

## LIVE- IN RELATIONSHIP: AN UNENDING CHALLENGE?

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*In India, live-in relationships are becoming more common as a simple alternative to marriage. It is characterized as the residential cohabitation of an unmarried adult couple. On the surface, it seems like a stress-free relationship with no legal responsibilities, but in reality, there are a lot of complexities, obligations, and legal liabilities. There have been recent attempts to include it under the purview of some laws. It is no longer illegal in India, and numerous rulings by the Apex Court have established rules regarding property, support, and a child's legal standing. In India, the matter is still up for debate. Many Gray situations, such as those involving official paperwork, cultural difficulties, property rights, wills and gift rights, anti-religion status, the LGBT community, and so forth, require adequate care. This paper's main goal is to use secondary sources to help readers understand what a live-in relationship is with the use of descriptive and analytical techniques, an attempt has since been made to examine the issues and difficulties that the couples were facing. The paper will discuss the situation of live-in relation in other countries and India as well.*

**Keyword:**

*live-in relationship, domestic violence, property, maintenance, protection of women, child rights.*

When two individuals live together without being married, it's called a live-in relationship. Many nations throughout the world have already legalized and approved the idea. A live-in relationship is no longer illegal according to the Apex Court, which states that a man and a woman in love have the right to live together as part of their inherent right. The groundwork for the historic recommendations was laid in 2003 by the Malimath Committee. The Malimath Committee in 2003 paved the way for providing landmark recommendations. It is

pertinent to mention that primarily it shed light on the term 'wife' and consider a woman in a live-in relationship alike wife. Thereafter, the Protection of Women from Domestic Violence Act (PWDVA) 2005, which is regarded as the first piece of legislation provided legal recognition to relations outside marriage, by covering it under the ambit of relations 'in the nature of marriage'.<sup>1</sup>

To control the dynamics of this new social order, multiple attempts have been made to include it under the jurisdiction of laws pertaining to domestic violence, maintenance, property, and children's legal status. However, it's remains controversial and forbidden in India for moral and social reasons.

Indian culture has revered marriage as a sacred union since the Vedic era. Over time, marriage has continually evolved in conception. As society and human psychology have evolved over time, so too has the idea of marriage and relationships. The generation that exists today is more open and giving in regards to the notion and idea of cohabitation.

The Hindu Marriage Act of 1955, the Criminal Procedure Code of 1973, and the Indian Succession Act of 1925 do not recognize live-in relationships. However, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) defines the phrase "Relationship in the context of marriage," which is included within the definition of "domestic relationship," as follows:

Section 2 (a) "Aggrieved person"<sup>17</sup> 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;

Section 2 (f) "Domestic relationship"<sup>18</sup> means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a

relationship in the nature of marriage, adoption or are family members living together as a joint family;

**Aims And Objectives of The Research Paper**

- a) To analyse response of Indian judiciary to live- in-relationship.
- b) To comparing the status of live-in-relationships ‘with the status of married couples with the help of judicial decisions in India.
- c) To study the status of live in relationship in other countries.
- d) To examine live-in-relationship and its impact on related statutes.
- e) To suggest remedial measures to alleviate sufferings of women living in live- in-relationship in India.

**Origin of Live in relationship**

While the idea of a live-in partnership is not new to society, it has changed significantly in comparison. The term "live-in relationship" first appeared in the Vedas, which list eight different kinds of marriages. Among these is the "Gandharva" form, which describes a marriage as a union of a man and a woman with consent; however, Manu defines it as a marriage between a man and an unmarried woman (usually a virgin) that develops out of passion. While this kind of marriage does not strictly fit the definition of a live-in partnership, it is connected to the idea of a live-in partnership in modern society.

**Indian Judiciary**

Both the concept of a live-in relationship and the status of the couples involved are ambiguous. In India, there isn't a formal law regarding cohabitation. There is no law that specifies the responsibilities and rights of individuals in live-in relationships, the status of offspring of such a marriage. The courts have stepped up to clarify the concept of live-in partnerships since there is no legislation defining its status.

The courts have adopted the position that, absent clear evidence to the contrary, if a man and a woman cohabit as husband and wife for an extended period of time, the law will conclude that they were lawfully married.

The term "live-in relationship" was never used by any court in the nation prior to 2000, yet it

was used once that year. In 2001 Payal Sharma vs. Superintendent, Nari Niketan, Agra, C.M. Hab. Corp.<sup>27</sup> the Bench consisting of justice M. Katju and justice R.B. Mishra of Allahabad High Court observed that “In our opinion, a man and a woman, even without getting married, can live together if they wish to. This may be regarded as immoral by society, but is not illegal. There is a difference between Law and Morality.

In the 1929 case of Mohabbat Ali Khan vs Muhammad Ibrahim Khan, the court held the opinion that, unless the opposite is demonstrated, the law will presume that a man and woman who have proven to be living together as a pair are legally married if they are cohabiting.

In a case A. Dinohamy v. W.L. Blahamy the Privy Council took a stand that, “where a man and a woman are proved to have lived together as man and wife, the law will presume, unless the contrary be clearly proved that they were living together in consequence of a valid marriage, and not in a state of concubinage.” (20 AIR 1927 P.C. 185)

**Status of live in relationship ‘in other countries**

**The United States of America: -**

Due to the psychological anguish and poor quality of marriages, many people are engaging in live-in relationships. According to a USA TODAY report, between the 1960s and 2000, roughly 10 million Americans—or 8% of couple households—lived together without being married. The majority of cohabiting unmarried couples are between the ages of 25 and 34.

According to a study conducted by Richard Fry and D'Vera Cohn, 73% of women in live-in relationships between the ages of 19 and 44 lack a high school education, compared to 52% of women who have attended college or 47% of women who have a college degree.<sup>2</sup>

**France:** -The law governing live-in relationships is the "Pacte civil de solidarite2," or PaCS, which was passed by the French national assembly in October 1999. It states that a steady and ongoing partnership between two heterosexual people or a same-sex couple living together is acceptable.

**Canada:** - One of the first countries to recognize live-in partnerships as legitimate was Canada. However, there were also some requirements that had to be met, like the following: both parties had to be at least eighteen years old. They have to be cohabiting after the age of eighteen for a minimum of one year, or living together for a year and a half, or twelve consecutive months.

**Ireland:** - Live-in relationships are considered legitimate in Ireland, where new laws have been implemented by the government to grant some legal rights to those in such partnerships. The purpose of this new legislation was to support the vulnerable in times of emergency or other individual's death. It was prompted by the rise in instances of one person abruptly leaving and leaving the other struggling financially.

**United Kingdom:** - The United Kingdom's Civil Partnership Act of 2004 governs live-in relationships; however, when two people have a committed and long-term sexual connection, they are referred to as "common law spouses" rather than live-in partnerships. One could argue that live-in partnerships are not given the same respect in the UK as marriages.

**Australia:** - In Australia, live-in relationships increased and marriage rates decreased in the 1980s. According to Australian Institute of Family Studies 2020 In 1975, 16% of marriages were preceded by live-in relationship. In 2008 it was 78%.

**Islamic Countries:** - The term Zina is used by Islamic nations such as Saudi Arabia, Iran, Pakistan, Maldives, United Arab Emirates, etc. This implies that Islamic doctrine forbids certain behaviours, such as fornication, adultery, living together, and same-sex relationships.

**China:** - A study conducted in February on 5,000 unmarried individuals in Shanghai between the ages of 20 and 40 revealed that over 50% of them had no plans to tie the knot anytime soon. An investigation was conducted by the Chinese Communist Youth League's Shanghai Committee. According to the survey, two-thirds of single people said they would be open to dating, and it may become typical for couples in large cities to say "no" to marriage.

A live-in relationship can dissolve in China without going through the formalities. Born outside of marriage, children enjoy the same rights as those of married parents. In a live-in relationship, contracts are made by the partners.<sup>3</sup>

**Effect of Live-in-relationship: -**

When we talk about the complexities regarding live-in relationship, we may quote some cases like in Chandigarh in accordance to the Punjab and Haryana High Court, a couple who cohabitates without divorcing their former spouse does not meet the criteria for a "live-in relationship" or have any connection to the "nature of marriage." The court further declared that bigamy under Sections 494 and 495 of the IPC is committed.<sup>4</sup>

The Indian Express published a news regarding the PIL was filed by lawyer Mamta Rani seeking a direction to the Centre to frame rules for registration of live-in relationships as it cited increase in crimes like rape and murder allegedly committed by live-in partners. The Supreme Court rejected a PIL on Monday, calling it a "hare-brained" concept that sought to establish guidelines for the registration of all live-in relationships with the Centre.

Chief Justice D Y Chandrachud led a bench that questioned petitioner Mamta Rani's attorney about whether she preferred that her client's security be maintained or if she thought it better if these individuals avoided live-in relationships.<sup>5</sup> India Today published an article by saying that The Allahabad High Court dismissed a plea filed by an interfaith live-in couple requesting police protection, noting that partnerships are more like an "infatuation" with no "stability or sincerity."<sup>6</sup>

We can discuss many challenges faced by the unmarried couple like social and legal acceptance, family approval, children's right, searching home and many more. Although Live-in relationships are not illegal in India, but lawmakers have often condemned the idea.

Some policy and law makers point criminal activities as a base for not legalize these kinds of relationships. The horrific murder tale in New Delhi has India in its grip. Police discovered in November 2022 that Aftab Poonawala, 28, had slain his companion

Shraddha Walker, sliced up her body, and kept the pieces in a refrigerator.

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. According to him, the crime was caused by the practice of "living-in" before marriage, and he further stated that "educated girls should not get into such relationships."<sup>7</sup> In another incident in a case of sahil Gehlot killed his partner Nikki Yadav and dumped the body in his dhaba's fridge and after having committed the crime he allegedly married another girl just because he had not told about her in his family.

The highest court (The apex court) has often affirmed that cohabitation between "two consenting adults of heterogenic sex" "does not amount to any offense." The fundamental principle that "no person can be deprived of his life" or "personal liberty" provides the foundation for these claims.

Though live-in relationships are not against the law but regarded as socially unacceptable in India's cities. Privacy is now considered a basic right by the Indian Supreme Court.

Certain rights and responsibilities are assigned to each partner in a regular marriage and can be carried out by either of them. A recognized couple's marriage is governed and safeguarded by a number of personal laws, including Christian, Muslim, and Hindu laws. There are no live-in relationship rules in India for couples who live together without being married because live-in relationships are a foreign notion to the country's lawmakers.

Living in a live-in relationship in India can be a complex issue, as it is not widely accepted in Indian society due to cultural and religious norms. However, the Supreme Court of India has recognized live-in relationships and has provided some legal protections for couples in such relationships. There are some key points to consider:

**Child rights:** - A child's odds of being born are great because pre-marital sex is also supported

by live relationships. In contrast to their married counterparts, their offspring are not entitled to any share of the estate. In addition, it is inappropriate for society to treat them like illegitimate kids. Yet the Honourable Supreme Court absolved them of this unfortunate situation. They also gave them the right to own property and the status of a legitimate kid. The legal status of a child born in a live-in relationship has been clarified by the Kerala High Court, which recently made progress in this regard. The same legal protections must be afforded to children born to married couples as to children born in cohabitation. In the eyes of the law, such a child will be regarded as legitimate.<sup>8</sup>

**Legal status:** The Indian Supreme Court has acknowledged live-in relationships as a form of personal relationship, despite not explicitly recognizing them under Indian law. According to the Justice Malimath Committee, which the Supreme Court established, a man shall be considered to have married a woman if they cohabit as husband and wife for a respectable amount of time. The Supreme Court went on to say that if a man and a woman live together for an extended length of time, they would be viewed as a married couple and their child will be regarded as legitimate.

**Protection of Women from Domestic Violence Act (2005):** This law protects women in live-in relationships from domestic violence. Certain economic rights are granted to female live-in partners under the Protections of Women and Domestic Violence Act, 2005. In October 2008, the Maharashtra government approved a proposal that said a woman living with her partner for a "reasonable period of time" should be given the status of a wife. The particular facts and circumstances of each case determine what qualifies as a "reasonable period."

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Supporters of live-in relationships over arranged marriages argue that the controversial ruling could legitimize social behaviour that is deemed objectionable by some social scientists,

who have identified serious social issues including drug abuse, violence, juvenile delinquency, and early pregnancies among adolescent girls.

Conclusion: - It is significant to remember that live-in partnerships have long been a topic of dispute, with the main focus being on the legality of such unions. While it is lawful for single people to live together in many states, marriage is generally favoured by the law, which grants married people certain rights and privileges.

Although live-in relationships are recognized by law, the law does not actively assist them because it traditionally upholds the institution of marriage. But sometimes, even in live-in relationships, patriarchal power dynamics can still exist, and the law aims to shield women from them.

Some states, like Tamil Nadu, allow registration of live-in relationships, providing some legal recognition. Even while live-in partnerships have recently become legal, they are still not legally binding on the parties. It could be a benefit or a drawback, depending on what the couple expects. Accepting a practice like live-in is a significant step forward for society. Personal laws do not apply to these interactions. Nonetheless, the Indian Law/Supreme Court is working to amend the legislation pertaining to live-in partnerships. Furthermore, this alien notion is becoming

more widely recognized in law. The term "live-in relationships" is defined broadly in India.

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