
LIVE-INRELATIONSHIP: A THREAT IN INDIA

AMIT KUMAR,

Assistant Professor, S D College of Law, Muzaffarnagar ,
Mobile No. 9410898122, Email- amitchauhan920@gmail.com

PRITI LOUR,

Assistant Professor, S D College of Law, Muzaffarnagar
Mobile No. 9410891945, Email- pritchauhan920@gmail.com

Abstract

The National Commission for Women's proposal to change section 125 of the Criminal Procedure Code to include women in live-in relationships and make them eligible for alimony from their live-in partners has drawn widespread attention in recent years. Some people believe that giving women or female partners in live-in relationships the ability to seek alimony is a grave affront to society's most important social institution. In India, a marriage can be solemnised, which is simply a promise to support one another through good times and bad, made in front of the community's elders and with their approval. In contrast, a live-in relationship is started by the couple as a way to continue their connection without having to fulfil the aforementioned social obligations. Some individuals believe that a live-in relationship can help a person find their ideal partner,¹ therefore as long as it is a step toward marriage, there is no harm in it.

1.1 INTRODUCTION

There has been an intriguing rise in the number of people choosing live-in relationships over marriage in recent years. This practise has long been common in western nations, and it is now spreading to Asian countries as more and more couples opt to live together because it is more affordable, gives them more freedom, and other factors. It is especially enticing to today's youth, who lead busy and stressful lives and lack the time or patience to deal with all the emotional issues that accompany marriage. There is no disadvantage to giving up rights or obligations when living together, except from the criticism it brings.

PERCEIVED THREAT TO MARRIAGE AS AN INSTITUTION

On the sanctity of relationships after same-sex marriages, arguments have often come up. In India, it is widely believed that this form of acknowledgment poses a danger to Indian culture and the institution of marriage itself. Cohabitation and any other type of domestic connection without public approval are considered as a threat to marriage in a nation with a rich cultural legacy, strong ties to families, and strong ties to society. The status of live-in partnerships has altered because no rights have been granted to the partners in such relationships by law, despite certain steps the judiciary has taken to protect those rights. The judiciary's actions were required because there isn't a comprehensive set of legislation that address live-in relationships.² — DY Director of Consolidation v. Badri Prasad was the first case that was examined. Here, the Supreme Court overruled the authorities' objections to the couple's 50-year lived-in relationship by recognising it as a legally

¹Retrieved from <https://www.hindustantimes.com/india/ncw-pleads-case-of-live-in-partners/story-QUkFC76vsLYsd1eAihUI.html>, visited on Feb. 12, 2018

²Retrieved from <https://www.cpj.edu.in/wp-content/uploads/2018/05/law-journal-2014-final.pdf>, visited on Mar. 31, 2018

binding marriage. Similar decisions were made in several other situations, which will be covered in more detail later. People were afraid that the institution of marriage would be threatened by the acceptance of such partnerships because of the numerous judgments that were made.

LIVE-IN RELATIONSHIPS IN INDIA: SOCIO-LEGAL ANALYSIS

The basic difference between a marriage and a live-in relationship can be viewed in terms of how society views the concept. On the one hand, live-in relationships are looked down upon while marriage is accepted and welcomed with open arms.³ The numerous increases in the number of live-in partnerships in India show the bondage to free living and metropolitan tenor, but they have also presented some serious threats. In India, the idea of a husband and wife and the perception of marriage as having a high level of sanctity are quite prevalent.⁴

The concept of live-in relationships gives rise to a number of misconceptions. Some would assert that it encourages bigamy, while others might assert that it causes adultery. In the case of *Payal Katara v. Superintendent Nari Niketan Kandrivihar*⁵ and others, where it was shown that the plaintiff was already married to Rajendra Prasad, the court maintained the plaintiff's right. Although the court acknowledged the plaintiff's right to cohabitation, there were concerns raised regarding the wife's entitlement. The status of wife given to someone in a live-in relationship who is already married is a subject that needs to be answered since the Protection of Women from Domestic Violence Act of 2005 attempts to protect the rights of live-in partners.⁶

The Malimath Committee was established to address these problems, and they offered several recommendations. The Malimath Committee recommended recognising a live-in partner as a wife in cases where the relationship had lasted for a substantial amount of time. The Supreme Court's stance on this relationship demonstrates its clarity in identifying live-in relationships. Along with this, ideas for equating the status of a partner and a wife and including a live female partner under the provisions of Section 125 of the Code of Criminal Procedure were also made. Since the individual entering a live-in relationship may already be married, there was fear that this might encourage bigamy. The position of the wife is also compromised because the court is simultaneously granting a female partner all of the privileges of a wife while outlawing bigamy. The right to a live-in female companion is not as secure as the right to a legally wedded wife, which is still under jeopardy. Even now, according to Section 7, such partners' rights to maintenance are not guaranteed, and exercising such rights remains difficult. As shown above, marriage enjoys societal acceptance and, as a result, protection; nevertheless, there is no evidence of a live-in relationship, and one might readily deny such a situation.⁸

With the exception of the *Marvin v. Marvin*⁹ decision by the California Supreme Court, our Indian courts had little legal basis when they first started looking into this issue of live-in relationships. This case involved the

³ Retrieved from <https://www.cpj.edu.in/wp-content/uploads/2018/05/law-journal-2014-final.pdf>, visited on Mar. 4, 2018

⁴ Retrieved from https://www.researchgate.net/publication/286440123_Socio-legal_dimensions_of_live-in_relationship_in_India; live-in_relationship; in_India, visited on Jan. 21, 2018

⁵ MANU/UP/0288/2001

⁶ Retrieved from <https://www.legallyindia.com/views/entry/right-of-maintenance-to-women-in-live-in-relationships>, visited on May 3, 2018 and also available at sheljafinaldissertation.doc

⁷ *ibid*

⁸ Retrieved from <https://www.legallyindia.com/views/entry/right-of-maintenance-to-women-in-live-in-relationships>, visited on May 3, 2018 and also available at sheljafinaldissertation.doc

⁹ 18 Cal. 3d 660

well-known actor Lee Marvin, with whom Lady Michelle had a long-term relationship without getting married. After he left her, he filed a palimony claim. The division of property obtained in a relationship outside of marriage, however, was not governed by American family law and instead was left to the exclusive discretion of the court. The idea of palimony was developed by the court as a solution to its predicament. The plaintiff must demonstrate in a palimony lawsuit that the commitment to provide financial support is not a meretricious agreement that is established in exchange for additionally being accessible at the conclusion of a live-in relationship, the court stated. Due to the contracts' resemblance to prostitute contracts, the court will not enforce contracts that promise a sexual relationship (docx). The concept of palimony has since been refined and taken into account in other American rulings, as well as being included in Indian judicial pronouncements.

LIVING TOGETHER AND GAINING ACCEPTANCE IN SOCIETY

Live-in relationships are not illegal, according to the judiciary, even though society does not appear to recognise this. In the Naaz Foundation case, which dealt with legalising gay marriages, which would also broadly mean accepting the arrangement of cohabitation of gay/lesbian couples, the most ardent moralists and traditionalists criticised the Delhi High Court for its conclusion that it is time to decriminalise S.377 of the IPC. Social ills in India are increasingly changing the way society there looks. According to many, there are many successful real-world examples of live-in relationships; this idea is popular among higher urban classes, so the law's legal protection of rights is urgently needed.

Legalizing a live-in relationship necessitates the creation of an entirely new set of laws to manage the partnership, including provisions for support, inheritance, and protection in the event of desertion or cheating in such situations. The amount of litigation would significantly rise. In addition, the psychological effects on the offspring of such a situation would cause a variety of problems. All of this would result in a society that was unstable."

In the past, the concept of a live-in relationship was viewed as a product of western cultural influences. We neglect the fact that this concept is not new to our culture. It was formerly known as MaitriKarar. The progression that shows how Indians transitioned from arranged marriages to love marriages and how live-in relationships are currently popular can now be seen. Unfortunately, a specific legal definition of a live-in relationship cannot be found. In layman's words, it can be described as a living arrangement in which unmarried partners live together to maintain a long-term relationship that is comparable to marriage.¹⁰

One significant distinction between marriage and live-in relationships is that weddings are more socially acceptable and have legal protection, whereas live-in partnerships are still making their way. The majority of the population sees live-in relationships as a deterioration of moral and conventional values. is viewed as an immoral relationship, in addition. Due to the strong religious emphasis on marriage, this idea isn't fully accepted in India, but it has steadily developed into a specialisation in a small segment of the population. Therefore, as the societal makeup is changing every day, it is essential to establish a legal system for such a link and take into account its suggestions for Indian culture. Marriage serves as a vehicle for carrying out religious obligations. Hindu law regards it as a Holy Union. Additionally, it is regarded as a union of flesh and blood. Marriage is not viewed as a legal contract but as a sacrament. Therefore, the introduction of live-in

¹⁰Retrieved from <https://www.advocatekhaj.com/blogs/index.php?bid=4294fe94c613c9ad072931429&bcmd=VIEW>, visited on Dec.8,2018

relationships has had a significant impact on the institution of marriage and the institution of the family.

RIGHT TO LIFE AND LIBERTY: LIVE-IN –RELATIONSHIP

All Indian people are guaranteed the "right to life and personal liberty" by Article 21 of the Indian Constitution, which entitles them to live as they like. Live-in relationships may be considered sinful by conservative Indian society, but they are not unlawful,' according to the law. The Allahabad High Court ruled in Payal Sharma v. Superintendent NariNiketani¹¹ that a woman of legal age has the freedom to go wherever she pleases and that both sexes are capable of cohabiting without getting married. Similar to this, the Apex Court ruled in the Patel and Ors. Case that a live-in relationship between two adults that is not a legal marriage cannot be viewed as a crime. Criminal appeals were also made against the petitioner in the case of Khushboo v. Kanniammal & Anr because she supported pre-marital sex and a live-in relationship. Living together is part of the right to life protected by Article 21 of the Indian Constitution, so how could this be illegal when there are two consenting adults involved?, the Supreme Court had overturned it. Therefore, the court determined that it is not prohibited for the aforementioned reasons. The court even used Radha and Krishna as an example to uphold the ruling.¹² "Recently, the Supreme Court expanded the definition of a live-in relationship in the case of Nanda Kumar v. State of Kerala, overturning the Kerala High Court's decision that "entrusted custody" of a young girl to her father and stating that the girl has the right to live with whomever she chooses. The Court went on to say that they had the right to live together even if they were not of legal age to marry.¹³

CONCLUSION

It is crucial to comprehend the effects of live-in relationships on marriage and family institutions given the drastically opposed perspectives on them. The term "live-in relationship" refers to a situation in which a heterosexual couple cohabitates without getting married. Although some nations permit the registration of such arrangements between couples, it is an informal agreement between the parties. People typically choose to enter into such consensual agreements to determine whether they are compatible for marriage, to avoid the inconveniences of a legal marriage, to test their suitability for marriage, or in the event that they are unable to officially wed. It's also possible that live-in partners might not understand the value or benefits that marriage would bring to their financial condition, which would prohibit them from getting married because of the associated costs. Whatever the cause, it is evident that an increasing number of couples are choosing to form such an arrangement even in a traditional society where the institution of marriage is seen as sacrosanct. Different social, economic, and legal difficulties occur in these circumstances and persist.

"People may want to live together or find themselves in this situation by accident. When people live together voluntarily, the relationship is said to be one of choice. It might exist even if one or both partners are already legally wed to someone else but choose to continue having this type of relationship out of preference. In this category, relationships are entirely optional. There are live-in partners who choose to remain as such and do not desire the status of a legal marriage since they are content to remain as such couples. It is quite difficult for bachelors and singletons who work for multinational organisations or corporate houses to get accommodations in metropolitan areas like Bombay and Delhi. Only married couples are preferred by the property owners to rent or lease apartments. In these circumstances, young people establish arrangements with their coworkers or other individuals of the opposite sex in order to obtain lodging accommodations. Even though the connection

¹¹ AIR2001 (All)254

¹² CRIMINALAPPEALNO.913of2010

¹³ Retrieved from <https://www.legalbites.in/socio-legal-live-in-relationships/>, visited on May 10, 2018

is entirely fictional in law and there is no intimate interaction of any type, over time they begin to feel affection for one another and eventually enter a live-in relationship.

When considering the origin of the concept of marriage as a sacred ritual in ancient India, it is sometimes asserted that the general public's contempt for a live-in relationship is not choice. They have been conditioned to have this mindset. It is inevitable that Western culture will infiltrate Indian society, which will unquestionably modernise how the younger generation thinks. When compared to earlier eras, they have a soundly opposing way of thinking. Despite being incredibly common in the majority of western countries, India's social structure is significantly different. Since the beginning of Hindu dharma, this social web has been developed. In any event, it must be acknowledged and understood that adult unmarried couples who want to live together should not be discouraged or misled. This will be detrimental to the nation's egalitarian structure as a whole.

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