

# “LIVE IN RELATIONSHIPS: An urge for International standards”

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## 1. Abstract

Live-in relationship has consistently been the focal point of discussions as it have dangers to our essential cultural structure. It is not treated as an offense as there is no law until the date that disallows this sort of relationship, especially in metropolitan regions have to mainstream since individuals are starting to see bafflement or breakdown of relationships or when a couple is as yet hesitant to make further strides. This is additionally a tremendous advance where accomplices can know and see one another and could ultimately prompt real marriage. Albeit live-in relationship is well known in different nations however there are still nations that actually restrict the idea of live-in relationship because of different reasons whether it would be strict or social, with some of them are keeping in mind a taboo as live-in relationship requires no conjugal status or a legal status, and because of the moderate idea of a portion of the nation's marriage is given more weight. Due to this individuals in their young people are confronting many issues because of their non-conjugal status.

Still India has not authorized live-in relationships and there is no unique enactment for it. Courts much of the time declined to make any sort of sure strides towards sanctioning such practice by permitting any mandatory arrangements between unmarried couples as this could struggle with the overall society procedure. It winds up clearly evident that the Indian legal executive isn't set up to treat all sort of living relations as much the same as marriage. It is the obligation of the legal executive to guarantee that the law needs to oblige with the changing situation of the general public. Despite the fact that courts through different decisions and case laws endeavored to get a reasonable picture in regards to the status of live seeing someone, yet it stays hazy on different perspectives, where there is an earnest requirement for having various arrangements of rules and guideline and codification concerning such sort of relationship.

## 1.2 Live in relationships and its Legal dimensions: A general Introduction

India is a nation giving huge respect and regard for human rights and treating it as an essential element when it comes to legislations. Each individual has an opportunity to opt his life and life accomplice for setting up a family through marriage. The motivation behind marriage is to make a feeling of responsibility regardless

of its challenges. Marriage is a simple social foundation which gives lawful acknowledgment to a couple however doesn't ensure any manageability and if an individual needs to choose a live-in relationship involves his or her decision and a matter of privacy. No such enactment has been made at this point in India on the topic of live in relationships, yet Courts have consistently been dynamic and assumed an essential job to ensure the interest of those persons when it comes to their life. In any case, the issue doesn't lie in the lawfulness of the relationship any longer however in the general public, despite the fact that courts have projected a ground breaking and permitted and gave rights to such relations, a large portion of the population actually doesn't acknowledge this we actually see the issues of unmarried couples in the society when it comes to social orders. Thusly, except if view of individuals changes nothing can be adjusted in the society.<sup>1</sup>

### 1.3 The pathway of Live-In Relationships in India

Since the British rule the concept of living together in India had been treated as a taboo. Be that as it may, this is not, at this point valid in huge urban communities, yet is still frequently found in country zones with more traditionalist qualities. In a live in relationship, by virtue of Protections of Women and Domestic Violence Act, 2005, women are having monetary rights. In October 2008, the Maharashtra government affirmed a proposition recommending that a lady engaged with a live-in relationship for a period which is reasonable is ought to get the status of a spouse. Regardless of whether the period is reasonable or not is controlled by the existing realities and conditions according to each cases.

In 30th June 2008, The National Commission for Women raised a concern and made a recommendation to the Ministry of Women and Child Development regarding the definition of the term 'wife' as portrayed in Section 125 of Cr.P.C, should incorporate women engaged with a live-in relationship. The point of the suggestion was to coordinate and maintain a healthy arrangements of law ensuring safeguarding of females from abusive behavior at home and furthermore to place a live-in couple's relationship at a standard as that of a lawfully hitched couple. For this reason, a Committee was set up by the Supreme Court known as the Justice Malimath Committee and this committee had pointed out that, If a man and a lady are in a live in relationship as a couple for a sensible significant duration of time, the man will be considered to have married to that lady.

The Malimath Committee had additionally proposed that the term 'wife' under Cr.P.C be altered to incorporate the aspect of 'woman living with the man like his wife' so that even a lady leading a live-in relationship with a man would likewise be qualified for legal support. Supreme Court in the case of *Abhijit Bhikaseeth Auti v.State Of Maharashtra and Others*<sup>2</sup> noted that it isn't vital for a lady to carefully build up the

<sup>1</sup> Available at <https://www.legalbites.in/socio-legal-live-in-relationships/> last visited on 15/01/2021

<sup>2</sup> AIR 2006 SC 2522

marriage, to seek for her rights regarding maintenance by virtue of Section 125 of Cr.P.C. Hence, a lady in a live-in relationship may likewise rise her voice to get legal support by virtue of Section 125 Cr.P.C.

Another important case was, *Payal Katara v. Superintendent Nari Niketan Kandri Vihar Agra and Others*<sup>3</sup> the Allahabad High Court expressed that a live-in-relationship isn't unlawful. Justice R.B. Mishra and Justice M Katju expressed their view that, as a man and a lady, even without getting wedded can lead a life together that they wish to. This might be viewed as unethical by society, however isn't unlawful.

The Malimath Committee had additionally proposed that the term 'wife' under Cr.P.C be altered to incorporate the aspect of 'woman living with the man like his wife' so that even a lady leading a live-in relationship with a man would likewise be qualified for legal support. In 2009, Supreme Court in a case noted that it isn't vital for a lady to carefully build up the marriage, to seek for her rights regarding maintenance by virtue of Section 125 of Cr.P.C. Hence, a lady in a live-in relationship may likewise rise her voice to get legal support by virtue of Section 125 Cr.P.C.

In this case, the Allahabad High Court precluded that, a woman having 21 years old being a major person has the privilege to live with a man even if they are not married, if both so wish. Also, Supreme Court considered this aspects and observed that a man and lady, whenever engaged with a live-in relationship for a long run, they will be treated as wedded couple and their children would be treated with a legitimate status.

#### **1.4 Indian perspective on live in relationships: A journey through judicial decisions**

The stand of Indian Judiciary on live-in-Relationships as far as Indian legal executive is concerned, the comprehension of marriage and the thought of live-in relationship has steadily moved from the customary view to an advanced existence of the evolving society. Live-in relationship is acquiring significant fame particularly among the well-educated class in the society and among gatherings that includes people who are aware about their privileges. Such dynamic trends in the society is highlighting serious concerns about live-in relationships and the rights of partners who are maintaining live-in relationships.

The rights and commitment which such couples have towards one another and the status of youngsters resulting from such a tie radiates an obscured shadow. No law regarding the matter has been formed. The law is adumbrated in the courts by means of cases stage by stage.

In India, *A. Dinohamy v. WL Blahamy*<sup>4</sup> is the first case that concerned about the concept of live-in relationship before independence. The Privy Council set out an expansive guideline hypothesizing that, where a man and

<sup>3</sup> AIR 1952SC 23

<sup>4</sup> AIR 1927 P.C. 185

a lady are proved to have cohabited respectively as spouse, the law will assume, except if the opposite be obviously proved, that they were living respectively in outcome of a substantial marriage and not in a condition of concubinage. A similar standard was emphasized on account of *Mohabhat Ali v. Mohammad Ibrahim Khan*<sup>5</sup>

The first case that arose after independence is *Badri Prasad v. Dy. Head of Consolidation*<sup>6</sup> through the judgement of this case, the Supreme Court recognised the concept of live-in-relationship as legitimate marriage. Now, there is a commendable and dynamic change in the concept of live-in relationships. Now, there is a change in the outlook of the comprehension of live-in-relationships by the courts from prior cases and have proposed that live-in relationship are not illicit.

Another important decision was maintained on account of the case, *Tulsa v. Durghatiya*<sup>7</sup> where live-in-relationship for a long time span was perceived as equal to marriage. In the case of *Kushboo vs Kanniammal*<sup>8</sup>, a three judge bench comprising of Chief Justice K.G. Balakrishnan, Justice B.S. Chauhan and Justice Deepak Verma considered this notion of live-in relationship and commented that living together is not an offence.

The Indian courts have attempted to mediate in issues identifying with live-in-relationships and opened the entryways of expectation for the individuals who prefer live-in-relationships. In *D.Velusamy v D.Patchaiammal*<sup>9</sup> Supreme Court tried to give a clear separation between the notion of relationship in the nature of marriage and live-in relationships laid down conditions for ladies looking for upkeep in live-in-relationships.

All these decisions of the court may give a clear route for individuals to consider an option of live-in-relationships. This sort of relationships is gradually getting acknowledged among the general public, which unequivocally accept that such relationships will break all social and good slants identifying with marriage that includes language, dowry, caste, religion, region, nationality and so on, and will make a lenient and judicious society<sup>10</sup>.

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<sup>5</sup> AIR1929 PC 135

<sup>6</sup> AIR 1978 SC 1557

<sup>7</sup> Air 2008 SC 1193

<sup>8</sup> AIR 2010 SC 3196

<sup>9</sup> AIR 2005 SC 1809

<sup>10</sup> Socio-Legal Dimensions of Live-In-Relationships in India, IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 19, Issue 7, Ver. VI (July. 2014), PP 25-29 e-ISSN: 2279-0837, p-ISSN: 2279-0845. Available at, www.iostjournals.org last visited on 16/01/2021

### 1.5 Live in relationship: The lack of special laws in India

In India Live-in relationship is lawful in spite of the fact that there is no lawful definition in the Indian laws and there is an absence of explicit law which offers rights to the couples of the live-in relationship. In setting to the instance of the case, *S. Khushboo V. Kanniammal and Anr*<sup>11</sup> The Supreme Court passed a judgment which says that, the live-in relationship might be unethical in the notion of the society because of strict and moderate ideology followed and practiced in the society but it can never be treated as illicit, eventough in India marriage is given as a significance over live-in relationship. India being a developing and progressive country, strict and special laws should be implemented exclusively for the live-in relationships, so that the couples can claim their legal rights and can ensure that their rights are not suppressed along with the enjoyment of a live in relationship status.

The idea of live-in relationship is new in India since youngsters fear the social assent forced by the general public yet as due to the dynamic effects, the notion of live in relationship is getting more typical in the metropolitan zones. Live-in relationship is likewise a methods that prompts an independence from the obligations and responsibility which can be fundamental in marriage.

### 1.6 Rights of men in a live-in relationship: A vacuum in the existing general laws

Amidst the lack of a special law in India, the only provision that consider this concept of live in relationship is the Protection of Women from Domestic Violence Act, 2005, concerning the privileges and legal rights of females in a live-in relationship, considers ladies who are not wedded officially yet are living with a male accomplice which is comparable to marriage. Even, Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 characterizes the domestic connection between two persons who are leading a life together in a shared house or are connected by marriage or a relationship which is in nature of a marriage. In this way the definition additionally includes accomplices of a live-for relationship.

Even, the instance of *Varsha Kapoor Vs Union of India*<sup>12</sup>, the Delhi High Court held that female accomplice living in a relationship similar to marriage has an option to file an objection against her male partner and also against his family members. When we consider all these observations made by various courts along with the general provisions available by virtue of Section 125 of Cr.P.C and Section 2(f) of the Protection of Women from Domestic Violence Act, 2005, there is a huge vacuum in laws concerning live-in relationship.

<sup>11</sup> Supra n 8

<sup>12</sup> WP (CrL.) No. 638 of 2010

The position of men in a live in relationship is blurred and their rights are suppressed and are not considered. This should be changed and their rights should also be protected, enactment of special laws concerning this matter will definitely help to recognize the problems faced by males in a live in relationship. There is an alarm concerning the necessity for the protection of rights of men in live in relationship. Since, being a citizen of India both the partners have equal rights in general as an individual but when it comes to a right concerning live in relationship, laws should be specifically framed for both men and women so that the rights of both the partners will be protected by the laws without a vacuum in a standard form.

### **1.7 International laws concerning live-in relationships: A comparative study**

#### **Laws in France**

In 1999, in France a law has been introduced that made arrangements for, civil solidarity pacts, permitting couples including even of same sex, to go into an association and be qualified for similar rights as wedded couples in such zones as annual expense, legacy, lodging and social government assistance. Couples, who need to go into such a relationship may join by signing before a clerk of the court and can disavow the agreement with a basic presentation, made recorded as a hard copy, which gives the accomplice three months notification.

#### **Laws in Philippines**

By virtue of Article 147 of the Family Code of Philippines, it says that, when a man and a lady who are capacitated to wed one another, live only with one another as a couple without the advantage of marriage or under a void marriage, their wages and compensations will be claimed by them in equivalent offers and the property procured by the two of them through their work or industry will be administered by the standards on co-proprietorship.

#### **Laws in Canada**

The concept of live-in relationship is perceived as Common law relationship in Canada, and couples who are living respectively is identical to that of a marital relationship throughout a term of time needed by the law, at that point it is mainly well known and considered as common law relationship. This can be drilled either by straight couples or individuals who are in same-sex relationship.

The British Columbia's Family Relations Act is one of the Act in which it expresses that a couple who have lived in a marriage like relationship for a time span of two years and if the application made under the Act is made within a year after they quit living respectively. The marriage like relationship can be between same or the opposite gender.

#### **Laws in Scotland**

Family Law (Scotland) Act, 2006, unexpectedly distinguished, and in the process of course, legitimized live-in relationships. By virtue of section 25(2) of the Family Law (Scotland) Act, 2006, the court can think about an individual as a co-habitant of another by minding three factors, that includes, the length of the time frame

during which they lived respectively, the idea of the relationship during that period and the nature and degree of any monetary courses of action. Also, from the year of 2006, in Scotland, if a child is born out of a live-in relationship then, that unmarried father has the parental obligation if his name is on the child's birth certificate. Same is the position in Northern Ireland from the year of 2002.

### **United Kingdom**

The notion of live-in relationship is to a great extent is covered by the Civil Partnership Act of 2004 in United Kingdom. In spite of the fact that a man and lady living respectively in a stable sexual relationship are frequently alluded to as custom-based law companions, and the articulation isn't entirely right in law in England and Wales. The Government feels that these couples owe each other more than that to be deserving of the term. According to a 2010 note from the Home Affairs, it is observed that the unmarried couples have no ensured rights to responsibility for other's property on breakdown of the live-in relationship. In the event that a living together couple isolates, the Courts have no ability to supersede the exacting legitimate responsibility for and partition it as they may do on separation. Unmarried accomplices have no legacy over their accomplice's assets on death. Living together couples are treated as detached people for tax assessment purposes.

### **United States of America**

The lawful history of America, was then an observer to a few consensual sex enactments, which prepared for living together contracts, the arrangements that are prenuptial. The nation later systematized living together by giving cohabiters basically similar rights and commitments as wedded couples, a similar circumstance can be seen in Sweden and Denmark. Those living respectively are not perceived as legitimate guardians.

### **1.8 Conclusion**

The notion of live-in relationship are living course of action in which a man and a lady who are unmarried live respectively like a couple without the lawful approval called marriage. This is an idea that has not acquired social acknowledgment in India. At the point when live-in relationships started getting recognized in the society, it made a public shock as it was viewed as violative of Indian culture and virtues. Recent court decisions on live-in relationships open mindfulness and clearness about this social issue. Even, Supreme Court passed Judgment stating that children born to Live-in Couple are not Illegitimate. Court decisions have consistently given expansive understanding of law to ensure the privileges of child and women. Regarding live-in relationships, courts have passed decisions that have thought of it as critical to secure rights of child born out of live-in relationships. Hence, in 2008, Court ruled that the children who are born out of live-in relationships will never be considered as illegitimate child and their rights will be protected. Followed in the year 2010, the Supreme Court held that a live-in relationship that has existed for quite a while will be viewed as marriage and child born to such a couple won't be treated as ill-conceived or an illegitimate child.

Domestic Violence Act, 2005 provides provisions that are presently reached out to the individuals who are in live-in relationships. Amendments are made with an intention to ensure the survivors of domestic maltreatment or violence in live-in relationships. Section 2 (g) of the Domestic Violence Act, 2005 gives that a connection between two people who live together or have lived together in the past is considered as a domestic relationship. A lady who is in a live-in relationship can look for lawful alleviation against her accomplice if there should be an occurrence of misuse and harassment. Further, the new law additionally secures Indian ladies who are caught in deceitful or invalid relationships.

### 1.9 Suggestions

As there is a dynamic change in the society, and by examining the socio-legal status of live-in relationship couples around the globe, it should be noted that, a greater part of couples go for live-in relations since they would rather not be separated through seeking divorce from court of law and also to avoid unnecessary stress of marriage and legal complications. It is dubious that the live-in idea is adequate or not. However, it is digging up step by step and it needs moral and legitimate concerns. Since law is concerned about the rights of individuals, there is an express need for implementation of a special law, exclusively concerning the notion of live-in relationships, so that the rights of both men and women will be protected.

Only a few nations are open to the concept of live-in relationships and has given them a lawful status and some are still against the training as they think about it as a taboo. Human instinct is exceptionally powerful and baffling. On one hand, we are extremely threatening to changes since it may change or upset the old tradition, yet then again we do bring these progressions so that individuals from varying backgrounds can advance to improve.

Individuals who are once threatening to switch to live-in relationships will in the long run will definitely open up this notion. Nations that once preclude the act of live-in relationship will make it legitimate later on as change doesn't occur without any forethought. The facts demonstrate that it is a long cycle for most nations to decriminalize or eliminate limitations on live-in relationship yet the cycle will happen at any rate.

Accordingly everything we can do is that to fight for a change by suggesting the implementation of a special legislation for couples who are having a status of live-in relationship, so that the rights of both men and women will be protected, including both heterosexual and same sex couples and that will lead to maintain a balance in the socio-legal aspects in the society.