



Navigating the Legal Landscape, a comprehensive study on Live-In Relationships in India.

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Abstract

A concept live-in-relationship progressed with the changing times and with the changing social rules of society. As we can see a crucial change in our Indian Culture and in its social construction in the recent years. That crucial change is called live-in-relationships. It means the cohabitation of individuals without formal marriage. But, still these type of bonds doesn't have any legal recognition and considered taboo in India. As it is considered against the rituals and the norms of any society and culture, but in today's times, these relationships are being accepted in various places of India. Historically, Indian society primarily adhered to the sanctity of marital institutions. However, societal changes of shifting mindsets and legal development have gradually reshaped perceptions surrounding live-in relationships. In today's time live-in relationships are not considered as a criminal offence and they are not illegal. Every culture of society is subject to change and so has the Indian society. The form of togetherness and love has taken a different form known as live-in relationships. My research aims to overview the acknowledged status of live-in relationships in India.

Introduction

Earlier an unmarried boy and unmarried girl would not be allowed to live together as a couple without marrying each other. But the scenario is changing and the mindset of people is also changing with the passage of time with increasing the percentage in education of female it is seen that restriction of unmarried couple staying together exist anymore the birth of a living relationship in the Indian culture is a relationship of marriage which is unlike a traditional marriage and not solemnized with the rituals and customary rules there is no fixed legislation in India for living relationships but in "Abhijit Bhikaseth Authi Vs. state of Maharashtra" The High Court stated that a live-in relationship is a legal relationship in the eyes of law making bodies and falls under the aegis of "Protection of Women from Domestic Violence Act 2005". "In Indra Sharma Vs. V.K.V. Sharma" court stated that live-in relationships like marriage but not a marriage the rise in living relationships can be attributed to several factors changing attitudes toward marriage individual autonomy and the desire for personal freedom have influenced many individuals to opt for this alternative form of partnership economic factors such as financial independence and career aspirations have also played a role in shaping of the preference for living relationships among seeking companionship without the legal and financial obligation associated with the marriage.

Legal recognition of live-in-relationships

In India, such relations don't have any specific legal framework or legislation governing them. There is major reason behind this because our Indian culture considered it as a taboo and illegal and widely do not accepted by Indian culture. While there is no specific law to regulate and oversee live-in relationships, the Judiciary has gradually recognized and provided certain rights and protections to individuals in such landmark judgments, have clarified the legality of live-in relationships. By, addressing issues related to property rights, maintenance, and the rights of children born within these relationships.





In “A. Dinohamy Vs. W. L. Blahamy, 1927” “The Privy Council” held that if a female and a male of appropriate age cohabit for a certain period of time in a relation, the law will presume as a husband and wife unless “contrary is proved that they were living together in a valid marriage, not in an invalid marriage”. One another landmark case in which Supreme Court of India gave legal status to couple who live in relationship in “Badri Prasad Vs. Dy. Director of Consolidation”, Supreme Court stated that Law banned in favour of legality and scowl upon bastardry. In “Payal Sharma Vs. Superintendent, Nari Niketan”, High Court of Judicature at Allahabad recognized living relationships and stated that if a boy and a girl wants to live together without being married, they can live. Although, it may be inconsiderate in the eyes of the society but it isn’t against the law.

“Lata Singh Vs. State of UP and another”, in this the court held that “live-in relationships between two adults of heterogenic sex does not amount to any offence” even if the society consider it immoral. In case of “S Khushboo Vs. Kanniammal & Anr.”, The Apex Court decided that live-in relationships are permitted and not illegal. The court elaborated the section 2F and section 2S of “The Protection of Women from Domestic Violence Act 2005” in “D Veluswamy Vs. D Patchaiammal” and made some checkpoints for a relationship to be considered similar to a marriage. Certain yardsticks are as follows: -

- The pair must follow the marriage norms as front of society.
- There must be a legal marriage age.
- Further, court stated that relationships in the nature of marriage under the PWDVA 2005 must fulfil above expressed yardsticks.
- Landmark Judgment “Bharat Mata and others Vs. R Vijay Ranganathan and others”, Supreme Court stated that if a pair is in a live-in relationship. The aforethought will be as if they are legally married. The Apex Court also stated that in case if the man dies then the division of property will be done and the female live-in partner will receive the share of the wife, and children conceived in such union will not be branded as bastards but will be considered legitimate.
- In “Indira Sharma Vs. V.K.V. Sharma” One another landmark judgment given by Supreme Court had stated that living relationships neither sin nor a crime while asking Parliament to make a law for protection of females and children born out of these marriages.

Miscellaneous laws on live-in relationship in India

- Constitution of India, Article 21 assures “Right to Life and Personal Liberty” to all citizens. Which means all citizens are free to live in the way they want, Subject to legality.
- “The Indian Evidence Act 1872, Section 114”. Under this section where sole evidence of marriage is not available, the court “may presume” the existence of valid marriage unless contrary is proved.
- “The Hindu Marriage Act 1955”. This Act doesn't recognize living relationships.
- “The Protection of Women from Domestic Violence Act 2005”. A woman can appeal for maintenance under this Act. This Act provides protection to females.
- “Indian Penal Code 1860”. IPC contains provision for criminal acts like bigamy, rape, adultery under sections 495 and 497 respectively.

At the end we can say that there are no specific laws framed for the protection of couple who lives in live-in relationships. Only some judicial pronouncements are there for protection of these couples.

“Legal rights and responsibilities of individuals in the live-in relationships”

In India, “live-in relationships” aren’t specifically governed through any separate legislation. Although, the legal rights and responsibilities of individuals in such union can be derived from various existing judicial pronouncements.

- “Article 21 of the Constitution of India” make sures that Live-in partners can enjoy the right to live with each other without any interruption from others.
- “The Protection of Women from Domestic Violence Act 2005” guarantees protection from atrocities experienced by women in such unions, including “physical, emotional, verbal, and economic abuse”





- If the couple has children, they have the responsibility to provide for the children's rights such as education, custody, maintenance, etc. The rights of the children are protected under “The Hindu Adoption and Maintenance Act 1956”.
- Generally, “live-in partners do not have any automatic right over each other's property”. However, principles of equity and fairness can be invoked and courts have recognized the right of partners to claim maintenance or a share in the property under certain circumstances.
- In case of “separation” in live-in relationships, the partner who is unable to support themselves “may be entitled to claim maintenance from another person or partner”.

NEED FOR UCC

A “Uniform Civil Code (UCC)” seeks to constitute “a unified set of laws that govern personal matters, including marriage, divorce, adoption, inheritance, and succession, applicable to all citizens regardless of their religion”. “Article 44 of the Indian Constitution” talks about UCC for the citizens. It states “*The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.*” After the prohibition of triple talaq, the PCMA Bill 2021 seeks to push India closer towards a Uniform Civil Code. Courts from time to time has raised concern over disparity created by Personal Laws. In “Mohd. Ahmed Khan vs Shah Bano Begum” the then “Chief Justice Y.V. Chandrachud” said “A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies”.

In “Sarla Mudgal vs Union of India”, Judiciary directed the legislature to start implementing Article 44 to govern civil matters in India. Again in 2019, In case of “Jose Paulo Coutinho vs Maria Luiza Valentina Pereira”, the Apex court of India felt disappointed and called out the government for not being able to implement UCC . by lamenting “*It is interesting to note that whereas the founders of the Constitution in Article 44 in Part IV dealing with the Directive Principles of State Policy had hoped and expected that the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territories of India, till date no action has been taken in this regard.*”

Uniform Civil Code will replace the ages old personal laws like *Manu smriti and shariat law*. Personal laws confer distinct rights to individuals based on the law governing them. For instance, Muslim Law do not prohibit polygamy but under Hindu Law polygamy is prohibited. A divorced women has less rights under Muslim Law when compared to other Personal laws. Due to co-existence of personal and general law, it is very difficult for implementation of laws equally to all citizens.

Dr. B.R. Ambedkar once said “*I personally do not understand why religion should be given this vast, expansive jurisdiction, so as to cover the whole of life and to prevent the legislature from encroaching upon that field*”.

The need for a Uniform Civil Code in determining the marriageable age lies in the principles of equality and uniformity. Having a uniform age of marriage for all citizens, regardless of their religious background, would ensure equal rights and protection for women and prevent discrimination based on religious practices. A uniform law would help eliminate confusion and provide a consistent legal framework for all citizens.

“The Prohibition of Child Marriage (Amendment) Bill 2021”, proposes to set minimum age for marriage as 21 for both male and female, irrespective of religion, caste. Different personal law specify different age for marriage and a person from one religion cannot be governed by law of other religion. The only general law concerning marriage is Special Marriage Act, 1954, but one can marry under this law in case of inter-caste marriage, or in case personal law is not applicable upon him. Prohibition of Child Marriage (Amendment) Bill tends to bring some uniformity in the personal laws at least in women’s marriageable age. Common marriageable age would promote gender equality, protect the rights of women and girls, and prevent child marriages.

However, it is important to note that the application of a UCC is an entangled and sensitive topic, as it involves balancing personal beliefs, cultural practices, and constitutional.

Conclusion



Live-in relationships came out as an alternative form of partnership in India, challenging traditional notions of marriage and reshaping societal dynamics. This research paper has explored the legal and social aspects of live-in relationships, highlighting the evolving recognition and rights afforded to individuals in such unions.

From a legal standpoint, landmark judgements have established that live-in relationships can be considered valid unions, ensuring individuals rights to property, protection against domestic violence, and provisions for children born within these relationships. However, the absence of a specific legislation governing live-in relationships leaves certain issues open for interpretation and calls for continued legal discourse and clarity.

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