

" LIVE-IN-RELATIONSHIP: NATIONAL PERSPECTIVE OF INDIA "

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Abstract

Marriage allowed two people of different sexes to live together as husband and wife and start a family of their own while also receiving social legitimacy for their sexual relationship. However, live-in relationships, which are viewed as a result of westernisation, have a long history in Indian culture. Although there are many examples of men and women living together without a marriage link throughout history, it is true that this practise is now widely accepted, especially in urban areas. Hindus in India view marriage as a ritual rather than a legal agreement. In essence, it is a component of Sanskara, a Hindu religious event that is required. Thus, religious rites are performed in order to conduct a Hindu marriage. Marriage allowed two people of different sexes to live together as husband and wife and start a family of their own while also receiving social legitimacy for their sexual relationship. However, live-in relationships, which are viewed as a result of westernisation, have a long history in Indian culture. Although there are many examples of men and women living together without a marriage link throughout history, it is true that this practise is now widely accepted, especially in urban areas. Hindus in India view marriage as a ritual rather than a legal agreement. In essence, it is a component of Sanskara, a Hindu religious event that is required. Thus, religious rites are performed in order to conduct a Hindu marriage.

Key Words: Sanskara, Westernisation, Indian culture, Hindu marriage.

Introduction

The general consensus is that it refers to a home arrangement between two persons who are in a romantic relationship. Another widely recognised, though not required, aspect of such a partnership is sexual intimacy. There is no official definition of a live-in relationship¹. The connection has drawn criticism, stigma, and accusations of being sexually exploitative and socially ambiguous. Although live-in relationships are not against the law in India, they are viewed as immoral. However, the government has not yet passed any explicit legislation regarding live-in relationships. Due to the deep cultural and religious roots of marriage as an institution in India, society has not fully embraced this idea.

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¹ Retrieved from <https://blog.ipleaders.in/live-in-relationships-and-emerging-legal-issues-in-india/>, visited on Jan. 10, 2018

² Retrieved from <https://blog.ipleaders.in/live-in-relationships-and-emerging-legal-issues-in-india/>, visited on Jan. 10, 2018

THE CONCEPT OF LIVE-IN RELATIONSHIP

The term "live-in relationship" refers to an arrangement, which serves as an alternative to marriage, whereby two people or individuals of the same gender or in a heterosexual relationship can coexist for an extended period of time or "on a permanent basis, in an emotionally and/or sexually intimate relationship,"³ without entering into the formal relationship of marriage. The phrase is frequently used to describe a couple who are not wed. Although this approach has long been popular in the West, India is also starting to embrace it. Although live-in relationships have gained some popularity among the wealthy class in cities, they are still frowned upon in India's rural areas and small towns. There has been a noticeable rise in the number of people choosing a live-in relationship as a viable alternative to marriage in recent years. Now that live-in relationships are common in cities, why do people want to enter them? What are the contributing factors? are some of the issues that now need to be answered.

It has been noted that this form of connection is becoming more prevalent across the nation as a result of industrialization and the development of metropolitan culture. Couples choose to cohabit rather than be married for a variety of reasons, including financial independence, expensive rent in large cities, the rising incidence of unsuccessful marriages and divorces, domestic abuse, the impact of the media and the western way of life, etc. If the necessity for these connections were examined, "avoiding responsibility" might be shown to be the main driver. Lack of commitment, contempt for social ties, intolerance in relationships, and an active lifestyle are the contributing factors⁴.

HISTORICAL PERSPECTIVE OF LIVE-IN RELATIONSHIP

In India, the idea of a live-in relationship is not new.⁵ Premarital unions were possible during the Vedic and post-Vedic eras, but they were uncommon.⁶ Manu, who is credited with creating Hindu law, divides Hindu marriage into eight categories: Brahma, Daiva, Arsa, Prajapatya, Asura, and Gandharva. Paisacha and Rakksash. One of these marital types, the Gandharva, resembled a live-in partnership.⁷

There were eight different types of marriage, four of which were legal and four of which were not, until the Hindu Marriage Act was passed. One of these types was the Gandharva form, in which a man and a woman enter into marriage of their own free will. This was caused by the wide dispersion of Hindu society and the diverse makeup of its constituent parts.⁸

The Gandharva Vivah is essentially a private consensual contract that has been given the appropriate societal legitimacy. Gandharva Vivah, on the other hand, was an illegal kind of matrimony with no sanctity; it is not much different from relationships of one's own free will that involve sexual activity, such as in a modern

³ Dr. Preety Jain, "Recognition of Live-In Relationship in India: Issue and Concern," *Punjab University Law Journal*, Vol. VI (2012) 19.

⁴ Dr. Preety Jain, "Recognition of Live-In Relationship in India: Issue and Concern," *Punjab University Law Journal*, Vol. VI (2012) 19.

⁵ Sneha R. Iyer, "Relations in the Nature of Marriage and Legal Wedlock" - A Study, retrieved from <https://www.ijlmh.com/wp-content/uploads/2019/03/%E2%80%98RELATIONS-IN-THE-NATURE-OF-MARRIAGE-AND-LEGAL-WEDLOCK%E2%80%99-A-STUDY.pdf>, visited on Jun. 21, 2018

⁶ Chanchal, "Live-in Relationship and Rights of Women in Present Scenario," retrieved from Urkund's Archive

⁷ Ibid

⁸ Retrieved from <http://www.yourarticlelibrary.com/marriage/8-traditional-forms-of-hindu-marriage-in-india/47455>, visited on Mar. 14, 2018

live-in relationship.

MaitriKarar, which translates to "friendship agreement," was a system in which a man and a woman would live together and have an intimate relationship without being legally married, even during the lifetime of a wedded partner. It was similar to the modern live-in relationship.⁹ It was practised in the state of Gujarat. The guy was expected to financially support his companion who would then have a sexual relationship with him, even when the first wife he was officially married to was still alive.¹⁰ People of opposing sexes would enter into written agreements to be friends, live together, and care for one another.¹¹

In *Minaxi Zaver BhaiJethva v. State of Gujarat*¹², the court decided on December 15, 1999, that this system was null and illegal from the beginning. Earlier, in 1982, the Gujarati government had issued an Act outlawing this practise.¹³

The Oraon, Ho, and Bishor tribes all have live-in relationships. Despite all the abuse and insults directed at her, the girl enters the home of her lover and does not leave. If the girl stays at home for a long enough period of time, she is regarded as the young man's wife. Any interaction between a man and a woman outside of marriage was frowned upon and despised in feudal society.¹⁴

Rich men, Zamindars, princes, and Nawabs in old India had several marriages in addition to multiple live-in relationships with other women. Men living with women outside of marriage was not viewed as being sinful in the slightest. In fact, men of riches had a second home for their enjoyment and relaxation apart from their obligations in every region of India.¹⁵

In India, caste is a significant problem, and interracial marriages are typically prohibited. People who desire to get married but are unable to do so find comfort in living together.¹⁶ People occasionally decide to enter into such voluntary partnerships, typically to gauge compatibility before to marriage. People may enter live-in relationships voluntarily or as a result of external conditions. Relationships "by choice" are ones in which the partners cohabit fully out of free will. They are content to remain as live-in partners alone and do not desire the legal status of marriage. Relationships "by circumstances" can happen when one spouse was convinced the other was divorced, widowed, or single before they were married, according to¹⁷.¹⁸ But if he or she already had a wife or husband who was still alive at the time and from whom they hadn't yet divorced, the marriage would not be recognised by the law. Thus, the connection that endured takes on the characteristics of a live-in.¹⁹ Similar circumstances arise when a couple continues to live together as husband and wife after getting married but the agreement to the marriage was obtained fraudulently. Such a live-in relationship is thus entered into

⁹Retrieved from <https://www.quora.com/What-is-%E2%80%98maitri-karaar-How-different-is-it-from-polygamy-polyamory-What-is-the-legal-validity-of-the-same>, visited on Jan. 7, 2019 and also available at The Final (1).docx

¹⁰Retrieved from <https://racolblegal.com/a-bond-by-heart-or-by-knot-a-comparative-analysis-on-marriage-and-live-in-relationship/>, visited on Mar. 31, 2018 also available on The Final (1).docx

¹¹ Retrieved from <https://blog.ipleaders.in/live-in-relationship-maintenance-inheritance/>, visited on Mar. 11, 2018

¹² Retrieved from <https://indiankanoon.org/doc/1089323/>, visited on Apr. 23, 2018

¹³ Retrieved from <https://blog.ipleaders.in/live-in-relationship-maintenance-inheritance/>, visited on Mar. 31, 2018

¹⁴ Dr. S.R. Myneni (*sociology*) Allahabad Agency (2015)

¹⁵ Retrieved from http://www.journalijar.com/uploads/973_IJAR-18347.pdf, visited on Jun. 14, 2018

¹⁶ Dr. Jyotsna Sharma, "Legal Status Of Live-In Relationship In India" *Criminal Law Journal*, Vol. 2, (April-June 2012) 181

¹⁷ Prof. Vijender Kumar, "Live-In Relationship: Impact On Marriage And Family Institutions" *The Supreme Court Cases*, Vol. 4, (2012) 18

¹⁸ Prof. Vijender Kumar, "Live-In Relationship: Impact On Marriage And Family Institutions" *The Supreme Court Cases*, Vol. 4, (2012) 18

¹⁹ Dr. Kalpana V. Jawale, "Judicial Approach Towards Live-In Relationship: National And International Perspective," *Civil And Criminal Law Journal*, Vol. 48-3 (July-Sept 2012) 23

voluntarily.²⁰

POSITION OF LIVE-IN-RELATIONSHIP: NATIONAL PERSPECTIVE

"Civilized nations first established the honourable institution of marriage centuries ago after realising and recognising the need for companionship as the most fundamental instinct of mankind. Hindu ancestors established some rules to ensure that the institution is a long-lasting one, with the potential to bring two young people happiness as well as a delicate balance, so the family can enjoy life to the fullest within the confines of what they called Dharma, the Hindu code of moral conduct. This was disclosed some 4,000 years ago in the Mahabharata, an ancient Indian epic, by a Hindu ruler by the name of Yudhishtira.²¹ One of the queries the Yaksha posed to Yudhishtira in the YakshaPrashna story of the Mahabharata's AranyaParva was, "kimsvinmitramgrhesatah?" Who is a householder's friend, in other words? The prince said, "bhaaryaamitramgrhesatah," meaning that a householder's spouse is his buddy. The woman is the best companion, the foundation of the three goals of life, and the source of everything that will benefit him in the hereafter; with a wife, a man performs magnificent feats, finds bravery, and finds the safest sanctuary. As a result, friendship serves as the foundation for marriage, and this relationship is what binds a man and a woman together via their understanding, promise, and commitment.²² A shift in our society may be seen over time, going from arranged marriage to love marriage and now to live-in relationships. The main difference is that people are now publicly in this form of relationship, when earlier people were reluctant to declare their status, perhaps out of fear of society. In India, the idea of live-in relationships is relatively new. In truth, marriage continues to be viewed by the outside world as having a sacramental status in India, both philosophically and practically. The concept of live-in partnerships is one of the most significant examples of how India has gradually opened its doors to western ideas and lifestyles over the past 50 years.²³

PEOPLE MAY COHABITATE FOR A VARIETY OF REASONS

There are numerous factors that influence why couples choose live-in relationships in general. People may be becoming more career-focused, or more women may be leaving the house to work, meaning the family's primary caretaker is not spending enough time with her family and kids. The following analysis of these elements:²⁴

- To start with, there are a lot of legal requirements associated with the institution of marriage that can be simply avoided in the case of live-in relationships. Live-in relationships are often compared to "taking a car for a test drive" because the pair can easily enter and exit the relationship without any formal legal ties. It aids in determining a partner's compatibility prior to marriage. A person can make a decision before committing to marriage by being in a live-in relationship. Thus, it serves as a requirement for marriage.²⁵
- A second issue is how difficult and drawn-out the divorce procedure is in India. If a divorce is necessary,

²⁰ Dr.VanisreeRamanathan,"*Live-InRelationshipInIndia:JudicialResponseAndChangingParadigm InGenderJustice*l, retrievedfromwww.Jiarm.Com,visitedon18Feb2018

²¹ Retrievedfrom<https://definitions.uslegal.com/d/de-facto-marriage/>,visitedonFeb.3,2019

²² Retrievedfrom<https://www.quora.com/What-was-the-complete-dialogue-between-Yudhisthir-and-Yaksha-from-MahabharatavisitedonFeb.3,2018andalsoavailableatChanchal,LiveinRelationshipandRightsofWomeninPresentScenario,Urkund'sArchive>

²³ Retrievedfrom<http://www.helpline.law.com/family-law/SLRI/status-of-live-in-relationships-in-india.html>,visitedonOct.19,2018

²⁴ Caesar Roy, |Emerging Trends Of Live-In-Relationship In India-A Critical Analysis| *CriminalLawJournal*, Vol. 76,(2012)37-45

²⁵ CaesarRoy, |EmergingTrendsOfLive-In-RelationshipInIndia-ACriticalAnalysis|*CriminalLawJournal*, Vol. 76,(2012)37-45

it may take years to complete. The partners have endured too much suffering over the years.

- "Thirdly, it may also be that the people cannot legally wed, for example, if they are of the same sex; occasionally interracial or inter-religious weddings are neither legal or permitted."The fourth benefit is that a working woman receives housing and financial security, which may not be possible in a marriage. In addition, assistance is always accessible in times of need.
- Fifth, since the two persons will be splitting the major expenses, there will also be some savings.

REASONS FOR INCREASE IN LIVE-IN RELATIONSHIPS IN INDIA: MODERN OUTLOOK

There are some additional significant causes that have contributed to the rise of live-in relationships in India, in addition to the broad motives mentioned above. These are listed below:

Financial factors

Changes in societal harmony

Dereliction of duty

A disregard for social ties

No requirement for cohabitation

A compatibility test

The freedom to end it

Loneliness

CONCLUSION

In India, the institution of marriage and Indian culture are seen as being threatened by live-in relationships. The institution of marriage is successful because it satisfies a fundamental human need, is seen as the most important arrangement for the continuation of the human species, and also helps to keep communities from descending into anarchy. The institution of marriage enjoys full public support, social acceptance, and legal recognition. In the past, people believed that the God decided who should get married and that it was a divine decision. In accordance with Hindu Law, Hindu marriage protects a woman by ensuring her legal rights for maintenance and alimony claims, restitution of conjugal rights in the event of desertion, validity of the offspring, and relief in the event of cruelty, adultery, and impotence. Contrarily, live-in relationships are frequently viewed as taboo and sins in India because they can only exist when both parties are content with one another. There aren't any financial difficulties, legal issues, or difficult negotiations involved in dividing up assets and debts between the couples. The composition sounds like a fantasy realised.

Lon L. Fuller, a renowned legal philosopher, highlighted the thesis of the inner morality of law, by which he meant that moral principles are ingrained in the very concept of law. In India, living together is

frequently considered a taboo and a sin.²⁶ Even though the judiciary has taken a firm stance on live-in relationships in a number of situations, society does not seem to embrace it. Because of this, the Indian judiciary has occasionally ruled that long-term cohabitation should be considered marriage.

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²⁶ Ibid