

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**LIVE-IN RELATIONSHIP: EVALUTATION AND LEGAL PROVISIONS<sup>1</sup>****ABSTRACT**

India is a place where marriage is seen as a sacramental institution and hence a man and women if want to live together, have to get themselves married. However, in the twenty-first century a new concept which is known as “live-in relationship” has emerged. A live-in Relationship is a concept under which a man and women live together without marrying each other. This concept in India is fairly new but is spreading rapidly across the country. Various Supreme Court judgments have recognized the concept of a live-in relationship and have legalized it. It is to be noted that nowhere in the Hindu Marriage Act, 1955 has recognized a live-in relationship and hence some people consider it as an illegitimate relationship but Supreme Court stated that according to Article 21 which mentions about right to life, everyone has right to live their life according to their own choice. Live-in relationship whether legal or illegal is very subjective especially in India where traditions are given most importance and violating them is considered as a sin. The researcher through this paper will evaluate the concept of live-in relationships and their impact on society.

**Keywords:** Hindu Marriage Act, live-in relationships, Supreme Court, Article 21

**INTRODUCTION**

A live-in relationship is also known as cohabitation is a concept that has become very common nowadays in which an unmarried couple lives together in a long-term relationship that resembles marriage. Indian society has always resisted the concept of live-in relationship. It has always been a piece of debate. In Islam making sexual relations before nikah (marriage) is considered haram. In Hinduism During the first ashrama, chastity is encouraged and both men and women are traditionally expected to be virgins when they marry. When this concept emerged in Indian society, then it urges for its meaning in the eyes of law. Law and society are

---

<sup>1</sup> Pranya Arora, Divay Kakkar & Divesh Gupta students at Vivekananda Institute Of Professional Studies  
For general queries or to submit your research for publication, kindly email us at [editorial@ijlr.in](mailto:editorial@ijlr.in)

like the two faces of the coin. One needs the other. Changes in society demand that law should evolve with time. None of the personal law statutes has recognised the concept of live-in relation directly. Marriages in India take place as per the personal laws of the religion of the parties or by the provisions of Special Marriage Act. Hence the various High Courts of the country and the Hon'ble Supreme Court in several decisions tried to explain the meaning of the term live-in relationship. Laws are in the form of court verdicts which varies from one case to other; therefore the concept is also explained based on various social problems before the court.

### CASE LAWS

1. The Privy Council in a *Dinohamy v. W L Blahamy* laid down the principle that "Where a male and a female are proved to have lived together as a man and wife, the law will presume, unless the opposite be clearly proved, that they were staying together in consequence of a valid marriage and not in a state of concubinage".<sup>2</sup>
2. *Payal Sharma v. Superintendent, Nari Niketan, and 4others* , Justice M Katju and Justice R.B. Mishra stated, "In our opinion, a male and a female, even without getting married, can live together if they wish to. This may be regarded as immoral by society, but is not unlawful. There is a difference between law and morality.
3. The Delhi High Court, in a case *Alok Kumar v. State* observed that a live-in relationship is a walk in and walks out relationship. Justice S.N. Dhingra noted, "There are no legal strings attached to this relationship nor does this relationship create any legal obligation between the partners".

### PROS AND CONS OF A LIVE-IN RELATIONSHIP

#### PROS

Marriage is a critical decision for both partners and it needs full commitment for the success of any relationship. People are ambitious nowadays. An unsuccessful relationship hurts a lot, but breakups are easier in a live-in relationship as they do not have to go through any of the legal formalities however, in marriage the couple has to undergo divorce. In a live-in, if the couple does not find their relation compatible, they just need to pack their bags and move out. There would be heartbreak in a live-in relationship but it is better than a divorce which has some social stigma attached to it. Live-In partners get enough time to know each other well and by

---

<sup>2</sup> [https://www.researchgate.net/publication/286440123\\_Socio-legal\\_dimensions\\_of\\_'live-in\\_relationship'\\_in\\_India.com](https://www.researchgate.net/publication/286440123_Socio-legal_dimensions_of_'live-in_relationship'_in_India.com)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

living together they get certain that whether they can take a step forward and become a married couple or not. Both partners are equal in terms of security, freedom and they give space and respect to each other. You can discover how your partner's lives, habits, expectations and quirks. You can also gauge how well you both copes together with the practicalities of things like cooking, cleaning, home maintenance, and sharing responsibilities Live-in relationships are more suited for a fast-paced life. Couples don't have to give up any rights, habits nor need to accept any responsibilities. Hence, there will be no commitment related problems as in marriage.

### CONS

A live-in relationship leaves nothing to explore further about each other. Unrealistic expectations could cause distance and disagreement between the couple. A live-in relationship is not permanent; the couple spends time together, enjoy and then move on. While in marriages, they vow to stay together for lifelong be it happiness or be it the most difficult times of life. Physical intimacy can be real fun at times but if you don't stay or marry the same partner then getting physical may cause guilt or be depressing at times. There is no stability in these types of relationships as it is temporary and couples can easily break up. This can be heart-breaking for any partner. Lack of commitment is the biggest disadvantage. Anything from a small fight or disagreement may lead to a breakup. But if the couple are married, they will make every possible effort to maintain their relationship and find out solutions to the problems so that the situation does not end up leading to divorce. Things change after marriage. Comparing current behaviour with living- in days may cause tension and even lead to divorce. It becomes difficult for a woman to find a good and understanding partner after being in a live-in relationship for a long. Trust often becomes questionable. And if a child is born from a live-in relationship, it is the most affected one. There will be legal issues related to custody and custodian if the couple moves out of the relationship. This will lead to disrespect and hatred in the child's mind for the partners when he/she grows up. Human are complex so is their relations, marriage is a huge responsibility. Today, the young generation enters into various types of relationships to satisfy their physical, mental, and emotional needs. Live-in relationship is still seen as taboo, especially by the people in old age. Often such couples are seen as social deviants and are often harassed for their individual choice. Respect for marriage is missing: Living together makes people used

to their idea of enjoying personal and financial freedom, so they refrain from marriage and find it easier to maintain a live-in.<sup>3</sup>

### IMPACT OF LIVE-IN RELATIONSHIP ON THE SOCIETY

Since India is gradually adopting the western culture and ideas and mainly the concept of live-in. Years ago, live-in relationships were considered to be a sin or something the society would never accept in India, but now that belief has started to change and a lot of couples have started to adopt the trend of live-in. While the live-in trend has started to grow a lot but still there are couples who are not able to take the big step due to the huge embarrassment or an assault they have to face from society.<sup>4</sup>

Few of the couples are lucky enough to find an approach to legal rights, while few still struggle with the fact of being considered as legal strangers living together. Looking at the brighter side, we can consider that couples really get to spend time in knowing each other before making the big decision of getting hitched. However, legal rights have been given to people who really do not wish to tie the knot and make a decision to carry on with the live-in instead of marriage.

The big question here is that whether the Indian society is ready to accept the Live-in relationship without getting into the commitment of marriage. The Supreme court in the famous case of *Badri Prasad v. Dy. Director of Consolidation*, in which the couple was given the legal right of staying in live-in for 50 years.

One thing which we have to consider is that our Indian society does not and would never give the same respect to the couples in live-in as they give to the ones who are married. Even in the 21st century, couples in live-in are seen as some sought of criminals. Another big issue which arises when the couple is in live-in is that what if there are children born out of the relationship and as per The Hindu Marriage Act, 1955 “children born out before marriages are considered to be the legitimate children of their parents, however, the problem arises when the couple decides to live apart and none of the parents is keen to take responsibility of the child”, in that case, one of the parents have to adhere to the responsibility of their child and for securing the respective legal rights for the child. One of the guardians has to take the responsibility and the child must get his rights in all the properties out of their father or mother. An example is a famous case of

---

<sup>3</sup> <https://www.lovesutras.com/love-and-relationship/story/pros-and-cons-of-a-live-in-relationship-india-124185-2016-12-08>

<sup>4</sup> Chakshu Thakral and Amit Chauhan, “Live in Relationship as a new form of family”, 2 *Wisdom Crux* (2018)  
Dr. Kalpana V. Jawada (2015): *Live in Relationships: Recent Developments and Challenges*.

SPS Bala subramanyam v. Scruttayan, which was held by the Supreme Court that stated, “that if a man and women are living together for a considerable period of time then it would be presumed within Section 114 of the Evidence Act that they are husband and wife and children born will be legitimate children”.

One thing which we can clearly see in Indian society is how much they value and protect their traditions. Live-in, according to the society is totally opposite from the traditions of the Indian society that is the reason for the low acceptance rate of live-in relationships in India. The couples are not wrong for the conceptual fact that if they have to spend their whole lives with someone, they must get to know them completely but on the other hand, we cannot judge people who do not support live-in relationships. Hindu marriages are seen as an eternal union of two souls and according to them live-in relationships are unrighteous but we should realize that everyone should have the right to live their lives according to their own will and however they want. It has been highly appreciated that the Indian judiciary has given legal rights to the couples for live-in.<sup>5</sup> India is a developing country and any changes or developments should be openly welcomed. The problem lies only in the Indian society and our habit of judging people for making choices they want. It has also been found out that people fear marriage because of the fear of divorce and hence, they prefer live-in relationships. But as we say nothing really escapes without its drawbacks and hence there are some pros and some cons to live-in relationships.

### ISSUES AND CHALLENGES FACED BY COUPLES IN LIVE-IN RELATIONSHIPS IN INDIA

Although, live-in relationships are now growing trend in India but there are still a lot of issues that couples have to face while being in live-in. One of the most common issues the couple face is finding a house to live in. As shocking as it may sound in this modern era of globalization, finding a house to live in with your partner is a very tough job even in the metro cities. Taunts, judgements and censure are some common problems that couples face on a daily basis. Some may even try to get a false marriage certificate just to get a house and some respect from the society.

---

<sup>5</sup> <http://www.legalserviceindia.com/legal/article-4562-live-in-relationship-legal-perspective-and-problems.html>  
Acharya, Kalika and Udgata, Sankalp, Live-In-Relationships in India and Their Impact - A Sociological Study (September 10, 2019). Available at SSRN: <https://ssrn.com/abstract=3451288> or <http://dx.doi.org/10.2139/ssrn.3451288>  
india/#:~:text=Kanniammal%20(2010)%205SCC%20600%2C,be%20considered%20illegal%20or%20unlawful.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

Another such issue can be risk of violence or abuse at all times. Even though the supreme court has stated that a woman in a live-in has the same entitlement of that in a marriage, the woman can end up trusting the wrong man and lose her financial stability or even mental stability. Due to the judgement from the society and also non-acceptance from the family the woman can end up suffering the violence alone. But since the new developments and changes in the Indian legal system, women can get Protection from Domestic Violence Act 2005.

Sometimes, even financial problems may arise in a live-in relationship. As we know that success of cohabiting couple depends upon how they may the financial burdens whether it is a married couple or a live-in couple. Suppose one of the two face a financial issue at work or any illness and the other person decides to take the 'exit route' from the relationship. Even though the live-in couples are not committed on paper like marriage but what about the commitment to 'love'.

#### LIVE-IN RELATIONSHIPS AND INDIAN JUDICIARY

Live-in relationships are legal in India but still have not been fully accepted by our Indian society. Many legal and social issues have arisen from the concept of live-in because of the fact that Indian marriages are considered to be sacred. The following are the laws related to live-in relationships in India-<sup>6</sup>

There are no particular laws for the live-in but are considered as judicial interpretation. The Indian laws do not give any sort of legalities or rights to the couples in live-in. Though, the Indian legal system is still a little unclear and doubtful about the laws regarding this kind of relationship still there are some rights associated with the couples in live-in. The below are the legal provisions for the live-in couples-

#### DOMESTIC VIOLENCE ACT, 2005

The legislation has not only entitled the women who are married but also any woman living with a man the protection under The Domestic Violence Act, 2005.

Section 2(f) of the Domestic Violence Act, 2005 states

“Domestic relationship is a relationship between two people who live or have lived before or at any point of time, shared household when they are related by marriage, or through a

---

<sup>6</sup> <https://vakilsearch.com/advice/live-relationship-indian-law-say/#:~:text=If%20the%20requisites%20of%20a,long%20period%20until%20proven%20otherwise.>

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

relationship in the nature of marriage whether it is live-in or any other, adoption or are family members who are living together as a joint family”.

### CRIMINAL PROCEDURE CODE, 1973

“Section 125 Of CrPC was incorporated in order to avoid any kind of reverence or insolvency for wife, child, minor and the same has now been incorporated by judicial interpretation to partners in a live-in relationship”.<sup>7</sup>

The Malimath committee submitted its report in 2003 and urged to give a new meaning to the word ‘wife’ which further gave the women living in live-in relationships, rights similar to those of wives. It stated that a woman who is in live-in for a considered amount of time can now have the legitimate rights of a wife and can claim for maintenance under Section 125 of CrPC.

### LANDMARK JUDGEMENTS

1. S. KHUSHBOO V. KANNIAMMAL (2010) 5SCC 600, The Supreme Court stated that the live-in relationship falls under right to life Article 21 of the constitution of India. Hence, stated that the live-in relationships are legal.
2. LATA SINGH V. STATE OF UP &Anr., AIR 2006, The Supreme Court held that the live-in relationship cannot be criminalized until it’s a case of adultery even though it is known to be immoral.
3. INDRA SARMA V. VKV SARMA, AIR 2013,<sup>8</sup> The Supreme Court stated that live-in relationship is not socially unacceptable and it is the wish of two people in a heterosexual relationship whether to marry or not.
4. MADAN MOHAN SINGH V. RAJNI KANT (2010),<sup>9</sup> the Supreme Court stated that if the live-in relationship is continued for a very long period of time with the mutual consent it cannot be termed as a “walk-in, walk-out” relationship anymore.

<sup>7</sup> <https://www.sconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>

Madan Mohan Singh v. Rajni Kant, (2010) 9 SCC 209: AIR 2010 SC 2933.

<https://timesofindia.indiatimes.com/india/Couple-living-together-will-be-presumed-married-Supreme-Court-rules/articleshow/46901198.cms>

Justice V.S. Malimath Committee Report, available at

<[https://mha.gov.in/sites/default/files/criminal\\_justice\\_system\\_2.pdf](https://mha.gov.in/sites/default/files/criminal_justice_system_2.pdf)

<sup>8</sup> Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755, available at <http://www.indiatvnews.com/news/india/historic-supreme-court-approves-live-in-relationships-asks-par-30912.html?page=3>

<sup>9</sup> Madan Mohan Singh v. Rajni Kant, (2010) 9 SCC 209: AIR 2010 SC 2933

<http://www.legalserviceindia.com/legal/article-5173-live-in-relationship-indian-and-international-perspective.html>

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

## ACCEPTANCE IN INDIA

In the Indian society and traditions, marriage has been considered as a sacred bond. After marriage, the husband and wife are considered as one affinity. But as it is evident, change is a constant process. To refrain from the traditional obligations of marriage and other responsibilities, the concept of 'Live-In Relationship' has come into prominence. All people want is love and belongingness, but the idea of marriage might not suit everyone. Hence, Live-In Relationship is an optimal solution as it delivers the benefits of marriage without any burden of responsibilities or obligations. It can simply be defined as a walk-in and walk-out kind of relationship. It is neither a sin, nor a crime, but some people view it as unacceptable to the Indian culture. In a country like India, the development of Live-In Relationships has opened up a new dimension in the area of men-women relationship.

India has seen a long transition from Arranged marriages to Love marriages and lastly, Live-In Relationships. Following is a timeline of the evolution of the concept of Live-In Relationship in India:

### **I. VEDIC PERIOD**

As per Manu, premarital relationships existed in the Vedic period also, but there were very rare incidents. Therefore, it is quite evident that even though marriage was the major norm, premarital relationships existed too. The hi-fi term maybe 'Live-In Relationship' maybe new, but the concept is pretty old. The Vedas have given eight forms of marriages, out of which Gandharva marriage has somewhat similar traits as Live-In relationships. In Gandharva marriage, a man and woman mutually take a decision to stay together in which neither the families are involved nor any ritual is followed. It is just an oral commitment but still comes under the view of marriage. As described in the Vedas, Gandharva marriage is pretty similar to the trend of cohabitation in the Western society where a woman and a man mutually decide to live together in sexually intimate relation without legalizing marriage. A classic example of this tradition is the marriage of Shakuntala and Dushyant.

### **II. MEDIEVAL PERIOD**

In ancient period, when the wives were not able to produce child, concubines were approached to complete the requirements. Though, during the medieval period, concubinage was given legal importance between two unmarried persons, just like common marriage act. The practice of Concubinage had been a mutual feature in various cultures and traditions and legal situation has varied from sexual slavery to common law marriage. These gaps have carried forward to the contemporary time as well when the Mughals had just arrived in India. In the medieval Muslim

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

society, sex slavery and concubinage had become so prominent and similar that they could be used as interchangeable words.

### III. MODERN TIMES

In modern times, the impact of social reformers and British-Indian laws, the movement for elimination of bad practices gained momentum which resulted in downfall of evil practices like concubinage and many others, however it cannot be stated that these practices vanished from the root. The practice of Concubinage continued in some parts of India even after Independence. In Gujarat, a friendship contract, named 'Maitraykaraars', came into emergence in which two persons of opposite gender would enter into a written agreement to be friends, stay together and look after one another. The male partner in these relationships was always married and the female partner would be single woman who had the responsibility to look after her parental family as well. Since this tradition got exposed, it was declared illegal and this practice stopped.

The above stated facts make it quite evident that Live-In Relationship might be a new term in India, but the concept of it is quite old in which two people mutually decide to live together for a longer period in an emotionally attached/sexual relationship without any legalized marriage. In the 21st century, there has been a drastic change in the mindsets of people. Men and women have gradually started embracing each other through unorthodox and non-traditional methods of relationships, which is opposed by a lot of people from the older generation with orthodox thinking.

### INTERNATIONAL VIEW

Live-In Relationship has been a major trend in western societies. The sole reason it became prominent in India was the influence of western society on Indian people. Following is a track of situation of such relationships in some prominent countries around the globe<sup>-10</sup>

#### □ UNITED STATES OF AMERICA

Before the year 1970, cohabitation was termed illegal in USA, but eventually it went forward to gain the status of a Common law while fulfilling certain requisites as per Law. 'Palimony' was the term originated in USA which means the compensation that one member of an unmarried couple pays to the other partner after separation.

---

<sup>10</sup> <http://www.legalserviceindia.com/legal/article-4058-live-in-relationship-in-various-countries.html>  
For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

**LANDMARK JUDGEMENTS**

1. *Michelle Marvin v. Lee Marvin* – held that mutual agreements between cohabiting couples to divide income earned during the time they stayed together is legally binding.
2. *Devaney v. L' Esperance* – held that cohabitation is not necessary for the claim of palimony, rather it is an express or implied promise to support, combined with marital type relation, these being requisites for claim of palimony.
3. *Trimble v. Gordon* – held that a duly signed statement informing about the paternity of a baby born out of wedlock is justified protection of the baby's inheritance rights.

**☐ CANADA**

Canada provides the same rights as married couples to those living in cohabitation as it is a legally valid practice there. All the couples living in cohabitation in Canada enjoy legal entity that have lived together for minimum 12 months consecutively or have given birth to/adopted a child.

**☐ UNITED KINGDOM**

In United Kingdom, both the parents are equally responsible for raising the child whether they are married, have separated or are living in cohabitation. Cohabited couples are not bound by the law to financially support one another even if they are residing in a house or raising a family together neither is any partner entitled to receive any maintenance money after separation. The UK law system also gives special rights to Lesbian, Gay, Bisexual and Transgender community i.e., LGBT community to enter into civil as they don't have general marriage rights.

**☐ ISLAMIC COUNTRIES**

Prominent Islamic countries like Iran, Pakistan, Saudi Arabia and UAE follow the rules of Zina. According to Islamic scriptures, practices like adultery, cohabitation and same sex relationship are restricted. Islamic laws are very strict and anything against the rules may lead to harsh punishments.

**☐ SCOTLAND**

Live-in relationships were legalized in Scotland under the Family Law (Scotland) Act 2006. Section 25 (2) of the act says that a person can be said to be someone's cohabitant depending upon-

1. For how long they both have resided together
2. The nature of the relationship while they stayed together
3. The nature and extent of the financial terms

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

## □ CHINA

In the Republic of China, no legal process is required to terminate a live-in relationship. Children born out of wedlock are guaranteed equal rights to those children who are born to married couples. Contracts are created for those who want to stay in a live-in relationship.

## CONCLUSION

When someone had said that human beings are complicated and mysterious creatures, they were right to some extent. On one hand, they crave for changes so that there can be progress in the society, while on the other hand, they refrain from certain changes as they think it will disturb their customs and traditions. This similar trend has been observed in the case of 'Live-in relationship'. Even though many people accept this practice with open arms, some people are still against it as they think it will divert them from their traditions. From the Legal point of view, Live-in relationship has been legally approved in India but there is still scope for improvement. The Judiciary needs to take feasible steps to cover other issues related to live-in such as rights of the partners, children born out of such a relationship which other prominent countries like China, United Kingdom and many more have taken into consideration beforehand while making the laws. Change is not an overnight process; it is something which comes with time slowly and gradually and it will come in India also. Those living in Live-in relationships will be given full rights and respect, both by the society and the Legal fraternity as every individual has the right to choose what is best suited for them without any interventions.<sup>11</sup>

---

<sup>11</sup> <https://www.sconline.com/blog/post/2019/01/23/live-in-relationship-and-indian-judiciary/>

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)