

Socio-Legal Dynamics Of Live-In Relationships In India: A Comparative Analysis With Traditional Marriages

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Abstract

The present research focuses on the patterns of live-in relationships and compares them with legally recognized marriage in India. However, even today, live-in relationships are not appreciated much in Indian society and are quite a disputable matter. The paper looks at the few existing judicial decisions that have legally recognized such relationships, with reference to protection under the Domestic Violence Act and protection applicable to the children fathered from these unions. The important conclusions show the progressive approach in legislation where long-term cohabitation as the couple is considered legal ties 'in the nature of marriage.' Nevertheless, the loopholes in the discussed aspects remain visible based on property rights and social recognition.

It also looks at the sociological aspects of the transformation process as regards breaking of the traditional gender roles, changes in perception towards marriage and other young people related issues. Taking into account the legal, social and cultural differences in the discussed subject, the paper stresses the importance of the integral legislative change for cohabitants' rights and obligations along with social concerns.

KEYWORDS Live-in relationships, Marriage Institution, Legal recognition, Socio-legal dynamics, Inheritance rights, Legislative Reforms.

I- INTRODUCTION

The non-marital cohabitation where two people of the opposite sex are living together as lovers have become common in India in the last two decades particularly with young people in urban area. Such change has created legal, social, and ethical issues in the Indian context concerning marriage and divorce norms. As for live-in relationships that do not have legal status, recent judgements demonstrated that some rights for partners of such relationships are provided.

To understand the nature and consequences of live-in relationships for the people involved, families, and society in general, socio-legal analysis of the phenomenon is required. Given that such relationships are unconventional in the social structures that they characterize marriage and family, they create various issues on gender and property rights, social acceptance, and child custody. A critical review of the literature can contribute to improving policies and legal frameworks pertaining to the rights and precarious situations of partners in live-in relationships.

The rise of live-in relationships in India can be attributed to several factors, including:

- New social perspective, especially in gen y and possibly gen X

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- Economic empowerment of women
- Population living in the urban areas or migration, which tends to destroy the conventional family norms.
- Cultural imperialism is the impact of Westerner's cultural values on other cultures European style influence
- Wanted to take time and see how they will feel before going for a marriage.
- To minimize issues of the law and money that come with marriage.

The objective of this paper is to establish the current legal scenario of live-in relationships in India, a critical review of selected case laws and to understand the social and cultural acceptance of live-in relationship. It will make a comparisons between the rights and the protections recognized to married people and people in live together relationships, it will explore the potential for children born of such relationships, and it will assess the requirements for the laws changes. Hence, this paper aims to bring together Legal, sociological, and ethical analysis for a comprehensive understanding of this fluid social phenomenon with special reference to India.

The key objectives of this paper are to:

1. Examine the historical development as well as the laws concerning live-in relationships in India
2. Review the current court decisions and their result
3. Study social perception and social issues that couples encounter while living together.
4. Discuss existing laws and their effectiveness and suggest possible changes to the laws.
5. How has this change affected the Indian society's forms and structures of Family and/or Marriage?

II- HISTORICAL AND CULTURAL CONTEXT

Traditional Views on Marriage in Major Religions:

Hinduism: Vivaha is regarded as a sacrament and the marriage ceremony is amongst one of the twelve major samsakaras of Hindus. It is considered as a sacred relation of husband and wife written in their destiny, also in several incarnations. The goal of Hindu marriage is to perform religious duties, to have children and mutual enjoyment. In the past, people mainly belonged to the Indian subcontinent and the practice of marriages was mostly Arya Marriage i.e. the marriages taken place within the same caste.

Islam: Nikah in Islam is both a religious as well as civil contract; it is a legal bond between two people who are willing to get married. The Quran portrays marriage in the light of a gift that is referred to us as a strong covenant (mithaqun ghalithun). The main aims of Islamic marriage are the legalisation of sexual intercourse and children's bearing. However, polygamy is allowed for a man under some conditions Only polygamy is allowed for a man

Christianity: For both females and males in the identified culture, marriage is perceived as a sacred process that is created by God. Marriage from the view of the holy Bible is stated as the union of two, becoming one single body. Christian marriage, therefore, is monogamous and is recognized to be for the whole life of the partners. Among the uses it contains are to provide company, for producing offspring and for fornications.

Historical Prevalence of Live-in Relationships:

Earlier, live-in relations without marriage were even stigmatized in the Indian societal structure, especially in the mainstream. But few resources illustrate some of the tribal communities in India like the Garasia in Rajasthan where live-in relationships known as Dapa have been practiced in the past. Similar to the Nayar community in the state of Kerala, the accepted form of cohabitation was Sambandham which was also non-marital.

Cultural Shifts:

Majority of the urban dwellers have leaned towards the acceptance of live-in relationships especially the younger generation in the last few decades.

Factors contributing to this include:

- Economic enfranchisement of women
- This case illustrates Westernization of cultures that goes hand in hand with internationalization.
- The desire of people to taste and see each other before marriage
- Arranged marriages and the pressure that comes with it from families Sha sweeps it under the carpet

However, living together has remained socially acceptable in some parts of India only, especially in suburban and rural areas and among the conservative faction of the Indian population. Legal acceptance has risen but still has not reached the desired point.

III- LEGAL FRAMEWORK AND RECOGNITION

Currently, there is no law fixed for live-in relationships in India but the position of women in the live-in relationships has improved a lot in recent years. Thus, the judiciary has had an active and significant role for recognizing rights of couples in live-in relationships through different judgements.

Current Legal Status:

Present-day, live-in relationship is not prohibited in India but it is not legally recognized in the similar way as marriage. But, the courts have opined that lasting cohabitants, between two adults, who give their consent can also be termed as being in a marital-like relationship. This offers some legal assuredness, especially to women and children.

Key Legal Cases and Judgments:

The case of *D Velusamy v D Patchaiammal* decided by the Supreme Court in 2010 framed certain foundational principles, which among others provided the circumstances for when a live-in relationship can be evidenced to come within the meaning of a marriage. The court said that the parties have to be of marriageable age; cohabited for a reasonable period out of their free will and held themselves out to the public as husband and wife.

The Indian Supreme Court decision of *Indra Sarma v. V. K. V. Sarma* in 2013 held further expand woman's rights to live-in relationships. The court was of the view that such relationships are within the DFVA and therefore women can seek protection and maintenance under the said act.

The Supreme Court, in the case of *S. Khushboo & Anr. v Kanniammal* (2010), hence indicated that live-in relationships are not unlawful despite social nudity as being immoral.

Comparison with Marriage:

While live-in relationships have gained some legal recognition, they still do not have the same status as marriage in several key aspects:

- 1. Property rights:** Unlike the married couple, people in a live-in relationship cannot claim an inherence of each other's property.
- 2. Adoption:** Single people are considered to have a harder time adopting children as compared to those people who are married.

3. Maintenance: The rights of maintenance under the Domestic Violence Act also exist but they are confined and do not hold as vast as the married women under the personal laws.

4. Evidence: It makes it hard for the live-in partners to prove their status because unlike marriage where they are issued with marriage certificate.

5. Social security benefits: Some of these benefits are available for married couple, they can block the rights of the live-in partners.

IV- RIGHTS AND PROTECTIONS FOR INDIVIDUALS IN LIVE-IN RELATIONSHIPS

Although there has not widespread approval in the Indian society, the live-in relationships have recently received some legal support in India. The Indian Supreme Court has recently laid down some guidelines to govern these relations and though the persons in such relationship are not deemed legally married, some degree of protection has been given, especially to women, under the law.

Maintenance and Alimony Rights:

The Supreme Court while considering the living together as being 'in the nature of marriage' has held that if the couple lives together for a long number of years and holds themselves out as man and wife, then they come under the Protection of Women from Domestic Violence Act, 2005. This entitles the female partner to claim maintenance and alimony for herself as well as for the child. Although not as good as the status of a legally wedded wife this does mean that women in long-term live-in relationships will have some fiscal security.

Protection Against Domestic Violence:

Again, the protection of women from the Domestic Violence Act, of 2005 has provided its coverages for women in live-in relationships. This historical act legalizes live-in relationships and also provides protection to women in cases of domestic violence, whether married or not. Through this act, women in live-in relationships can apply for protection order, residence order, and even money order.

Legal Status and Rights of Women:

Even though cohabiting, that is staying together as man and wife in a marriage-like manner apart from arising from a formal marriage, is not unlawful, the position of women in particular in such relationships remains somewhat unclear. However, recent judicial pronouncements have improved their standing:

1. Right to Inheritance: Children born out of a live-in relationship are held legal and legitimate heirs, with rights to have the share in their self-earned properties but not in ancestral property.

2. Right to Maintenance: It should also be noted that, if the relationship has lasted for a considerable amount of time women can seek maintenance under section 125 Criminal Procedure Code.

3. Protection from Sexual Offenses: The law provides women in live-in relationships similar to married women provision for rape or sexual assault by the partner.

4. Right to Dignity: The high courts have stressed that women living in such relationships have the right to human dignity and cannot be discriminated against by society.

5. Right to Safe Housing: The women have a right to live in the house either owned by the partner or let out by the partner.

V- LEGITIMACY AND INHERITANCE RIGHTS OF CHILDREN

Legal Recognition of Children Born Out of Live-In Relationships:

These are as follows:

This recognition has been made through several legal decisions. The Indian Supreme Court has aligned this by determining that where a man and a woman cohabit for a long time, such a relationship shall be deemed to be “in the nature of a marriage”, and therefore, children born out of the relationship shall be deemed to be legitimate. This was particularly reiterated in a case known as ‘S. Khushboo and Anr Vs. Kanniammal and Anr 2010, in which one of the courts laid a clear and profound assertion that children born out of live-in relationships are equally competent and have the same legal rights as children born out of marriage.

Inheritance Rights Under Hindu Law and Other Relevant Statutes:

Regarding the live-in relationship, the children who are born out of such a relationship have some restrictions in the Hindu law in terms of inheriting property as compared to the legal marriage. Specifically, the Supreme Court has pointed out that such children are legitimate yet they have no right to ancestral property except in cases where the property was self-acquired by the parents. They cannot acquire a coparcenary right in the property of the Hindu Undivided Family (HUF). This difference was also noticed in the case of Bharatha Matha & Anr v. R. Vijaya Renganathan & Ors (2010) wherein inheriting a live-in relationship progeny for self-acquired property but not for the ancestral property.

Comparison with Children Born Within Traditional Marriages:

Under Hindu law, children born within traditional marriages enjoy a wider scope of inheritance as compared to the other categories of children. They have right to claim the half share in material properties as well as the properties that individually inherited from their parents. This is in sharp contrast to the children born out of live-in relationships which, in terms of inheriting property, are entitled only to the self-acquired immovable property of the parents. Traditional marriages admit more full-bodied legal protection and the rights of children of the marriage, including recognition of the marriage as soon as it is formed and a right to share in the ancestor’s property.

Therefore, the present judgment also seems to have brought a reasonable amount of change in the Indian judiciary, and despite the growth of the status of children born out of live-in relationships, there persist differences on the ground of inheritance rights with other legitimate children born within marriage. The legal claims under the Protection of Women from Domestic Violence Act, 2005, as well as the numerous Supreme Court judgments on the matter, offer some guidance on the legal protection of such children’s rights, but while laws must be enacted to help fully address the gaps in inheritance rights.

VI- CHALLENGES AND SOCIETAL IMPLICATIONS

Challenges to the live-in relationships in India

A live-in relationship is a form of relationship that goes against the social cultural framework of marriage in India; thus, the following challenges are evident. While the practice is slightly more acceptable in the new generation or the younger and the educated from the urban background, live-in relationships are still a deposable or an immoral act as perceived by the major chunk of the Indian population.

Social Stigma and Discrimination:

The couple in live-in relationships is easily discriminated against and socially boycotted. Such arrangements are frowned upon in many families resulting to a break up or lack of acceptance of couples who decide to live together before getting into a marriage. Another commonly held belief is that while living together the couple is not respecting the marriage institution as well as family principles.

Women especially in live-in relationships suffer the brunt of social prejudices and discrimination. He thinks that they can be considered immoral or women of ill repute for engaging in co-habitation with a man with no intention of getting married. It may affect their daily lives and careers or their position within a family a group of people, or a community.

Practical Challenges:

Due to this, couples in a live-in relationship may not easily be able to find a place to live in since landlords do not rent houses to single people sharing a house. They might be asked embarrassing questions regarding their relationship status, or not be allowed to check-in to a hotel. This can prove to be a considerable cause of practical difficulties for those couples who try to live together.

Legal Ambiguities:

Even though, there are certain positive judgements regarding live-in relationships in India, the practice is not officially legal. Marriage is a union of two people and produces difficulties regarding property possession, inheritance, and child support. Certain rights have been conferred on what is commonly referred to as 'common law' spouses but there is still considerable legal ambiguity.

Impact on Marriage as an Institution:

Live-in relationships threaten the institution of marriage similarly, the rise in the number of live-in relationships is being largely noticed in India. That it may result in a decrease in marriage and family formation hence having a negative impact on that basic unit of society. However, advocacy has it that it enables people to come up with better decisions on matters concerning lifelong partnerships.

Changing Social Dynamics:

The concept is socially relevant as people's living arrangements evolve to correspond with modern trends in Indian society, especially in urban environments. They reflect culture change such that self-actualization is valued more than the collective well-being as depicted by families. This may lead to existence of intergenerational conflicts and tensions within families and other related community groups.

Children and Inheritance:

The children born from the live-in relationships may end up facing social embarrassment as their status may not be recognized by other people and they may end up facing legal complications when it comes to issues to do with inheritance. However, legal bodies of modern societies have accepted such children for legal purposes despite probable social prejudices.

Women's Rights and Safety:

Even though staying in relationships provides women with more self-control and independence, they are in a more vulnerable position in case of a break-up or marital brutality. The situation of women in such marriages remains vulnerable because the law on civil unions does not offer enough legal redress if the couple disagrees to continue with the partnership.

Cultural Clash:

Society, especially women in India, does not support live-in relationships due to Indian culture and social norms that never accept anything apart from marriage. This conflict has the potential of creating tension for the couples as well as their families whenever they decide to cohabit.

Generational Divide:

Live-in relationships especially received much negative response from the older generation while the young generation had a comparatively more liberal attitude towards the same. This can cause conflicts with families, as well as communities, and even lead to the splitting of some families.

Evolving Legal Landscape:

Slowly the legal system of India is developing with accordance with the need of live-in relationships. Still, here, the legislative process is generally slower than social change, which can present problems to the couples in these types of relationships.

In summary, though attitudes are somewhat undergoing a change especially in large towns, live-in relationship is still socially unpopular in India. Those couples who opt for this practice have to overcome serious social, cultural, and even legal barriers very often. Consequently, the issues and consequences being associated with the live-in relationships seem to offer a cross section of the key social concerns having to do with the conflict between tradition and modernity that is being felt and experienced in the social context of modern Indian society.

VII- NEED FOR LEGISLATIVE REFORMS

The growing tendency of the couple living together in India has led to certain legal inconsistencies that demand amendments to the law to ensure that citizens' rights in the type of residence are protected. The judiciary has in some ways come up with various judgments that have affirmed and given some rights to live-in partners, these little achievements do not in any way suggest that there is adequate legal protection of the rights of live-in partners; hence the need for legislation to fill in the loophole.

Key areas requiring legislative reforms include:

- 1. Legal definition and recognition:** It has become high time that we more especially the law gave a clear definition of what a live in relationship means and given it legal credence. This would easily be able to differentiate between those couples who have been living together in the long-run as compared to mere setups who are just sharing a house.
- 2. Rights and obligations of partners:** Parliamentary acts should also provide provisions on the positions of people in live-in relationships on matters concerning maintenance, and inheritance among other property-related issues. This would give legal definition and shield, especially to the weaker party of the relationship.
- 3. Status of children:** Although the judiciary has offered a decisive on the rights of children born out of live-in relationships, there is still a need for clear legislation on the rights of children born out of such relationships such as on issues to do with inheritance and maintenance.
- 4. Property division:** It is recommended that in case of the dissolution of the status of partners living together the rules for the division of property and other assets should be clearly rooted in legislation as in case of divorce of the marriage couples.
- 5. Domestic violence protection:** For instance, even though The Protection of Women from Domestic Violence Act applies to women in "domestic relationships in the nature of marriage" it may be necessary for the law to have specifications regarding the live-in partners.
- 6. Registration of relationships:** The idea of the voluntary registration of live-in relationships might also be incorporated to grant such unions' legalization while helping the couples formally substantiate their status if necessary.
- 7. Inheritance rights:** There is an imperative to pass a law that will regulate the issues of cohabitation with a will and the rights of a cohabitant to succeed to the other's estate when there is no will.
- 8. Social Security benefits:** They should ask whether partners, who have been living together for an extended period, should be allowed to receive Social Security benefits that are given to spouses mostly.

9. Adoption rights: The rights to adoption for live-in couples must be clearly defined.

10. Termination of relationship: Environment of live-in relationships should be given legal shapes with the legal procedures for termination of such relationships and rights associated with them.

Rationale for these reforms:

1. Changing social norms: This is why the law must adapt where changes involve the dynamics of social life, such as the increasing incidence of live-in relationships, especially in the urban society.

2. Protection of vulnerable partners: In this case the partners especially those who are women do not have any legal rights, especially concerning their shares in property or any financial support once they are left in the partnership.

3. Rights of children: It was argued that there should be clear legislation that would defend the rights of children resulted from the live-in a relationship.

4. Legal clarity: The courts would, therefore, give much-needed exhaustive interpretation of comprehensive legislation without having to make the interpretations on a case-by-case basis.

5. Reducing exploitation: Clear laws can help in a way to avoid such a situation where people are being exploited in the guise of a live-in relationship and same time it gives a legal remedy for those who have a genuine relationship.

6. Balancing tradition and modernity: Such changes have to be introduced while taking into consideration the strengths of the old and the needs of the new worldwide partnerships.

Any legislation regarding live-in relationships, which might be proposed at any time may encounter social and political obstacles as the institution of marriage is still rather sacred in such a country; however, the legal system must not lag behind social changes. It should be understood that liberal and rather profound changes might help in the protection of civil liberties in India without offending or threatening the traditions and beliefs of people of different religions and cultures.

VIII- CONCLUSION

Thus, this research has analyzed the current legal and social possibilities of live-in relationships in India while comparing them with the traditional marriage model and modifying social values. The findings provided suggest that even though couples in live-in relationships are gradually receiving legal protection through various judgments, they are yet to be accepted and appreciated by society. The radiance highlights the necessity to integrate old influences to the today's types of relationships and freedom. In the future, the government should make efforts to create elaborate legislation that would protect individuals in live-in relations while at the same time taking into consideration the cultural aspects of the society. Further research should be devoted to the contingent consequences of live-in relationships, the influence on the concept of family and possible alterations to legislation. Also, cross-country comparison could be very useful for policy-making in regard to better understanding of the factors at play. Since the Indian society is dynamically changing, the search for an optimal balance of tradition and progress in the sphere of personal relationships still remains a major problem for the legal regulation of Indian state, Indian courts, and the population.

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