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## LIVE IN RELATIONSHIPS IN INDIA: THE LEGAL DEBATE

### ABSTRACT

This research paper delves into the ongoing debate surrounding live-in relationships in India, a topic that has sparked considerable controversy and divergent opinions. While some individuals staunchly oppose the concept, others view it as a matter of personal choice and autonomy. The paper acknowledges that the prevailing sentiment in India tends to be against live-in relationships, rooted in cultural and societal norms that prioritize traditional marital arrangements. However, it also acknowledges a shifting perspective, particularly among the younger generation, who are increasingly influenced by Western ideals and values. For many of them, the idea of cohabiting before marriage is seen as a pragmatic approach to understanding compatibility and building a strong foundation for a future together. They argue that live-in relationships offer a level of freedom and flexibility not afforded by the legal and societal constraints of marriage. The paper provides a comprehensive overview of live-in relationships, exploring their definition, legal status in India, and notable legal cases that have shaped the landscape of this contentious issue. It examines how Indian laws and judicial decisions have grappled with the complexities of regulating and recognizing such relationships within the framework of existing legal structures. Furthermore, the research paper delves into the evolving attitudes of Indian society towards live-in relationships. It acknowledges a gradual shift in public opinion, influenced in part by changing social mores and the increasing globalization of Indian culture. As Western ideas gain traction and acceptance in Indian society, there is a growing acceptance of alternative relationship models, including live-in arrangements.

### INTRODUCTION

Live in relationship gives meaning to the couple who are above 18 years of age and are cohabiting together for a long period of time without doing the marriage. These relationship

does not require registration and unlike marriage, the couples in these sort of relationship does not require divorce to end it.”In India, the idea of live-in relationships is considered a cultural taboo. Despite progressive laws, tradition and morality continue to have an iron grip on how society functions and treats women”.<sup>1</sup>As India is a diverse country and is known for its rich cultural values which differs it from the other nations has a great meaning for marriage. In every tradition or religion, people have their high beliefs for marriage. As the young generations are adapting the western culture rapidly, their mind set is getting broader and the concept of live in relationship has taken place. Some people do not want to get into any legal relationship or wants their freedom, not wanting to be bounded and to live with their own terms and conditions. They feel that by getting to know each other while living together is a good option to test whether they are compatible or not. In this article, we will talk about the legality of live in relationship in India and the trending social debate on this topic.

## **HISTORY OF LIVE IN RELATIONSHIP IN INDIA AND PREVIOUS LAWS**

”Manu asserts that although premarital unions existed in the Vedic era and thereafter, they were uncommon. As a result, the idea of living together before marriage is not a novel one in India; live-in relationships have long been there. Even though marriage was the norm in ancient India, premarital relationships are depicted and acknowledged in Hindu scriptures. Although the phrase ‘live-in relationship’ may seem novel, the idea is not. Eight different kinds of marriages Brahma marriages, Daiva marriages, Arsha marriages, Prajapatya marriages, Asura marriages, Gandharva marriages, Rakshasa marriages, and Paisacha marriages are all attested to in the Vedas”.<sup>2</sup>

In medieval period:

“Concubines were used in the past to help wives who were unable to have children by producing large numbers of offspring. Concubinage, however, also enjoyed legal tolerance in mediaeval times between two unmarried individuals, much like the position of common-law marriage. Although concubinage has been a prevalent practice throughout history in

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<sup>1</sup> Deutsche Welle, *Live-in relationships in India are legal but taboo*, HT, Nov 04, 2023.

<sup>2</sup> Shikha Bhatnagar, *Live-in Relationship: An Indian Perspective*, LEGAL SERVICES INDIA, <https://legalserviceindia.com/legal/article-9388-live-in-relationship-an-indian-perspective.html>.

many cultures, concubines' social and legal standing has changed with time, ranging from sexual servitude to common-law marriage.”<sup>3</sup>

## **CURRENT SCENARIO OF LIVE IN RELATIONS IN INDIA**

There was a incident of Shraddha Walker , which came in november 2022:

“Shraddha Walkar, who was in a live in relationship with the accused poonawala (28), was allegedly strangled by him on May 18 last year. Following the crime, the accused dismembered her body, stored the body parts in a refrigerator, and then disposed of them at isolated locations across Delhi over several days to evade detection by the police and the public.”<sup>4</sup>

Following Poonawala's arrest, the public discourse swiftly shifted from discussing women's protection to debating whether or not women ought to live in intimate relationships. India's Minister of State for Housing and Urban Affairs, Kaushal Kishore, released a press release challenging Walker's character a few days after the murder became public. "Educated girls should not get into such relationships," he said, implying that the act of "living-in" prior to marriage was what caused the crime.

After this heinous incident, more similar incidents followed like the incident involving of nikki yadav. According to reports, a man in Delhi killed Nikki Yadav, his live-in girlfriend, put her body in a freezer at a dhaba in Baba Haridas Nagar, and then married a another woman that same day.

And the incident involving Saraswati Vaidya the entire india was shook to its core, “Saraswati Vaidya, who was in a live-in relationship with Manoj Sane, was brutally killed and dismembered. Shockingly, Sane cooked some of her body parts in a cooker to dispose of the evidence. As the police delve into the investigation, similarities between these two cases have come to light.”<sup>5</sup>

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<sup>3</sup> *Id.* at 2.

<sup>4</sup> Sahil Sinha, *Aaftab said he strangled her with his own hands: Shraddha Walkar's father*, IND TODAY, Jul 31, 2023.

<sup>5</sup> Sudhanshu Mishra, *Similarities between Saraswati Vaidya and Shraddha Walker Murder Case*, THE STATESMAN, June 10, 2023.

As these cases comes to light, the idea of live in relationship is questioned by the society because of the fear that there is no legal recongnition and is not safe for the couple as anything might happen and that's why it has a negative impact on the society.

Live in relationship position in india:

Supreme Court of india does not consider live in relationship in india as illegal but also it does not have any legal rights with consideration to those couples who are married. For example, the women cannot claim Maintainance if there is separation between them two, the partners who are living together cannot inherit each other property, this means that they have no legal right to inherit each other's property. But the Maintainance right changed after 2015, and court held that if both the couples are living together for long period of time, then women can claim maintainance. Rights of child born out of live in relationship is same as the right of the child who is born from the marriage. I personally think that it is the right of the child to be treated as a child who is born from the marriage, because the child born out of this relationship is innocent.

The women in live in relationship has the right against domestic violence or cruelty against her. The domestic violence 2005, gives the right to women to do so because it states that , the people who are living together for long is considered as husband and wife and the person has the right against the cruelty or violence against her.

"India does not have any laws that directly address a live-in partnership. The concept of live-in relationships was legally recognized for the first time in 2010 while discussing the safety of women and said that women who were in live-in relationships are protected under the domestic violence law. Twelve years later, the nation's Supreme Court strengthened the legitimacy of live-in partnerships by recognizing that children born out of such situations are entitled to rights under a co-parenting agreement and have a right to inherit property. The apex court has often reiterated that if "two consenting adults of heterogenic sex" choose to live together, it "does not amount to any offense."These statements are rooted in the constitutional idea that "no person can be deprived of his life" or "personal liberty".<sup>6</sup>This means that if the persons are willing to live together without marriage, then they have the right to decide about their future and take the decisions of their lives and courts should not interfere in that matter.

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<sup>6</sup> *Id.* At 1.

“There is no law specifically addressing live-in relationships, but the Indian judiciary has developed jurisprudence over the years through a series of judgements. According to the SC judgment in *Badri Prasad Vs Dy. Director of Consolidation* (1978) live-in relationships in India are legal but subject to caveats like age of marriage, consent and soundness of mind. The question of the legality – or legitimacy – of live-in relationships was relatively simple for the courts to settle as fundamental freedoms are mostly elastic and courts have interpreted them broadly. However, several laws in different aspects pertaining to live-in relationships continue to be too rigid for the courts to extend or interpret them for the benefit of live-in partners.”<sup>7</sup>

### **CASES ON LIVE IN RELATIONSHIP**

In the following case of *D. Velusamy v D. Patchaiammal* (2010)<sup>8</sup>, where the facts of the case were that the appellant stated that she was married to patchaiammal held in 1986 and that he was living with her in her father’s home for 1 to 2 years. Then after that he went to his hometown and started to live there. He used to visit for sometime and then go back. So she claimed maintainance. But the appellant stated that he was married to another girl [laxhshmi] in 1980 and they also had a child from their wedlock. The issue raised before the court was whether the marriage of appellant with the respondent was valid And whether the respondent was entitled to maintainance? The court stated that the decision was invalid as they have not listened the side of Lakshmi and so it cannot state that the marriage of appellant with Lakshmi is invalid as it is against their right.

*“In our opinion such findings were essential to decide this case. Hence we set aside the impugned judgment of the High Court and Family Court Judge, Coimbatore and remand the matter to the Family Court Judge to decide the matter afresh in accordance with law and in the light of the observations made above. Appeals allowed.”*<sup>9</sup>

In the following case of *S. Khushboo v. Kanniammal & Anr.* (2010)<sup>10</sup> where the Facts of the case were that S. Khushboo was a well known actress. She shared her opinion to the

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<sup>7</sup> Jheelum Basu, *Live-In Relationships In India: Legal But Do They Have Enough Safeguards*, OUTLOOK, November 20, 2022.

<sup>8</sup> *D. Velusamy v D. Patchaiammal*, (2010) 10 SCC 469

<sup>9</sup> *Id.* At 8.

<sup>10</sup> *S. Khushboo v. Kanniammal & Anr.*, (2010) 5 SCC 600

media while giving the interview about the premarital sex and stated that people should take precautions regarding it and it should be normalised in the society. She stated that it is their life and they have the right to decide about their own body and not the society.

After this the charge of defamation was issued on her. The issue raised before court was whether the statement made by her was defamatory? The court stated that the statement made by her was not defamatory as it was just a mere opinion of her. It is the right of everyone to share their opinions and it is not based particularly on someone so it is not defamatory as it was just a mere statement given by her.

My opinion related to this case is that, the statement which is given by her is right. She just stated her opinion about the problems which women face, so she shared that they should take precautions so that they don't get any problem afterwards.

In the following case of *Indra Sarma v. V.K.V. Sarma*(2013)<sup>11</sup>, the facts of the case were the appellant and respondent used to work together in a company. Respondent was married and the women was aware of that fact. They started to live together after sometime. The appellant left her job and the respondent started his own business on the name of the appellant. After sometime the respondent changed the named and used the building as his residence, where his wife and children lived. The appellant filed the case on the basis that while they were living together, she got pregnant thrice and was forced by the respondent to abort the child. She also contented that he has taken several loans from her and promised her to return it but the promise remained unfulfilled. This was considered cruelty by the appellant. The issue raised before the court was whether a live-in relationship would amount to a relationship in the nature of marriage falling within the definition of domestic relationship? The disruption of such a relationship by failure to maintain a woman involved in such a relationship amounts to domestic violence? In this case, the court held that it would not come under the definition of domestic relationship and also the appellant will not be entitled to maintenance as she was aware about the marriage of the respondent. So the respondent was held not to be liable and the appeal was dismissed.

In this case, *Indra Sarma v. V. K. V. Sarma*<sup>12</sup>, there are two significant propositions – one, a recommendation to expand and broaden the scope of Section 2(f) of the Domestic Violence

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<sup>11</sup> *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

<sup>12</sup> *Id.* at 11.

Act, and two, it created an exception to the relationships that are in the nature of marriage. The exception was if a woman knowingly gets into a relationship with a man who is already married, and when the vital characteristics of marriage are missing, she will not be considered a wife; hence she will not be maintained.<sup>10</sup>

In the case of *Lalita Toppo v. State of Jharkhand* (2013)<sup>13</sup> where the facts of the case were that the appellant and the man she shared a child with were living together. The Gumla Family Court approved the appellant's request for financial support after their divorce, giving her a monthly award of Rs. 2000 and a child's award of Rs. 1000. After considering the appeal, the High Court dismissed the appellant's claims and found in the partner's favor. After this, the appellant moved to the supreme court. The issue raised before the court were whether the appellant can claim maintainance on the basis that they were living together for a long period of times and it possible for live in partner to seek maintainance? The Judgement was that the court stated that the partners who are living together for a long period of time can claim maintainance under domestic violence but not under Cr.P.C. 'The Supreme Court stated that, while the appellant is not a legally wedded wife and thus cannot claim maintenance under Section 125 of the Cr.P.C., she can seek maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005. "Economic abuse also constitutes domestic violence,"the court stated.'<sup>11</sup>

In the following case of *S.P.S. Balasubramanyam vs Suruttayan* 1994<sup>14</sup>, the facts of the case were, a man was married to a women named pavayee, they had three sons from their wedlock. He also used to live with another women who had the same name as his wife ( pavayee ). From this relationship , they also had a son. He transferred his 1/3 rd property to him also. But this was opposed by the other two branches and they filed the case. The issue raised was that whether the child to whom the property is transferred is legitimate child? And that whether the property can be transferred to the children who are born out the living relationship?

The supreme court of india in this case, granted the legal validation to the children who are born out of the live in relationship. The court states that if the women is living and the couple are cohabitating for the certain period of the prescribed time, then it will constitute a

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<sup>13</sup> *Lalita Toppo v. State of Jharkhand*, (2019) 13 SCC 796

<sup>14</sup> *S.P.S. Balasubramanyam v. Suruttayan*, (1994) 1 SCC 460

marriage and the child born out of the wedlock will have the same rights as the children who are born out of the marriage. The children who are born out of this relationship will be legitimate and can claim the property of their parents.

## **CONCLUSION**

I personally think that live in relationship should not be considered as a negative impact on the society as the people have the right to take decision about themselves on their own. They have to live their own life and they have the right to get to know about their partner, and not the society. If they are comfortable to live with each other without getting married then society should have no say in that matter. But if the people who are coming in relationship are taking this in the wrong way and women or men are suffering mentally and physically like domestic violence and mental torture leading to suicide and many more is going on between the couples then there should be actions in regard to it to protect that person. I think that with the growing society, the thinking of society should also change. With the evolving society wherein women are earning and are modernised and don't want to depend on a man for anything or any further things she has the right to live in a relationship without getting married and men should regard live in relationship like the utmost sincerity as they regard marital life as live in relationships are a serious matter too. If the thought process of the people changes then with the slow time being the society will evolve and live in relationship will be a normalised segment wherein less and less people will get married.