

LIVE-IN RELATIONSHIPS IN INDIAN LAW: PERSPECTIVES AND IMPLICATIONS FROM LEGAL PROFESSIONALS

Aswani Bhuvanendran Nair^{1*}, T Ranjith¹

Assistant Professor, MSW (Disability & Empowerment), Madras School of Social Work

2nd year Student MSW (Disability & Empowerment),
Madras School of Social Work

Abstract

As years pass by people evolve, not only by appearance but also by their culture and tradition. Drawing inspiration from Aristotle's assertion that "man is a social animal," the research explores the profound human need for emotional, spiritual, and social connections, emphasizing the pivotal role that relationships play in fulfilling these needs. Marriage is an officially accepted relationship where people are allowed to express their emotions and feelings to each other. Even Due to commitment and lack of independence in marital life Indian society tends to adopt the concept of cohabitation from Western countries. The study follows a qualitative study, employing a descriptive design, focused on exploring the perspectives of 20 legal professionals in the Chennai & Tiruvallur districts, primarily engaged in family law cases. The researcher employed a semi-structured interview guide to collect responses from the professionals on their perspective towards Live -in- Relationships and their impact on society. Through the study, the researcher tries to advocate for a comprehensive legal framework to address the unique dynamics of live-in relationships. Examining the impact on children born within such unions, the research emphasizes the importance of ensuring their well-being and financial support, even in cases of separation between partners. This research also aims to contribute to the ongoing discourse on evolving relationship dynamics within the Indian legal landscape.

Keywords: Marriage, Live in relationships, Legal Professionals, Children, Perspective, Commitment

INTRODUCTION:

A **Marriage** is one of the deepest and most complex human relationships. It is the cornerstone of a society. It involves social sanction, generally in the form of a civil or religious ceremony, authorizing two persons of opposite sexes to engage in sexual union. Dr. Radhakrishnan (former President of India) observes "marriage as not a mere convention, but an implicit condition of human society. It is an institution devised for the expression and development of love. Its purpose is not only the generation and nurturing of children but also the enrichment of the personality of the husband and wife through the fulfillment of their need for a permanent comradeship, in which each may supplement the life of the other and both may achieve completeness".

Marriage is a miniature social system that must be kept in equilibrium if it is not to fall apart. Equilibrium requires adjustments, which in turn require give and take or some sacrifice on the part of both husband and wife. To maintain equilibrium it requires certain tasks to be performed by someone, for example, of cooking, cleaning, wage earning, child-care, and so on. Who performs which role is immaterial (though society has certain expectations from both husband and wife). What is significant is that somebody should perform these roles for the stability of marriage.

A **live-in relationship**, also known as cohabitation, refers to an arrangement where two individuals who are romantically involved with each other live together without being married. The couple shares a common household and engages in a sexual relationship but chooses not to formalize their relationship through marriage. In a live-in relationship, the couple can live together yet avoid the formality and duties of marriage. This involves having the freedom to decide their lifestyle and activities without outside influence, cooperating on home tasks and obligations, and making decisions jointly.

It is significant to highlight that under Indian law, cohabiting partnerships are not legally recognised as a real union, and as a result, such couples do not enjoy the same legal rights as married couples. The Supreme Court of India has acknowledged that cohabiting as partner without getting married is not against the law or a crime.

In today's society, live-in relationships are more prevalent than ever, especially among younger generations who might decide to live together before getting married or as an alternative to marriage. Live-in relationships offer a chance for partners to explore their compatibility and commitment before making a more permanent commitment through marriage, even though they may not be legally recognised as such in some jurisdictions.

HISTORY OF LIVE-IN RELATIONSHIP THROUGH LEGAL PERSPECTIVE:

In India, the idea of live-in relationships is not new and has been common in several regions of the country. However, it is only recently that live-in partnerships have been formally recognised by Indian law. The Protection of Women from Domestic Violence Act, which gave women who live with their partners in a relationship similar to marriage legal protection, was passed by the Indian Parliament in 2005. The Act provided for the legal recourse of women who experience domestic violence in live-in relationships and acknowledged the need to protect such victims. In 2010, the Supreme Court of India issued a landmark decision in the case of "Khusboo vs. Kanniammal," which marked the first time the Indian legal system acknowledged live-in relationships. In this instance, the court determined that two consenting adults had the right to live together without getting married and that live-in relationships were neither illegal nor immoral. In the 2015 case of D.Velusamy vs D. Patchaiammal, the Supreme Court of India rendered a significant decision that acknowledged that, in some situations, a long-term live-in relationship could be regarded as a legal marriage. The court also held that women in live-in relationships are entitled to maintenance from their partners after separation.

The rights of partners in live-in relationships were subsequently further enhanced by the Supreme Court of India in the case of "Indra Sarma vs. V.K.V. Sarma" in 2015. Even though long-term live-in partnerships are not considered marriages under Indian law, the court ruled that women in these relationships are entitled to maintenance from their spouses following a divorce. In India, the legal status of live-in partnerships has changed over time. Though they are not regarded as formal marriages, couples who are living together do enjoy some legal protections under Indian law.

PROVISIONS THAT RELATE TO LIVE-IN RELATIONSHIPS IN INDIA:

Under Indian law, live-in partnerships are not specifically addressed. However, several legislation and court rulings have recognised the rights of couples who are living together and have given them legal protection. The Hindu Marriage Act of 1955: The Act allows for the registration of marriages and acknowledges a woman's right to support her husband in the event of a divorce. The Act permits women in live-in relationships to seek maintenance if they can demonstrate that their relationship is analogous to a marriage, even if it does not recognise such relationships as legitimate unions.

Domestic Violence Act 2005: The Domestic Violence Act shields women in live-in partnerships, as well as those in other types of domestic relationships, from abuse and violence. The statute offers security to women in such partnerships and acknowledges live-in relationships as relationships with the characteristics of marriage.

2006 Domestic Violence Protection of Women Rules: The process for women in live-in relationships to request protection orders, residency orders, and financial relief is outlined in the rules developed under the Domestic Violence Act.

Act of 2013 amending the Protection of Women from Domestic Violence: The Domestic Violence Act of 2005 has been amended to add "relationship like marriage" as part of the definition of "domestic relationship." Live-in relationships are included, and women in these situations have a right to protection under the Act.

Indian Penal Code: The Indian Penal Code establishes criminal culpability for crimes like rape, adultery, and bigamy, which may also apply in situations when two people live together.

METHODOLOGY

This qualitative study, employing a descriptive design, focused on exploring the perspectives of 20 legal professionals in the Chennai & Tiruvallur districts, primarily engaged in family law cases. The researcher employed a semi-structured interview guide to collect responses from the professionals and looked along with various publications, journals, books, and websites as part of secondary data to understand the cause and recent trends on this issue. This study aimed to understand various perceptions of advocates, the legal professionals who are closely related to legal issues related to living in Relationships. They shared their views and experiences regarding the changing trend of marriage to live-in relationships in India, as our country is considered and praised for maintaining its traditions and culture for years. It is also important to note that the limited population of the study and the results are not intended to generalize but to provide suitable recommendations.

DATA ANALYSIS

Descriptive analysis was conducted through 6 major domains.

1. Legal professional's perception and familiarity towards laws that govern live-in relationships in our country:

According to the respondents, there are no specific laws for live-in relationships in India. When westernization takes place, people face challenges while adopting other cultures and when they tend to end up in court with similar cases relating to live-in relationships, judgments are made related to that case. The legal union of India only recognizes marriage between male and female. Even though it is not recognized by the law it is not

considered a wrongful or illegal act and there are various provisions for it. Article 21 majorly revolves around live-in relationships which says, no one shall be deprived of personal liberty except the procedure established by the law.

“Everyone has their rights and it is the personal opinion of an individual to be in live-in relationship or not and no one can influence them.” (Advocate Mohan munusamy).

All kinds of regulations as mentioned in the Marriage acts (Hindu Marriage Act, Christian Marriage Act, Muslim Marriage Act and Special Marriage Act) apply to a person who is in a live-in relationship. An individual in a live-in can also be punished under the Domestic Violence Act if he exhibits any form of violence against the partner. Despite of the undefined laws, when more cases are enrolled in courts live-in relationship has certain standards to be followed. A person should be legally major as said by the law, male 21 years, and female 18 years. The individuals should have clarity and mutual consent of the relationship. Both partners should have a sound mind while committing to a live-in Relationship. If these criteria are not satisfied the individual can be punished by the law.

A respondent also mentioned a similar case from 2010, Khushboo vs Kanniammal & Anr, in which Khushboo mentioned pre-marital sex and her stand for supporting it in an article in India today which was opposed by Kanimozhi Karunanidhi. The Supreme Court declared that it is the right to privacy of two individuals involved in a sexual relationship.

“No law says live-in relationship is wrong. When any matter said in law which is not illegal, I support it” (Advocate Saravanan).

2) Key legal rights and responsibilities an individual in a live-in relationship should be aware:

According to the respondents, there are no defined rights and responsibilities. There are many misconceptions in the society regarding live-in relationship,

“People basically think, since there are no laws for live-in relationships, I can do whatever I want and no one can punish me” (Advocate Vishwa).

People should keep their future in mind and act accordingly. Both partners should make equal contributions for their day-to-day expenses. They should maintain loyalty to continue a good and lasting relationship. People should keep in mind that abortion is legal in India after the woman turns 18 years old. They should move legally and do not make any wrong decisions which may risk the girl's life. Every man and woman in a live-in relationship should be aware that a man can be punished under the domestic violence act if he exhibits any form of violence against the woman. Even though there are no codified laws, regulations and provisions from IPC, CrPC and other acts can be enacted. It should be clear that they should maintain the respect and dignity of their partner in any situation. Despite law giving way for live-in relationship our society does not give way for them and they will be questioned by people every time. Both the individual should be ready to face the opposition from the society. People should keep in mind that

“As long as you are strong at your decision no one can separate you, it may be your parents, relatives or friends” (Advocate Frank)

3) Specific legal protection or challenges that stand for property inheritance, child custody and last rights of the individual:

According to law there are no specific legal protection for custody of child and property. Every child born in live-in relationship is considered as a legitimate child. They have every right similar to a child born in marriage. No child can be considered as illegitimate child according to the law. In case, the partners are trying to live apart the child may grow up with the mother. The partner should provide maintenance for the growth and development of the child.

“A child which is grown in live-in relationship faces a lot of psycho-social issues due to the societal pressure from the society” (Advocate Mohan munusamy).

Both the partners should take good care of the child, no matter what the situation is. When it comes to property the child may receive the property of their parents but cannot obtain their ancestral property in live-in relationship. The last rights are decided according to the religion of the individual.

4) Is there any significant shift in societal attitude towards live-in relationship particularly within the legal community?

Even though there is not 100% change of the attitude between advocates and judges people are changing. The younger generation advocates are more likely to be broadminded and have acceptance towards live-in relationship. They are advanced to the changing trends in the society.

But the senior judge and advocates who are from strong religious foundation and cultural beliefs tend to oppose this changing trend even there is westernization in our culture. Even there are some activist judge who holds a senior position. The Chief Justice of India, Anand venkatesan is a great example of it. It is important to understand that everyone is human and the way they are brought up is a highly influential factor in their perception.

“Everyone is trying to accept the change, but it is opposed due to the traditional values”.

5) Role of cultural and societal norms in influencing judgments related to live-in relationships:

Most of the judgements are influenced. It purely depends upon which judge is handling the case and what is the ruling political party. The judges are very conservative due to the way they brought up. Mostly judge in support of political part tend to oppose, to avoid controversy and favour the party.

“Most judge’s don’t want these unions to be recognized. This is also a major reason there are no laws in Supreme Court. Caste and religion plays an important role. Religious leaders say what the law does not say and confuse people” (Advocate Harshini).

Certain myth and norms followed by the people is the major reason for influencing the judgments. Recently the Supreme Court ordered that women of all ages are allowed to enter Sabarimala under article 14, where everyone is equal before law and article 15, there should be no grounds for discrimination. However the people in the society oppose this decision due to the stigma and stereotypical attitude. This kind of social evil must be eradicated to enact laws related to live-in relationships.

6) Evolution of legal landscape and its impact in individuals and society as a whole:

According to the respondents, live-in relationships may not evolve as there is great change from the previous generation but people may tend to accept it slowly. Before 20 years there was no knowledge regarding live-in relationships in India. But as time went by the evolution of movies, social media and westernization took place. Also, people started traveling to other countries. This led to this changing trend. There are both negatives and positives in evolution. The precious concept of monogamy for the Tamil people will be destroyed in the future due to this culture. There will be reduced marriage in society since the younger generation are afraid of commitment. This trend may lead to an individualistic society. This trend may lead to lot of abuses against the partner and an increase in the number of offspring. The individuals are more likely to cheat their partner due to the maximum freedom. People tend to be unhappy and lead a purposeless life. One of the major reasons for live-in relationships is the biological urge in engaging physical relationships with others.

According to the respondents, the positives may be that since the divorce cases are increasing live-in relationships may give time to understand each other and reduce the incident of divorce. Women tend to be independent without any cultural norms.

Depending upon the evolution of the relationship there should be more laws implemented. There should be more security for the child.

“Due to live-in relationship there will be cultural destruction and it will create a greater impact on society rather than on individuals” (Advocate Hemanath).

MAJOR FINDINGS

- The findings of this study underscore the absence of specific laws governing live-in relationships, leaving courts to render judgments based on individual cases. Notably, existing regulations and provisions from other legal frameworks become applicable to individuals involved in live-in Relationships.
- Examining the impact on children born within such unions, the research emphasizes the importance of ensuring their well-being and financial support, even in cases of separation between partners. Cultural and traditional values emerge as influential factors shaping judicial decisions regarding live-in relationships.
- A noteworthy revelation is the resistance within the legal community towards accepting live-in relationships, often attributed to ingrained societal upbringing.

CONCLUSION

It is important to note that a live-in relationship is a rational choice chosen by an individual which is their right to life and right to privacy. But due to the societal norms and informal laws people tend to oppose this culture, even in the legal community most of the senior advocates and judges are narrow-minded and their thoughts and beliefs affect the decisions and judgments of similar cases. There are some activist judges and advocates who voice for the rights of people in live-in relationships, but these people are very few when compared to them. People should be aware that even though a live-in relationship has no specific law, provisions, and regulations from other laws can be adopted. Judgments of some benchmark cases lead to awareness and recognition of live-in relationships. People should be aware of the legal aspects before getting into a live-in relationship and be ready to face criticism from society. The judicial system should bring a proper structure in defining the laws for people in live-in relationships. In light of these findings, the study proposes that the judicial system should proactively establish clearer legal parameters to secure and regulate the functioning of individuals in live-in relationships, with a specific focus on safeguarding the rights and well-being of children. This research aims to contribute to the ongoing discourse on evolving relationship dynamics within the Indian legal landscape.

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