



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Live-in Relationship: Problems and Perspective

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Received 10 April 2022; Accepted 25 April 2022; Published 30 April 2022

*In India, the concept of a live-in or living relationship has been debated, although its existence is undeniable. When considering the societal perspective, moral standards are at the forefront. Although the Supreme Court stated in *S. Khushboo v Kanniammal & Anr.* that it will not condemn or endorse the issue, it held live-in relationships to be permissible by pointing to Article 21 (Right to life and personal liberty) of the Constitution. This article will discuss live-in relationships, their origins, couple rights, children born out of such relationships, women's rights, and the clarification provided by our country's highest court, the Supreme Court of India, on the subject. This article describes the rise of live-in relationships, as well as their benefits and drawbacks. As we all know, it is neither a crime nor a problem in Indian society. It totally depends on how we think.*

Keywords: *relationship, court, constitution.*

INTRODUCTION

Change is a natural occurrence; everything changes and takes on new forms, whether it is society, tradition, culture, custom, or anything else. This has become more frequent in today's age of globalisation as we, the globe, have become so intertwined with the influence of other international cultures, traditions, and lifestyles. It is nearly difficult to avoid the

impacts of such powerful influences, and as a result, in the world of globalisation, culture, tradition, communication, and lifestyle are rapidly changing, and people are enjoying it as if it were a regular way of life in their part of the world. Some changes, while not having a large impact, cause a storm in society that affects not only the people, but also the society, in the hallways of politics, societal values, and tradition, and as a result, a large section of society begins to believe that their tradition, culture, values, and customs may be threatened as a result of such influence.

In the light of these globalisation changes, we have been changing the concept of relationship and its value, and out of them the concept of marriage, in the shadow of marriage as nature, popularly known in Western society as a "Live-in relationship," has not only been changing, but the mount of today's youth is becoming penchant and taking more interest in life in rather than solemnised cultural marriage. A live-in relationship, on the other hand, is not a new concept, but today's society is more aware of it. As a result, it appears to be gaining popularity.

MEANING

If we define a live-in relationship in simple terms, it is a partnership in which an unmarried couple lives together to maintain a long-term relationship equivalent to marriage. Many people believe that living together before marriage is equivalent to taking a case for a spin. The definition and scope of live-in partnerships, on the other hand, are hazy. In India, there is no particular legislation addressing the matter. Marriage is a sacred thread of love bond on which the foundation of the family is established in Indian society, Indian society is always known for its rich & diverse culture, in the society, has its value and identity, respect, and this is how Indian society protects, preserves, and maintains its sanctity on all occasions, but as we can feel that we live in the world of globalisation, where the entire world has turned into a small village, changing, exchanging, and adopting of western culture is inevitable.

REASONING BEHIND GROWTH OF LIVE-IN RELATIONSHIP

The primary question that arises in everyone's mind is why couples who are in love with each other prefer to live together. One of the most important reasons for conducting an analysis is to:

- Avoid responsibilities, while married couples share responsibilities for their family, finances, and societal obligations, living together relieves them of these obligations.
- To avoid future legal headaches in the event of a divorce, which is an unpleasant possibility of marital dissolution that can be a painful and traumatic experience. Live-in relationships avoid the legal complications associated with dissolving an unpleasant and oppressive marriage.
- In a live-in relationship, it is easier to accurately and honestly appraise the partners. When a person pretends to be someone they are not on occasion, they can get away with it.
- It provides reciprocal respect to both partners, whether it is in their independence or in their fears. Some individuals believe that if two people are in love and ready to live together, there is no need to spend money on a wedding party for the benefit of society. As a result, various people have varied perspectives on how to maintain a live-in relationship.

POSITION OUTSIDE INDIA

Laws governing live-in relationships are also ambiguous at the international level. It is not acknowledged by any country with an open heart, indicating reluctance among countries to recognise such a connection, yet they are the same countries, not in the literal sense, but they have recognised it and conferred some rights and liabilities. First time in 1999, a law introduced in France makes provision for “**Civil Solidarity Pacts**” allowing couples to enter into union and be entitled to the same rights as married

couples in such areas as income tax, inheritance, housing, and societal welfare.¹

According to Article 147, the Philippine Family Code, when a man and a woman who are capable of marrying each other live exclusively as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries are controlled by co-ownership regulations.²

Live-in couples in the United Kingdom have the same legal protections and status as married couples. The spouse is under no responsibility to look after each other. In the United States, laws do not grant a live-in relationship couple the same rights as a married couple, but such a couple can enter into a cohabitation agreement that spells out their rights and responsibilities. The family law legislation of 2006 granted legal sanctity to live-in relationships in Scotland. However, live-in partnerships are recognised under the laws of Canada, Australia, and China

POSITION IN INDIA

The concept of a live-in relationship is not a new one; it is supposed to have existed even before the ancient age, and it is said to have existed even before the invention of the pen. They were formally known as "**Maitri Karar**,"³ in which two persons of opposite sex signed a written agreement to be friends, live together, and look after one another. On the other hand, some people argue that **Lord Krishna and Radha** used to live together, so how is it a new concept for India? However, the concept of life in a relationship is an alien concept for India in this era of timeline, and marriage is still regarded as a sacramental and eternal union in Indian society.

There is currently no law in India that addresses the issue of live-in partnerships, however, support for such relationships has been expressed from time to time. Even in the absence of formal legislation on the matter, it is commendable that our court has taken the initiative and

¹ Anon, *Lesbian-Gay Law Notes* (New York: Bar Association for Human Rights of Greater New York 1984)

² Philippine Family Code, 1987, art. 147

³ Ritu Sharma, 'Friends and lovers' (*The Indian Express*, 25 December 2016)

<<https://indianexpress.com/article/india/live-in-practice-gujarat-friends-and-lovers-maitri-karar-4443784/>>
accessed 01 April 2022

granted such a connection certain respect. An Indian court has always been proactive in the matter of live-in relationships, despite the fact that no substantive law exists, on the basis of protecting an individual's choice, their freedom to choose a life partner, their integrity, respect, and right to dignity, all of which are guaranteed by the Indian constitution under **Article 21**⁴. In June 2018, the **National Commission for Women** recommended to the **Ministry of Women and Child Development** to include live-in female partners for the **rights of maintenance u/s 125 of CrPC**.⁵ This view was supported by the judgement in **Abhijit Bhikaseth Auti v State of Maharashtra and others**⁶. This positive decision in favour of a live-in relationship was also supported by the Maharashtra government in October 2018, when it accepted the proposal made by **Malimath Committee**.⁷

CONSERVATIVE APPROACH TO LEGAL PERSPECTIVE

In the case of **Lata Singh v the State of Uttar Pradesh**⁸, it was decided that, while a live-in relationship between two consenting individuals of the opposite sex is considered immoral, it is not illegal.

In the Case of **S. Khushboo v Kanniammal & Anr.**⁹, the Supreme Court of India stated that a live-in relationship has its roots in Article 21 of the Indian Constitution, stating that "though the concept of live-in relationship is considered immoral by society, it is not illegal in the eyes of law and thus cannot be held illegal."

In the case of **Badri Prasad v Dy. Director of Consolidation & Ors.**¹⁰, the Supreme Court made the unusual and circumstantial observation that "if man and woman who live as husband and wife in society are compelled to prove, after half-a-century wedlock by eye witness evidence that they were validly married fifty years earlier, few will succeed. A strong

⁴ Constitution of India, 1950, art. 21

⁵ Code of Criminal Procedure, 1973, s 125

⁶ *Abhijit Bhikaseth Auti v State of Maharashtra and others* (2008) Criminal Writ Petition No. 2218/2007

⁷ 'The Report Of Malimath Committee On Reforms Of Criminal Justice System' (*Legal Service India*, 3 June 2021) <<https://www.legalservicesindia.com/law/article/1983/39/The-Report-Of-Malimath-Committee-On-Reforms-Of-Criminal-Justice-System?id=1983&u=39>> accessed 08 April 2022

⁸ *Lata Singh v The State of Uttar Pradesh* (2006) 5 SCC 475

⁹ *S. Khushboo v Kanniammal & Anr.* (2010) 5SCC600

¹⁰ *Badri Prasad v Dy. Director of Consolidation & Ors.* (1978), AIR 1557

presumption arises in favour of wed-lock where parents have lived together. Although the presumption can be refuted, the person who appears to strip the connection of its legal origin has a hefty duty. Legitimacy is favoured by the law.

In the case "**S.P.S Balasubramanyam v Suruttayan**¹¹, a similar observation was made that where a man and woman live together as husband and wife for a long time, the presumption under the law would be in favour of being legally married to each other unless proven to the contrary, and children born out of such live-in relationship would be entitled to inheritance in the property, but if such relationship is sole, neither of partner can claim benefits.

PROBLEMS

The validity of the child is in question

The **HMA, 1955** grants legitimacy to all children, regardless of whether they are born of a valid, void, or voidable marriage. However, the main concern here is that the Hindu Marriage Act of 1955 recognised **valid, void, and voidable marriages**, as well as the legitimacy of a child born out of such marriages. A live-in relationship, on the other hand, is not considered a marriage. As a result, the legal status of a child born from such a connection remains uncertain, as such relationships are not considered married under the **Hindu Marriage Act**.¹² Although the recent judgement in the Case of **Bharata Matha & others v R Vijaya & Ors**.¹³, held that a child born out of a live-in relationship may be allowed to succeed inheritance in the property of parents but does not have a claim against Hindu-Ancestral Property, the fundamental question of those children's faith is always in question.

Disturbance in Society

After all these years, live-in relationships are still uncommon in Indian society, yet they are supported by a sizable portion of the population. The Punjab and Haryana High Court recently refused to award the pair protection, stating that such a relationship has never been

¹¹ *S.P.S Balasubramanyam v Suruttayan* (1994 AIR (1) SCC 460)

¹² Dr. Poonam Pradhan Saxena, *Family Law* (1st edition, Vol. 1 Lexis Nexis 2022)

¹³ *Bharata Matha & others v R Vijaya & Ors* (2010) Civil Appeal No. 7108/2003

the concept of Indian society and that "if such protection as demanded is granted, the entire social fabric of society will be upset." As a result, such behaviour is still frowned upon in much of the country.

IMPLICATION ON PSYCHOLOGICAL LIFE AND QUALITY RELATIONSHIP

Because the concept of premarital sex is frowned upon as does premarital cohabitation, which is viewed very differently in society and even as a violation of societal ideals. However, these attitudes are increasingly changing, and society, particularly in cosmopolitan worlds, has begun to tolerate them, with freedom and other variables playing a role. The live-in relationship allows the person to get divorced without having to go through the legal process, which saves the individual a lot of pain. Everyone knows how difficult it is to divorce from a formal marriage.

So, if the partner discovers that they are not compatible at all while living together without any legal contract, i.e. marriage, the breaking of marriage is very cumbersome, lengthy, complicated, and troublesome to all parties involved. Women, on the other hand, are frequently perceived as being at a disadvantage in live-in relationships. In 2013, **the Rajasthan Human Rights Commission** declared such relationships to be against women's dignity and urged that a law be passed to prohibit them.

CONCLUSION

Live-in relationships give you a better chance to get to know each other and see if you're compatible. However, in society, it is still considered from a moral standpoint that it fails, and as a result, certain conservative elements use their morals as a shield to harass the live-in couple and refuse to treat the children born from this relationship with proper attention and respect. As the number of live-in relationships in Indian society grows, it poses a serious danger to the concept of marriage as well as the entire fabric of values and morals upon which Indian society is built. Bigamy and adultery are encouraged in such relationships. Female partners' rights are likewise problematic; additionally, there is no law of maintenance or succession that guarantees the rights of such a live-in pair, and such

partnerships are delicate and can end at any time. However, it is also a reality that a large segment of today's youth prefers this type of relationship. As a result, legislation must enact an effective law that balances and maintains societal harmony, its values, the valuable tradition of Indian society, and most importantly, protects and preserves the sanctity of marriage, so that both the couple and their children are not left in the dark about their rights and remedies, and society can accept them. As a result, some basic and effective legislation governing live-in relationships should be enacted.

“Change in society is of secondary importance, that will come about naturally.”