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## LIVE-IN RELATIONSHIPS AND WOMEN

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### ABSTRACT

In India, the only sort of connection that can exist between a man and a woman who are not biologically related to each other is an arranged marriage. The aforementioned social union, commonly referred to as Marriage, is commonly viewed as a sacramental and a spiritual concept that has been practised as a ritual for millennia. But this idea is starting to lose its miraculous quality for a variety of reasons. Marriages are not always imposed upon couples; thus, love cannot be the primary motivator. As an alternative to marriage, a live-in relationship was therefore brought into society. It is now a distinct part of society and the law, not a substitute. Living together surely unlocks and develops relationships because of its glitz and beauty. It has recently been one of the most contentious legal issues. A particular law is needed to prevent the misuse of such relationships, which is a problem that is slowly but surely infiltrating the current clogged society. Live-in relationships refer to arrangements in which a man and woman When a man and a woman decide to stay together for a prolonged period or persistently in a psychologically or physically intimate connection like husband and wife or cohabits with each other without receiving any legal sanction. The media frequently sensationalises instances of extreme abuse against and the deaths of women in live-in relationships. Invoking unrealistic patriarchal concepts of love jihad or honour killings, the media and politics created a toxic communal narrative that placed blame on women for marrying outside of their caste or religion. The Supreme Court has provided some principles in its decision for governing such partnerships in the absence of any explicit legislation, regulations, or practises on the matter. Under the Prevention of Domestic Violence Act, 2005, If a pair portrays themselves as husband and wife and resides together for a significant amount of time, society views their relationship as being similar to that of a married couple. Hence, it grants alimony to the female partner. Such offspring are legitimate and are entitled to a share of their parents' self-acquired possessions, but not the Hindu concept of undivided family wealth. Couples can get to know one other better in a live-in relationship, but it does have its pitfalls. Each and every one of the citizens' rights to personal autonomy and respect for the community's norms are guaranteed by the state in every communist nation.

There can never be a definitive answer to the age-old argument surrounding live-in relationships, as the nature of these relationships evolves over time and new problems are constantly being raised. It disrupts established social norms and causes friction with the law.

**Keywords:** Live-in relationship, Marriage, Indian Culture, Women, Violence.

## **I. VIOLENCE AGAINST WOMEN IN LIVE-IN RELATIONSHIPS.**

Many cases of women in live-in relationships being brutally murdered have lately been sensationalised in the media. The major press and the political establishment propagated a toxic communal storyline, blaming women for choosing to marry beyond caste or religion, and invoking irrational patriarchal ideas like love jihad and honour killings as examples of the violence that could result from such relationships. What this rhetoric glosses over, however, is the fact that women have indeed been subjected to violence even in the arranged marriage system, as evidenced by the rise in reports filed under domestic violence laws like Section 498A of the Indian Penal Code, Dowry laws like Section 304B of the Penal Code, and the Protection of Women from Abusive Relationships Act of 2005. Meanwhile, men have maintained their control, authority, and privileges while dodging responsibilities in relationships, while women have oppressed, denied freedom, and saddled with the duties to preserve the standards of honour despite experiencing trauma. The courts have improved women's rights in some live-in relationship issues, although much ambiguity remains. This article suggests a more precise legal framework for cohabiting spouses that strengthens domestic abuse protections. Through fighting prejudice, we can end the normalisation of violence and its pervasiveness in society.

The problem of domestic violence is widespread worldwide, including in India. In home, where they should feel most secure and cared for, women are often subjected to abuse by the same males who are supposed to be looking out for their best interests and providing for them. Media, religious groups, and politicians all cite the recent cases, including Shraddha's, to support planned marriages while criticising women and stay living relationships for the violence. In a relationship, ideas of tradition and morality can either encase the love or encase the violence. It is neither to acknowledge the axis of inequities or to empower women that the interconnectedness of caste, religion, and other variables has been exploited; rather, it is being

used to maintain the entrenched interests. What is promoted, in addition to naming the victim's and the abuser's caste and religion, is poisonous dividing speech that serves to advance an ideology of hate. It is ignored in these accounts that the majority of violent crimes against women are perpetrated in violation of either 498A that is cruelty against married women or 304B, which is, criminal conspiracy and dowry deaths. Notwithstanding legal protections, women in marital household's experience violence and brutality. Many ladies are cruelly killed and burned alive. Young women have been strangled, poisoned, burned, starved, or forced to commit suicide by men. The unequal power relationship between men and women causes these acts of violence. Arranged marriages and live-in relationships are not new, and neither is violence against women, but the frequency and intensity of such acts seem to be rising. This is true in both traditional arranged marriages and free-choice partnerships; violence against women is a widespread problem. The media may only report on a fraction of the daily incidents of horrific violence, but these events nonetheless occur. The overall number of cases filed under the Dowry Prohibition Act, 1961 in 2018, 2019, and 2020, as reported by NCRB's data collection, are 12826, 13307, and 10366. In addition, there were 7167, 7141, and 6966 occurrences of Dowry Deaths reported throughout those years. In 2018, the conviction rate was at 24.1%, in 2019, it was at 21.5%, and in 2020, it was at 38.9%.

Forgoing the safety net of marriage, women in live-in relationships often find themselves in abusive relationships. Even in arranged weddings, women are often pressured to "adapt" to an abusive partner. No one in government or the law seems to be questioning the inherent power dynamic and inequality of these kinds of partnerships. We must, therefore, re-evaluate the hierarchical structure of current systems in light of the human toll in terms of deaths and physical wellbeing, as well as the various issues, not the least of which is violence. It is crucial to acknowledge the enormous precarity of women in all relationships, including those in which they have a choice of partner yet are nonetheless subject to abuse.

## **II. AFTERMATH LIVE-IN RELATIONSHIPS: LEGAL STATUS AND RIGHTS OF WOMEN.**

### **A. LEGAL STATUS OF LIVE-IN RELATIONSHIPS**

When it comes to live-in relationships, neither the definition nor the legal standing of the individuals involved are crystal clear. In India, there is no one overarching rule regarding domestic partnerships. The legal status of offspring of unmarried adults is unclear, and neither

the parents nor the child has any legal rights. Courts have stepped in to provide clarification on the concept of live-in partnerships in the absence of a legislation defining the status of such relationships. In the absence of evidence to the contrary, courts have always presumed that a man and a woman who had been cohabiting for an extended period of time were lawfully married.

The Supreme Court of India initially recognised a live-in relationship as legally comparable to marriage in the 1978 case *Badri Prasad vs. Dy. Director of Consolidation*<sup>1</sup>. In this case, the couple had been together for half a century. He had contested their marriage on the grounds that they had lived together for 50 years, but the Allahabad High Court had already ruled against them. In the case of *S.P.S. Balasubramanian vs. Suruttayan (1993)*<sup>2</sup>, the court reached a similar conclusion, holding that the presumption of marriage between a man and a woman who have lived together as husband and wife for a considerable duration stands unless proven otherwise, and that any kid born to that union is genuine and can inherit the man's possessions. The Supreme Court ruled in *Payal Sharma v. Nari Niketan*<sup>3</sup> that unmarried heterosexual couples had the constitutional right to cohabit if they so desired. The Court distinguished between legality and morality by stating that although cohabitation is frowned upon by society, it does not constitute a criminal act.

The Supreme Court ruled in *S. Khushboo vs. Kanniammal & Anr. (2010)*<sup>4</sup> that the freedom to cohabitation is a fundamental human right. While many in traditional Indian culture view live-in relationships as sinful, the legislation in India does not consider them to be criminal. Here, the accusations against Khushboo, a south Indian actress who advocated for cohabitation before to marriage, were dropped. As two consenting adults are involved, the Court reasoned, "living together cannot be criminal and that engaging in sexual intercourse outside of marriage among consenting adults does not constitute a crime." The Court also cited the case *Lata Singh vs. State of U.P. and Anr (2006)*<sup>5</sup>, in which it was decided that a girl who has attained majority has the right to marry and reside with anybody she chooses. Furthermore, the court ruled that the accused had committed no crime, and that the current case was an improper use of the judicial system and the administrative apparatus.

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<sup>1</sup> *Badri Prasad vs. Dy. Director of Consolidation (1978) AIR 1557*

<sup>2</sup> *S.P.S. Balasubramanian vs. Suruttayan AIR 1992 SC 756*

<sup>3</sup> *Payal Sharma v. Nari Niketan AIR 2001 All 254.*

<sup>4</sup> *S. Khushboo vs. Kanniammal & Anr. (2010) 5 SCC 600.*

<sup>5</sup> *Lata Singh vs. State of U.P. and Anr (2006) 5 SCC 475*

According to the ruling in *Alok Kumar v. State (2010)*<sup>6</sup>, the court has determined that a live-in relationship does not constitute a binding legal obligation between the people involved. Persons who do not want to get into what it called a “walk-in, walk-out” type of live-in relationship may want to tie a knot instead, wherein they are legally bound to one another and cannot just walk away from the relationship at any time. Since most live-in relationships involve either a married male and an unmarried female or a married female and an unmarried male, neither partner can legitimately accuse the other of being unfaithful or immoral.

## **B. RIGHTS OF WOMEN IN LIVE-IN RELATIONSHIPS:**

Men and women have been known to cohabit for quite some time outside of the context of a legally recognised marriage. Males’ cohabitating with women outside of marriage was not stigmatised as morally questionable. Soon after gaining independence, bigamy was criminalised, and women’s rights were recognised. Although this is now against the law, that hasn’t stopped people from doing it anyway. Although countries like the United States and the United Kingdom have legalised live-in relationships, India does not. Traditional social ideals and female dependence on males mean that marriage is still viewed as the best social institution in India. When a woman marries, her legal standing, social dependence, economic dependence, place of residence, all shifts.

By enacting Protection of Women under Domestic Violence Act, lawmakers acknowledged live-in partnerships for the first time, protecting women who are not engaged but who have a connection to a man that is, legally analogous to marriage but not the same as being a wife. According to Section 2(f) of the Domestic Violence Act 2005<sup>7</sup>, When two people are linked via consanguinity, marriage, or a relationship in the nature of marriage, adoption, or when they are family members living together in a joint family, they are said to have a domestic relationship. No strict definition of a live-in relationship is provided, leaving its meaning up to the courts. In determining the meaning of the phrase “relationship in the nature of marriage,” the courts have presumptively determined that cohabiting couples fall within the scope of the term. As a result, women should presumably be able to better defend themselves from violence thanks to this provision. In the 2006 case *Lata Singh vs. State of UP*<sup>8</sup>, when two people of different sexes live together, the Supreme Court declared that they are not breaking the law.

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<sup>6</sup> *Alok Kumar v. State (2010)*

<sup>7</sup> Protection of Women under Domestic Violence Act, 2005, No 43, Acts of Parliament, 2005 (India).

<sup>8</sup> *ibid.*

The court also ruled in *Madan Mohan Singh v. Rajnikant in 2010*<sup>9</sup> that a long-term relationship cannot be considered a “walk in, walk out relationship,” and instead must be believed to be of a marital type. The court ruled in *Indra Sarma v. VKV Sarma*<sup>10</sup> that the Domestic Violence Act protects women in live-in relationships. The bench said that while not all intimate partnerships have the same legal implications as marriage, Government has to mull about these concerns, enact suitable laws, or adjust the Act as necessary to ensure the safety of women and children brought into such situations.

The Indian judiciary has demonstrated its role as protector of its citizens by providing additional safeguards to those whose relationships stem from living together. In numerous occasions, the courts have upheld the legitimacy of women’s claims to joint property ownership and inheritance. Children born in such partnerships are afforded legal protection in Indian courts. The National Commission for Women suggested in June 2008 that the Ministry of Women and Child Development recognise the right of support for female cohabitants under Section 125 of the Criminal Procedure Code, 1973. This ensured that her spouse would provide for her material needs in the event that she was unable to do it on her own or if their relationship became estranged. Equally, the Domestic Violence Act of 2005 affords all women, not just married ones, the same level of protection from physical, sexual, and emotional violence as is guaranteed to married women. The High Court ruled against the appellant wife in *Chanmuniya v. Chanmuniya Kumar Singh Kushwaha*<sup>11</sup> because only legally married women can claim support under Section 125 CrPC (2011). The Supreme Court reversed the lower court’s decision and sided with the victim, ruling that the Protection of Women from Domestic Violence Act’s Section 26 must be taken into account when interpreting Section 125 of the Criminal Procedure Code.

After its 2005 update, the Hindu Succession Act, 1956 has protected women’s access to their families’ property. As a result, she can claim her rightful share of her family’s and her own inherited or acquired assets, including those belonging to her son, even if she never marries. Therefore, regardless of whether a woman is married or in a live-in relationship, she will automatically inherit her parents’ property. However, property acquired during a person’s lifetime will be split according to their will. *Dhannulal v. Ganeshram*<sup>12</sup> where the Supreme

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<sup>9</sup> Madan Mohan Singh v. Rajnikant (2010) 573 SC.

<sup>10</sup> Indra Sarma v. K V Sarma AIR 2014 SC 309.

<sup>11</sup> Chanmuniya v. Chanmuniya Kumar Singh Kushwaha (2011) 1 SCC 141.

<sup>12</sup> Dhannulal and Others Vs. Ganeshram and Another (2015) 273 SC.

Court ruled in favour of a woman's claim to an inheritance from her live-in boyfriend. The grandchildren claimed their grandfather had never lived with a woman throughout his life. Since they were never married, she had no legal claim to their grandfather's estate when he passed away. The court held that the law will presume that a man and a woman who are living together were living in a valid marriage.

### **III. NEED FOR SPECIAL LEGISLATION FOR WOMEN IN LIVE-IN RELATIONSHIPS**

Since the prevalence of live-in relationships is increasing, more people are being affected, and some members of the male upper class are exploiting them for sexual gratification, making it imperative that we pass and revise legislation to safeguard women from the wrongdoings and illegal acts of a partner as soon as possible. It is clear that the Indian judiciary is capable of making nuanced decisions; in some cases, Courts have shown conflicting views on this issue, with some ruling that a live-in relationship should not bind the partners because the sole basis for entering into such agreements is the reality that there lies no duty to be followed by the couples, and others showing the opposite view, holding that if cohabitation continues for a reasonable amount of time, the couple should be considered married.

It also seems odd to include the concept of live-in relationships in the purview of section 125 of the Criminal Procedure Code, where the husband is obligated to pay assistance and inherit, given that the motivation for entering into a live-in relationship is to avoid the responsibilities that come with being married. Bigamy would increase and tensions would grow between the spouse and the live-in partner if their rights were made similar. Besides being illegal, such partnerships are also uncommon outside of major cities; yet, when considering the masses that make up India, there is no correlation between live-in relationships and social acceptance. It gets no help from the law, and society as a whole frown upon such unions and forces them to end. Since divorce is a reason for parties to choose a live-in relationship, the Law Commission of India in its 71st report in 1978 urged revisions to the divorce provisions of the Hindu Marriage Act 1955 and the Special Marriage Act 1954. The marriage has broken down irretrievably, and there is no culpability on any side for filing for divorce. The romance of their marriage has faded without any one person's fault. This could result in a relationship where one partner can just "walk in and walk out" at any time. The Hindu Marriage Amendment Bill 2010 was introduced in the Rajya Sabha in 2010 to simplify the divorce procedure and to add the

irretrievable break down of the marriage as a ground for divorce prior to the expiration of the cooling off period. The bill, however, has yet to pass.

Women in a null marriage or a live-in relationship should be able to seek maintenance, according to a recommendation made in the Malimath committee report of 2003. Thus, it is time for new legislation to clear away all the obstacles and safeguard social values without compromising individual rights as society evolves.

## **CONCLUSION**

In short, the modern Indian social environment, which is based on the production of culture and tradition, necessitates legal rules on live-in partnerships that provide a clear image. To safeguard the rights of partners and children born of these relationships, live seeing someone should be legalised only after a substantial period of cohabitation. Shared housing is a human rights and non-traditional approach to housing. Despite its pervasiveness in the West, India's complex social fabric is awe-inspiring. Since marriage is the most common and ideal form of partnership in India, this trend makes sense. It is not that people should look down on adults who are not married but wish to share a home together, of course. For the greater good of society, the legal executive's efforts to protect the rights of persons living under such protective systems are undeniably commendable. To prevent our deeply established sanskar of marriage from becoming obsolete in the perspective of future generations, it is now the responsibility of administrators to create a system that lends legal legitimacy to live-in partnerships.

An unreported live-in relationship is harmful for everyone involved, including the husband's legally married wife and their children. To avoid these undesirable outcomes, it is necessary to make a change to the applicable personal law, since this is the primary legislation governing the relationship eminence that recognises the status and right to inherit the property. Thus, given the current social climate, a definitive analysis of the problem coupled with a workable, realistic solution is required. Even as legislators and judges work to acknowledge a concept that is foreign to our culture, it is crucial to consider how this recognition may affect the matrimonial rights of the individuals involved.



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