage.
6. *Payal Katara v. Superintendent, Nari Niketan Kandri Vihar Agra*¹⁰: While this case doesn't directly pertain to live-in relationships, the Supreme Court emphasized that an adult woman is free to live her life as she wishes. The court highlighted the importance of personal liberty and choice in relationships.

The rulings have helped recognize the privileges of partners in live-in partnerships, encompassing issues such as domestic violence prevention, maintenance, and entitlements that are similar to those granted to married individuals.

RESEARCH METHODOLOGY ON LIVE-IN RELATIONSHIP: AN IN-DEPTH SOCIETAL & LEGAL PROBE

The goal of this study is to analyze the legal status and rights of Indian partners in live-in relationships. It will look into the varying perspectives on this subject, focusing on the partners' obligations and societal norms. The research methodology employed for this study utilizes both legal and qualitative methods to provide a deeper understanding of the matter.

Research Objectives

⁷ Ajeeth Kumar. *Chanmuniya Vs. Virendra Kumar Singh Kushwaha*. Legal Vidhiya.

<https://legalvidhiya.com/chanmuniya-vs-virendra-kumar-singh-kushwaha/>. Accessed August 20, 2023.

⁸ AIR 2010 SC 3196

⁹ 3 Cri.LJ, 889, 892(Bom.2009)

¹⁰ AIR 2001 All 254

- This study aims to analyze the evolution of legal perspectives related to India's live-in relationships.
- The study will look into the rights and duties of partners in such relationships from a legal perspective.
- The study will look into the cultural and societal factors that influence the recognition of such relationships by society.
- The study will analyze the legal standards that have affected the status of cohabiting partnerships in India.
- The study will also provide recommendations on possible legal amendments and clarifications related to cohabiting relationships.

Research Questions:

- What is the legal definition of a live-in relationship in India?
- What are the legal rights and protections available to individuals in live-in relationships?
- How do Indian courts approach disputes arising from live-in relationships?

4. Literature Review:

Due to the increasing number of live-in relationships being conducted in India, the legal status of these relationships has been the subject of much debate. This review aims to provide a comprehensive analysis of the various aspects of this issue, including the laws and judicial decisions related to it.

a) Historical Context:

The concept of live-in relationships has ancient roots in Indian culture, as evidenced by references in ancient texts and epics. However, traditional societal norms and legal frameworks primarily revolved around the institution of marriage.

b) Legal Framework and Judicial Interpretations:

The Indian legal framework regarding live-in relationships is complex and multi faceted.

The key laws and interpretations include:

- Protection of Women from Domestic Violence Act, 2005: This act recognizes women's right to reside in a shared household, regardless of marital status, thus providing protection to women in live-in relationships.
- Supreme Court Judgments: Landmark cases like *D. Velusamy v. D. Patchaiammal* and *Indra Sarma v. V.K.V. Sarma* have contributed to the legal discourse on live-in relationships. The court held that long-term cohabitation with a semblance of marriage can be considered akin to a valid marriage.

c) Legal Ambiguities and Challenges:

Despite judicial recognition, several legal ambiguities persist:

- Lack of a Specific Legislation: India lacks a dedicated legislation that comprehensively addresses the rights and responsibilities of individuals in live-in relationships.
- Property and Financial Rights: The absence of clear legal provisions often leads to disputes regarding property and financial rights, especially in cases of separation.

d) Evolving Judicial Perspective:

Indian courts have shown a trend towards recognizing the rights of partners in live-in relationships. They consider factors such as duration of cohabitation, mutual commitment, and public acknowledgment.

e) Social and Cultural Factors:

The acceptance of live-in relationships varies across different segments of society. Traditional values often clash with the progressive notion of personal autonomy and choice.

f) Legal Reforms and Debates:

The absence of a uniform legal framework has prompted debates on whether live-in relationships should be regulated by specific laws. Scholars have proposed enacting legislation to address property, inheritance, and maintenance rights.

g) Comparative Analysis:

Comparative studies have explored how other countries approach the legality of live-in relationships. Understanding international perspectives can inform India's legal stance.

5. Research Design:

The research design outlines the methodology, data collection, and analysis procedures that will be employed to investigate the legality of live-in relationships in India. The design aims to achieve a comprehensive understanding of the legal framework, judicial interpretations, societal perceptions, and potential reforms related to live-in relationships.

a. Research Approach:

This study will utilize a mixed-methods research approach, incorporating both qualitative and legal analysis methods. This approach will provide a holistic view of the subject, considering legal provisions, judicial decisions, and societal perspectives.

b. Data Collection Methods:

- **Legal Analysis:** Conducting an in-depth analysis of relevant legal provisions, statutes, and judgments pertaining to live-in relationships in India. Examine family, property, inheritance, and domestic violence laws to understand the legal implications for individuals in live-in relationships.
- **Case Study Analysis:** Selected key legal cases related to live-in relationships and analyzing them in detail. Exploring how courts have interpreted and applied the existing legal framework in specific instances.
- **Documentary Analysis:** Examining academic articles, research papers, and reports that discuss the legal aspects and social implications of live-in relationships in India. This will provide insights into the scholarly discourse and the evolving legal landscape.

RESULTS

The legal status of live-in relationships is a complex issue that affects different aspects of Indian society. This study explores the relationships' fabric to better understand their potential impact on the country's social and cultural development. The study also found that the relationships' complex interplay between contemporary realities and traditional norms is constantly evolving. The study revealed that there is a link between the attitudes of Indian society toward live-in relationships and traditional values and norms. These values and norms can often conflict with the desire for autonomy and choice in relationships. This tension can affect the legal status of these relationships and the acceptance of them by society. The study's findings support the growing call for legal reforms that can help address the rights and duties of individuals in live in relationships. Lawmakers should create a legal structure that can accommodate the changing dynamics of such relationships.

CONCLUSION

In India, the rights and interests of individuals in live-in relationships have gradually been protected through the years. Although such relationships aren't legally recognized as marriages, courts have been able to recognize their importance in certain cases. Important rulings by the Supreme Court have helped pave the way for more practical guidelines for people in such relationships. But, the scope of these legal boundaries still remains unclear. The legislative and judiciary branches of India should strike a balance between modernity and tradition to safeguard the interests of individuals in such relationships. Doing so will help uphold society's diversity. As Indian society continues to evolve, it is important that the legal status of live-in relationships is acknowledged. Doing so will enable equality, justice, and respect for individual freedom.

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