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SOCIO-LEGAL IMPLICATIONS OF LIVE-IN-RELATIONSHIP IN INDIA

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ABSTRACT

A live-in relationship's duality is a hotly contested subject, particularly in light of recent rulings by the Supreme Court that support it. The courts determined that this kind of connection was legitimate and was not punishable by law. Indian customs and beliefs about marriage are deeply ingrained in society, and any deviation from them sparks riots. Marriage is seen as a holy bond that is both legal and highly esteemed in society. However, due to Western influence, a particular demographic seems to have embraced Western lifestyle, including the live-in relationship trend. This essay outlines the issues and difficulties that live-in relationships encounter while also shedding insight on how the law has been interpreted in this regard. India does not currently have any laws that specifically address live-in partnerships and that provide rights and obligations for live-in spouses and the children they have together. The court has played a critical role as a watchdog to support the live-in tradition while upending social norms. It is past time for people to stop seeing live-in relationships as taboo and embrace them for what they are, with all of its benefits and quirks. This article analyzes the socio-legal point of view of live-in-relationship in India. The family is an important institution that plays a pivotal role in the lives of Indian people who have firm faith and high respect for marriage. This article also examines the status of live-in-relationship in context to current constitutional regime and tried to find out legal resort for live-in partners.

Keywords: Live-in-relationship, socio-legal, marriage, heterogeneous, cohabitation, etc

[A] INTRODUCTION

The only relationship between a woman and a man recognized by the law in India is marriage. It has been followed in India as a necessary ritual for ages. It is one of the ten sacraments that must be performed in order for both men and women to reach the higher goals of life, including Dharma (duty), Artha (ownership), Kama (physical Desires), and Moksha (salvation). It is the most holy marriage, and it is thought that it will last through death and for the next seven lifetimes, each for a man and a woman. Married couples are always looked upon with honor and pride in India. They hold respectful status and the children out of such union are always regarded as legitimate in Indian society²⁴⁵. In India, weddings are largely

governed by the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954. Hindu Marriage Act of 1955 stipulates necessary conditions for a lawful marriage; if these are not met, the marriage is either invalid or voidable, depending on the viewpoints of the parties. The status of husband and wife is conferred upon the spouses to a marriage by the reciprocal rights and obligations such parties owe to one another. However, in case of long cohabitation between man and a woman who lives together without marrying each other like a husband and wife and in some cases have children too out of such relationships, presumption of marriage is given to such couple under Indian Evidence Act of 1872 on account of their long cohabitation²⁴⁶.

²⁴⁵ Sharma, B., "Legal Remedies for Domestic Violence in Live-in Relationship" 1 *International Journal of Legal Insight* (v. 2, Issue. 1 pg, 136) 2018

²⁴⁶ The Protection of women from Domestic Violence Act, 2005, Section 2(a) ["aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.]



The assumption of marriage applies to live-in partnerships in India.

[B] SOCIAL PERSPECTIVE OF LIVE-IN-RELATIONSHIP IN INDIA

By virtue of the institution of marriage, both men and women are permitted to have families. It is a stable relationship that allows a man and a woman to cohabit in society without facing any negative societal consequences. Not only the married couple, but the whole society as well as generations to come are impacted by marriage. This gives a couple control over significant and sensitive jobs. Hindus consider marriage to be a means of spiritual growth rather than a recognition of human imperfection. The institution of marriage allows man and woman, who are soul mates, to direct the energy associated with their special inclinations and passions towards the growth of their souls. In his essay "The Merchant's Tale," the creator of English poetry, Chaucer, skilfully crafted a highly important aspect of the joyful condition of marriage and the husband-wife relationship.

Every social group and religious tradition supports marriage as a responsible choice with spiritual and social ramifications. Being a celibate ascetic is generally preceded by experiences with marriage and parenthood, even in societies where maintaining celibacy is seen as a religious virtue. A man or woman is deemed incomplete without the other.

Marriage reflects the loving communion of the partners while also acting as a means of procreation and childrearing. "Marriage is the mother of the world, and preserves kingdoms, and fills cities, churches, and Heaven itself," says Jeremy Taylor. It is the situation for which God created the world's current political structure.

A family's disintegration has a detrimental effect on the neighbourhood since its children are more prone to become troublemakers. On

the other hand, a strong family has a beneficial impact on the neighbourhood.

Society suffers when parenthood and reproduction are not included in the concept of marriage. The marital relationship is the most diversified. Marriage is the most diverse bond that exists between the male and female halves of humanity.

It is not a civil right; rather, it is a cultural and statutory institution that has special advantages for adults, kids, and society as a whole.

Since the beginning of civilized existence, humanity has repeatedly confronted certain types of challenges, as it still does now.

Every human yearns for stability. The real world is what the human being observes through his senses, yet there are aspects of the real world that are outside the scope of what the senses can perceive. Man is a social animal, and over history, he has developed a wide range of social institutions to accomplish a variety of goals.

One such institution is marriage. These social systems have produced several issues that appear to be extremely different in different eras but have actually been the same throughout history. Most ancient societies required a safe environment.

This is a framework for governance, to deal with the awarding of property rights and the prevention of bloodshed. It is believed by many scholars.

In the Upanishadic era, women were not seen as objects of sensual pleasure but rather as a man's inseparable life companion who fulfilled his religious duties. Family, home, and religion are inextricably linked, from a mythological perspective, every religion views marriage as a sacred institution. Man is merely one half, and unless he is united with a bride, he is not complete, according to a Vedic scripture.

The concept of Ardhnarishwara, who is half man and half female, is found in Hindu mythology. Shakti and Shiva²⁴⁷.

When referring to a holy couple, the female's name is frequently used first, as in Radha-Krishna, Gauri-Shankar, Lakshmi-Narayan, and Sita-Ram, demonstrating the elevated position that women have²⁴⁸.

Islam places a high value on marriage because it aids in the pursuit of spiritual perfection and views marriage as a physical and spiritual link that persists into the hereafter. Although it does provide advice on how to have a happy marriage, Buddhism does not support or oppose marriage.

In the family, socialization takes place. Home and family serve as the child's first classrooms, moulding his attitude and behavior toward the elderly members of society as well as teaching him in a practical way about social norms, conduct, and other significant cultural aspects including health preservation, love, sympathy, and collaboration. The family is where a child develops crucial traits like sincerity, sympathy, self-submission, responsibility, and character that aid in the development of the child into a significant and accountable member of society. The child has complete freedom within the family to share his thoughts and opinions. Psychologists have unequivocally demonstrated that a child cannot develop properly outside of a supportive home setting.

Marriage is a socially, legally, and religiously acknowledged interpersonal connection that is frequently established as a contract and is typically intimate and sexual. Marriages are legally binding contracts that last a lifetime and can only be dissolved formally through divorce or annulment procedures or by the death of one of the parties. It is God-ordained and designed

to reflect the love connection, not just a societal convenience or innovation for coexisting. Numerous religions contain in-depth teachings on marriage.

It is the most fundamental and important social bond shared by all people. The psychological acclimatization of family members to one another during its inevitable changes generates perhaps the most significant series of the numerous personal and social issues brought on by an association that affects so intimately and in such unfathomable ways, which more than any other engrosses, expresses, and confines the personality of man. In certain ways, men and women are similar in general, yet they are also different and complement each other²⁴⁹.

[C] IMPACT OF LIVE IN RELATIONSHIP IN INDIA

The notion of live-in relationships is among the most significant elements of this gradual spread of Western ideas and lifestyles to India.

In India, live-in relationships are still frowned upon. But many courageous couples do live together without being married in a nation where parents sometimes kill their children for getting married outside of caste. They deal with legal obstacles as well as societal stigma. The Supreme Court's ruling on May 22, 2013, said that a man and a woman who are in love should have every right to live together as a couple and that such a decision is in no way a "criminal offence."

The first question that comes to mind whenever one considers live-in relationships is, "Why do couples believe in having such a relationship instead of legally, religiously, and socially sanctioned marriage?" There might be a variety of responses, like²⁵⁰:

²⁴⁷ Brienna Perelli-Harris, "How Similar are Cohabiting and Married Parents? Second Conception Risks by Union Type in the United States and Across Europe". *European Journal of Population* (30=issue 4: 437-464) (2014)

²⁴⁸ Nicoletta Balbo; Francesco C. Billari; Melinda Mills. "Fertility in Advanced Societies: A Review of Research". *European Journal of Population* (29 (1): 1-38) (2013)

²⁴⁹ Potarca and Mills and Lesnard. "Family Formation Trajectories in Romania, the Russian Federation and France: Towards the Second Demographic Transition?". *European Journal of Population*. 29: 69-101, (2013)

²⁵⁰ Arun Kumar Singh and Dr. G.S. Rajpal, "Socio-Legal Aspects of Live-in-Relationship in India: An Overview" 4(2)IJARS 3 (2015)

1. Lifestyle: A boy and a girl did not often have the chance to communicate with one another in the past due to the typical Indian's lifestyle. Thus, there was little chance that they would start living together. But today, a girl and a male have plenty of opportunities to get to know one another and spend time together at places like work, school, pubs, discos, etc. This increases their likelihood of starting a live-in relationship.

2. Age of Marriage: Indians traditionally married at quite young ages. A person got married at a very young age, thus there was really no possibility for them to start living together. But now there are many opportunities for a person to live in thanks to the gradually rising marriage age.

3. Economic Independence: Young people are growing more and more economically independent, particularly in metropolitan areas. As a result, they are less dependent on their individual families, which frees them from adhering to their families' rules surrounding their personal lives.

4. Away from home: Many individuals live away from their homes, whether it's for work, school, or other reasons. As a result, they are not directly under the supervision of their family. In addition, the cost of living in a city is fairly high; nevertheless, when shared with someone, it becomes manageable. The young people are encouraged to live together because of these situations.

5. Urbanization: Every person in rural settings is subject to severe social supervision; his actions are always being watched by his fellow villagers. However, there is no such oversight in cities since nobody is concerned with a person's private life. A person may therefore live whatever they like with plenty of freedom. 6. Of course, social restrictions prevent them from getting married. This is true when a couple has different religious beliefs, castes, or social classes, yet their union is nonetheless frowned upon by society as a whole.

[D] LEGAL AND JUDICIAL IMPLICATIONS OF LIVE IN RELATIONSHIP IN INDIA

The Apex Court in India has recognized the concept of live-in-relationship. What in legal parlance is meant by this relationship? Now willing partners irrespective of any religion, caste or creed can join and live with a partner of his or her choice. After having lived as per the terms of agreement, the partners separate from each other without any sort of liabilities of the sharing partners. The concept of "live-in-relationship" has commonly been recognized as "easy to walk-in & easy to walk-out" sort of arrangement.

What used to be immoral in the earlier past has now been stamped with legality. The S C has given recognition to this flexible concept 'keeping in view the changing patterns in Indian Societies. This relationship has been recognized as a step short of marriage. If the partners are willing to continue the relationship for a healthy length of time, it can assume the status of marriage though in the initial stages it was never meant to be marriage by the sharing partners.

The only purpose of law, as a social instrument, is to govern society by maintaining up with its changing standards. Due to the lack of a specific law, the Indian Judiciary has occasionally issued decisions that have defined what constitutes a live-in relationship in India and established limits for it based on the merits of various cases, keeping in mind the rising prevalence of non-marital cohabitations in Indian society and the rising prevalence of issues related to them.

In *D. Velusamy vs. D. Patchaiammal*²⁵¹, the courts adopted the stance that, until it can be shown otherwise, the law will presume that a man and a woman were legally married if they lived together as a married couple for a significant period of time. In the case of *Badri Prasad v. Deputy Director of Consolidation &*

²⁵¹ *D. Velusamy vs. D. Patchaiammal* (2010) 10 SCC 469

Ors.²⁵², in which the Court granted legal legitimacy to a couple's 50-year lived-in relationship, the Supreme Court of India made the first recognition of a live-in relationship as a genuine marriage.

Superintendent Nari Niketan Kandri Vihar Agra and Others v. Payal Katara²⁵³, the Allahabad High Court ruled that "men and woman may live together even if they do not get married. A woman who is a major and about 21 years old has the right to go anyplace. The concept of a live-in relationship was once again accepted in the case of Tulsa v. Durghatiya²⁵⁴.

The Supreme Court has identified five circumstances where the idea of a live-in relationship may be explored and established in a court of law in the recent case of Indira Sarma vs. V.K.V. Sarma²⁵⁵. Relationships between adult males and adult females who are both single fall under the first type. Marriages between an adult married man and an adult unmarried woman who joined the union knowingly fall under the second category. Marriages between an adult unmarried man and an adult married woman who engaged into the union knowingly fall under the third category. Adult single men and adult married women who marry fall under the fourth group. The Delhi High Court refused to maintain that live-in relationships are exempt from the definition of rape under the Indian Penal Code, 1860 in the most recent case of Anil Dutt Sharma vs. Union of India 23, asserting that doing so would equal to granting them the legal status of matrimony, which the legislative body has chosen "not to do" since live-in relationships are a separate class from marriage.

In the absence of a specific statute, the Apex Court of India took the initiative to defend the rights of children of live-in couples. A child born within a live-in relationship may be allowed to inherit from either parent, if any,

²⁵² Badri Prasad vs. Deputy Director of Consolidation & Ors AIR (1978) SC 1557

²⁵³ Payal Katara vs. Superintendent Nari Niketan Kandri Vihar Agra and Others (2001) AIR (ALL) 254

²⁵⁴ Tulsa v. Durghatiya (2008) 4SCC 520

²⁵⁵ Indira Sarma vs. V.K.V. Sarma Criminal Appeal No. 2009 of 2013 (CRL) No. 4895 of 2012- Decided on 26-11-2013

according to the Supreme Court of India in the case of Bharatha Matha & Ors. vs. R. Vijaya Renganathan & Ors.²⁵⁶, but is not entitled to any property that belongs to Hindu ancestral coparcenaries.

In its several rulings, the Apex Court of India has so evolved and defined the legal status of live-in relationships. Although this concept has legal validity, there is no explicit statute that defines the conditions of live-in couples. Although certain social groups are against the notion of a live-in relationship, it is not illegal in the eyes of the law. According to the Supreme Court, cohabiting is a legal right and is thus not illegal. The court has also made an attempt to improve the circumstances of women and children born out of live-in relationships by defining their status under the domestic abuse Act, 2005 as being a "relationship in the nature of marriage," if the link is shown to be one.

[E] IS INDIAN SOCIETY READY FOR LIVE IN RELATIONSHIP

We must all start by shifting our perspectives. Can live-in relationships ever become the norm in a country where weddings are still planned and females are raised to respect their parents' decisions? In the urban areas, the trend is catching up. Living together before to marriage is becoming more and more popular as a way to test a couple's compatibility, but what about smaller cities? Metropolises don't, after all, represent the whole nation. In Ranchi or Kanpur, for example, are parents receptive to live-in relationships? Will they consent to their daughter entering such a situation?

India continues to be a conservative culture despite all the advancements we have achieved. The phenomenon of dating couples living together is mostly limited to big-city professionals, and sex is seldom acknowledged in public.

The Domestic Violence Act was approved, and the Parliament took significant action to stop

²⁵⁶ Anil Dutt Sharma vs. Union of India 2015 SCC Online Delhi 7615, decided on 18-02-2015

violence against women, including those who are in live-in relationships, in the benefit of women. Even if the system may be getting ready for change, attitudes have not yet changed. In this case, the woman is put at a disadvantage right away. She is held accountable if a relationship doesn't work out. And if there is violence between live-in spouses, nobody steps in to stop it.

In this case as well, the woman has responsibility, and others make moral judgements about her. The way we raise our girls must change if we want our society to change. How many parents from the middle class can honestly declare that their daughter has the freedom to decide whether she wants to be married or merely cohabit with a man? Our culture is quite patriarchal. In this country, those who dare to fall in love are murdered.

In certain locations, caste panchayats determine what happens to young couples who defy convention. Take a look at recent events in Muzaffarnagar. A girl who had an affair with a guy her own family disapproved of was hanged from a tree. How can a society ever allow live-in relationships if it is so strict about marriage without parental approval and inter-caste partnerships? I'm not evaluating the proposition. After all, only two individuals may be in a relationship. It is absolutely up to them to define it whatever they see fit.

In countries where it is practised, cohabitation is also against sharia law. However, several industrialised countries, notably the USA (23% in 2003), Denmark, Norway, Sweden (over 50%), and Australia (22%), accept and even encourage live-in relationships. Despite the fact that this is a fresh concept and Indian culture differs much from that of developed and other growing countries, live-in couples have undoubtedly had an impact on modern Indian society, and the changes are obvious. It is imperative that the State give this subject significant consideration and take the appropriate action to manage and resolve any

disputes in this regard in order to prevent future conflicts and controversies.

[F] CONCLUSION

Even though ordinary people often use the terms "live-in partnerships," "common-law marriages," and "de facto relationships," each of these legal arrangements has a specific meaning since it is a culturally-based legal structure. The study of these relationships makes one thing clearly clear: every culture has a unique category of non-marital relationships, and these relations also have different legal and social statuses. India is building and embracing the idea of live-in relationships without clearly defining the nature of this link or offering any kind of legal structure to handle it.

However, at this time, legislation that would clarify the concept is required. There should be clear guidelines for the period of time required to give the relationship's legal status, registration procedures, and party and child rights. The most pressing need of the hour is to safeguard the future of children born into married couples. The judiciary has undertaken initiatives that are cordial and useful. Living together provides individuals their own independence, but since it also brings unpredictability, there has to be a guideline to keep its negative aspects to a minimum.