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Live-In Relationships: An Evolving Notion in India

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We all are aware that marriage has been deeply rooted in our society since time immemorial. Now with evolving times, our society is exposed to the idea of live-in relationships. Such relationships have always been and are still considered immoral in our country. The following article explains the concept of live-in relationships and why people these days are more in favour of the same. The article also speaks about the legality of such relationships in our country. Such relationships fall under the purview of Article 21 of the Constitution of India. The article also throws light upon the rights that women have in live-in relationships with respect to the rights relating to the maintenance and inheritance of property. Legitimacy and the rights that a child who is born to a couple living together has also been discussed in the article further.

Keywords: *live-in relationships, article 21, maintenance rights, inheritance of property.*

INTRODUCTION

India is a country having a rich cultural heritage in all aspects of life. One of the areas in which India is considered to have a strong and dynamic history is that of 'Marriage'. Marriage as a social institution has the utmost importance in the Indian scenario. It is a legally and socially sanctioned union of two individuals, usually a man and a woman. Marriage is recognized in the

eyes of the law as well with the passing of the Acts such as the Hindu Marriage Act, 1955, and the Hindu Adoption and Maintenance Act, 1956.

However, with the evolving times, we can see a drastic shift in the opinions of people when it comes to marriage. People these days, especially youngsters don't look at marriage as a compulsion to fit in society and that's where the whole concept of 'Live-in Relationships' comes into the picture. In most western countries, the concept of live-in relationships is a socially accepted phenomenon. However, the situation in India is quite different. Live-in relationships are the ones in which a couple stays together without being married to each other. No doubt there has been a lot of influence of western culture on our country and hence people were exposed to the idea of live-in relationships. It was through the cinemas that people became aware of this whole concept. However, live-in relationships are still considered a social taboo in our country.

WHAT ARE LIVE-IN RELATIONSHIPS?

Simply put, a live-in relationship involves a couple staying under the same roof without marriage. Which is to say that they are in a relationship that is not legally binding on them. Couples these days find it more convenient as it reveals to them the compatibility with their partners. At the same time, getting out of such a relationship does not require a lengthy, complex, and tedious procedure as that of a divorce. Also, there is no involvement of family members as it is in the case of marriage and hence the decision is solely dependent on the couple involved in the relationship. Thus, couples these days are more open to live-in relationships.

LEGALITY OF LIVE-IN RELATIONSHIPS IN INDIA

Our Parliament has not passed any law that talks about live-in relationships. 'Domestic Relationship[1]' is defined under section 2(f) of the Protection of Women from Domestic Violence Act, 2005. The definition includes 'any relationship like marriage'. There have been many cases where the Supreme Court has considered live-in relationships to fall under the context of

[1] Protection of Women from Domestic Violence Act 2005, s 2(f)

domestic relationships. Following are certain case laws where our judiciary has spoken about the legality of such relationships in our country.

S. KHUSHBOO v KANNIAMMAL & ANR[2]

In the following case, the Supreme Court passed its landmark judgement as far as live-in relationships are considered. The court considered that live-in relationships are a part of Article 21[3] of the Constitution of India relating to the right to life. It was also made clear by the court that such relationships are not impermissible thus, staying a couple together does not amount to illegitimacy.

INDRA SARMA v V.K.V. SARMA[4]

This is a remarkable case wherein the Supreme Court had put forth specific guidelines to check whether a relationship falls under the definition of a 'relationship like marriage' and whether it can be called a live-in relationship. Some of the factors that need to be considered are the common intention of the parties, the reasonable duration for which the parties are staying together, sharing of the household, combining of resources to meet both the financial as well as domiciliary needs, sexual relationship which involves intimate and emotional relationship also and socializing in public.

BADRI PRASAD v DIRECTOR OF CONSOLIDATION[5]

In this case, a man and a woman were staying as a couple for around 50 years. A petition was filed with the contention that there was no evidence in respect of the ceremonial process performed by the priest or any other witnesses. The Supreme Court of India clearly stated that there exists a powerful presumption giving backing to wedlock if the couple is staying together for a reasonable duration. However, the presumption can be quashed and the burden heavily lies on the one who is questioning the legality of such a relationship. From the above case laws,

[2] *S Khushboo v Kanniammal* (2010) 5 SCC 600
[3] Constitution of India, art 21
[4] *Indra Sarma v VK V Sarma* (2013) 15 SCC 755
[5] *Badri Prasad v Director of Consolidation* (1978) 3 SCC 527

it is evident that our Judiciary has legalized live-in relationships. Thus, we can conclude that such relationships are legitimate.

DOES ONE-NIGHT STAND FALL UNDER THE PURVIEW OF LIVE-IN RELATIONSHIPS?

The court clarified the buzz around this issue in the following case.

VELUSAMY v PATCHAIAMMAL[6]

The court emphasized the necessity of the condition of the relationship to be like a marriage. Also, sharing of the household is important to constitute a live-in relationship. Thus, the Supreme Court of India thought that merely staying together and sharing finances does not constitute a live-in relationship. Hence, it was held that one-night stands or spending the weekends together are excluded from the purview of live-in relationships.

LIVE-IN RELATIONSHIPS: RIGHTS OF THE WOMEN

A female involved in a live-in relationship has been entitled to the following rights by our Judiciary.

1. RIGHT TO MAINTENANCE

The word 'palimony' is used in respect of live-in relationships. It is the compensation given by one person of an unmarried couple to the other after the separation. Section 125 of The Code of Criminal Procedure, 1973 involves the right to maintenance[7]. It was proposed to the Union of Women and Child Development by the National Commission for Women for including the females who are involved in a live-in relationship under the definition of 'wife' which is spoken in section 125 of The Code of Criminal Procedure, 1973. The report of the Malimath Committee gave recommendations to allow women the right to maintenance[8]. Thus, the opinion of the

[6] *Velusamy v Patchaiammal* (2010) 10 SCC 469
[7] Code of Criminal Procedure 1973, s 125
[8] Prithav Bang, 'The need for legislation on live-in relationships' (*Bar & Bench*, 2022) <https://www.barandbench.com/apprentice-lawyer/the-need-for-legislation-on-live-in-relationships> accessed 17 September 2022

Supreme Court was that a woman involved in a live-in relationship shall be given the right to maintenance though she is not involved in a legally binding relationship.

CHANMINIYA v VIRENDRA KUSHWAHA[9]

The Supreme Court of India in this particular case overrode the previous verdict, upholding the right of a female involved in a live-in relationship to claim the maintenance under section 125 of the Code of Criminal Procedure, 1973. If there is a strong supposition of marriage as under section 114[10] of the Indian Evidence Act, 1872 for a considerable number of years then the woman may be granted the right to maintenance under this section.

2. RIGHT TO INHERIT PROPERTY

The following case depicts the opinion of our Judiciary in respect of the right of a woman involved in a live-in relationship concerning the inheritance of property.

DHANNULAL v GANESHRAM[11]

In this case, a couple had been living together for 20 years. After the death of the man, his family members claimed that the woman he was living with had no right to the property of the deceased as they were not legally married. However, the court held that the woman had the right to inherit the property of her deceased live-in partner. The court thought that when a man and a woman are staying under one roof similar to husband and wife, it shall be assumed that they are staying together like a married couple. Thus, it can be concluded that a female in a live-in relationship has been protected in the eyes of the law and has been given the right to inherit property from her partner.

[9] *Chanmuniya v Virendra Kushwaha* (2011) 1 SCC 141
[10] Indian Evidence Act 1872, s 114
[11] *Dhannulal v Ganeshram* (2015) 12 SCC 301

STATUS OF THE CHILD BORN OUT OF A LIVE-IN RELATIONSHIP

There has always been a buzz around the legal status of children born out of live-in relationships. The following cases tend to throw light on this topic.

BALASUBRAMANYAM v SURUTTAYAN[12]:

The Supreme Court of India clearly stated that when a man and a woman are staying together for considerable years, there will be a presumption of marriage as per section 114 of the Indian Evidence Act, 1872. Thus, the child born to such couples shall be considered to be legal. This is considered a remarkable judgement as the court gave its verdict for the first time in respect of the legality of the children born to couples staying together. Thus, it is to be kept in mind that an important precondition here is that the parents of the child should have stayed together for a considerable duration so that they are recognized as husband and wife in the eyes of society.

BHARATHA MATHA v VIJEYA RENGANATHAN[13]

Supreme Court of India has already made its stand clear about the legality of the children concerning the live-in relationship. In this case, the court stated that such children shall be given the right concerning the inheritance of the property of the parents as they are considered legitimate in the eyes of the laws. They shall not be deprived of this right solely on the basis that the child's parents were not legally married.

REVANASIDDAPPA v MALLIKARJUN[14]

In this case, the court held that the birth of the child born to couples staying together has to be viewed independently of the relationship of the parents. Only because the parents of the child are not legally married, he/she cannot be deprived of certain rights. Hence, such children are given all the privileges and rights similar to the children born to a legally married couple. Thus, from the above case laws, it can be concluded that the child born out of a live-in relationship is

[12] *Balasubramanyam v Suruttayan* AIR 1992 SC 756
[13] *Bharatha Matha v Vijeya Renganathan* (2010) 11 SCC 483
[14] *Revanasiddappa v Mallikarjun* (2011) 11 SCC 1

legitimate in the eyes of the laws. Also, the child has been given the right to inherit the property of the parents.

CONCLUSION

Live-in relationships have always been the talk of the town. India as a country had never been open to live-in relationships. Though it is still looked upon as a social taboo, with evolving times people have started to consider the idea of it. The Supreme Court and other subordinate courts have passed several remarkable judgements which make live-in relationships legal in the country. Even today, certain sections of society consider live-in relationships immoral. However, such relationships are recognized in the eyes of the law and are not to be considered illegal or punishable offences. Our Judiciary has legalized live-in relationships considering them to be a part of Article 21 of the Constitution. Women who are a part of live-in relationships are protected by our laws. They are given rights concerning the maintenance and inheritance of property. Also, the children born to the couples staying together are legal and are not deprived of certain rights. At the same time, we cannot ignore the fact that still, our Parliament has not passed any specific Act in respect of live-in relationships. We can hope that with the changing times, the Parliament shall enact a specific Act to protect the rights of the people involved in live-in relationships and soon there shall come a time when such relationships will no more be considered immoral.