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Live-In Relationships: A Closer Look at Women's Rights.

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ABSTRACT:

As time passes by, the opinion of society on Live-In Relationships is changing. Earlier people of India did not accept cohabitation between unmarried couples they believed that a man and a woman should live together after they get married, such relationships are considered impure (apavitra) relationships. Now in the 21st century, when Live-in relationships are legalized by the Supreme Court, still society does not accept such relationships. Also, they don't have any separate fundamental laws regarding the rights of women in live-in relationships i.e. courts consider them as a married woman. In this article, we have gone deep into the legal rights of women in live-in relationships, along with laws related to live-in relationships in other countries and what are the challenges faced by them in a live-in relationship.

INTRODUCTION:

In India, live-in relationships still face societal stigma and discrimination. Live-in relationships are not an offense in India¹². Marriage in India is considered as legalizing the relationship of a man and a woman, it is very difficult for society to accept live-in relationships. Now, changes are coming in society people are accepting live-in relationships.³ A live-in relationship means the couple living together based on an emotional and sexual relationship for a continuous period without marriage. This article will provide you with a closer look at live-in relationships and their legality, the rights of women, and some case studies.

Historical Assessment:

In the course of time, the view of the Live-in relationship has come to its periphery. In the past decades, marriage was the only decided way to formalize a relationship and have children.

¹ Sanjay.kk, *Live-in Relationship: Laws In India*, The Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), <<https://www.legalserviceindia.com/legal/article-10718-live-in-relationship-laws-in-india.html#:~:text=Unlike%20in%20some%20other%20countries,illegal%20or%20a%20criminal%20offense> >

² Dristi Sharma, Live-in relationship laws in India: All your questions answered, dailyo, (Oct. 10, 2023, 9:29 PM), <https://www.dailyo.in/news/live-in-relationship-laws-in-india-all-your-questions-answered-40917>

³ *Id.*, at 959.

Without marriage, cohabitation between unmarried couples is scrutinized as out of the ordinary and inappropriate.

Despite this, some exceptions are also there like there were some customs where unauthorized coalitions were more acknowledged, mainly where formal marriages are not unfeasible and irresolvable because of numerous reasons, for instance, caste and social restrictions.

In the 20th century, the conventional theory of Live-in relationships started changing. The counterculture crusades of the 1960s and 70s challenged customary norms, supporting free will in personal relationships. This era marked the defining moment in the communal mindset toward Live-in relationships. The beginning of the “free love” movement inspired the cohabitation of unmarried couples and delved into the non-traditional partnership.

Legal Recognition:

In the eye of the law, a live-in relationship is legal but is not recognized as a legal union under any law of India. The Supreme Court said that a man and a woman living together without marriage will not constitute an offense. In the landmark case of *S. Khushboo v. Kanniammal*⁴ referring to Article 21 of the Constitution of India which is the Right to life and personal liberty as a fundamental right, the Supreme Court said "LIVING TOGETHER IS A RIGHT TO LIVE"⁵. According to The Protection of Women from Domestic Violence Act 2005, a domestic relationship is when two persons share the same home. The act provides protection to women living in a live-in relationship who face domestic violence.⁶ Therefore, women in live-in can apply for protection from the courts under this act. The Supreme Court held that women of live-in relationships are also entitled to maintenance from their partner, as per section 125 of the Criminal Procedure Code 1973.

“With changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today.”- Honourable Justice A.K. Ganguly⁷

⁴ S. Khushboo vs Kanniammal & Anr, CRIMINAL APPEAL NO. 913 of 2010, 28 April 2010

⁵ Shradha Jain, *Are live-in relationships legal in India*, Ipleaders, (Oct. 10, 2023, 9:29 PM), https://blog.ipleaders.in/are-live-in-relationships-legal-in-india/#Laws_related_to_live-in_relationships

⁶ Sanjay.kk, *Supra* note 1, at 960.

⁷ Niharika Kalyan, *Live-In Relationships: Reality Check On Legal, Religious And Social Dimensions*, E-Justice India, (Oct. 10, 2023, 9:29 PM), <https://www.ejusticeindia.com/live-in-relationships-reality-check-on-legal-religious-and-social-dimensions/>

Living relationships in Canada are legally recognized as "Common Law Marriage". In the United Kingdom, live-in relationships are covered under the Civil Partnership Act 2004⁸. In Australia, the Family Act states the legality of living together⁹.

LEGAL RIGHTS OF A WOMEN IN LIVE-IN RELATIONSHIP IN INDIA:

After knowing the legal status of the Live-in relationship in India. Now let's talk about the legal rights a couple has in a live-in relationship. Beyond doubt, these couples have some rights but females have more rights compared to male partners for their safety. As the Indian law lords recognize the live-in relationship, it ensures protection to both parties in this cohabitation. The basic and most important legal rights of women in a live-in relationship in India are as follows-¹⁰

- **Right To Protection Against Domestic Violence**

Besides, for married woman Indian law also protect women in a live-in relationship under the **Protection of Women From Domestic Violence Act of 2005.**

Domestic violence or domestic abuse means the behavior of one partner who uses their power and control over another partner. Domestic exploitation can be physical (hurting the spouse, regular hitting), sexual, emotional, etc., that influence another partner. Section 3(a) states that an act of harm or injury that endangers the health, safety, life, limb, or well-being, whether mental or physical, of the aggrieved person, will constitute violence under this act. Domestic violence mostly occurs between married couples, living together, or dating. "¹¹ Anyone can be a victim of domestic violence, regardless of age, race, gender, sexual orientation, faith, or class".¹²

⁸ Swathy Gopal, *Live-in Relationships*, ISBN No: 978-81-928510-1-3, Legal Service India, (Oct. 10, 2023, 9:29 PM), <<https://www.legalservicesindia.com/article/211/Live-in-Relationships.html#:~:text=The%20Supreme%20Court%20said%20that,liberty%20as%20a%20fundamental%20right>>

⁹ Swathy Gopal, *Live-in Relationships*, ISBN No: 978-81-928510-1-3, Legal Service India, (Oct. 10, 2023, 9:29 PM), <<https://www.legalservicesindia.com/article/211/Live-in-Relationships.html#:~:text=The%20Supreme%20Court%20said%20that,liberty%20as%20a%20fundamental%20right>>

¹⁰ Varsha, *Rights Of A Woman In A Live-In Relationship In India: : Legal Status And Landmark Judgments*, bnblegal, (Oct. 10, 2023, 9:29 PM), <https://bnblegal.com/article/rights-of-a-woman-in-a-live-in-relationship-in-india-legal-status-and-landmark-judgments/>

¹¹ P.Arun Prakash vs S.Sudhamary on 1 April, 2021

¹² Aaron Allen, *Victim/Defendant: The Criminalization Of Domestic Violence Survivors*, seattlemedium, (Oct. 10, 2023, 9:29 PM), <https://seattlemedium.com/victim-defendant-the-criminalization-of-domestic-violence-survivors/>

The Act as per Section 2(f) defines a domestic relationship as a connection between two people who currently or previously share a home.¹³

This act as per Section 2(a) also defines an "Aggrieved person" as "any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any domestic violence by the respondent"¹⁴. As it is mentioned in section 2 (f) "share home", the act is also applicable to women in live-in relationships.

In *D.Velusamy v. D. Patchaiammal*¹⁵, the Supreme Court laid down the following requirements to be fulfilled for determining the term 'relationship on the nature of marriage'¹⁶:

1. Couples ought to represent themselves corresponding to that of the spouses to the outside world.
2. They must be of legal age to marry.
3. For the acknowledgment of their relationship, they must meet all the requirements to enter into a legal marriage irrespective of being unmarried.
4. They must have voluntarily cohabitated and for the time being, have presented themselves akin to spouses to the outside world.

The court held that a live-in relationship will amount to a relationship in the nature of marriage to get the benefits of this Act. The act protects women in live-in relationships who face domestic violence.

▪ **Right To Maintenance**

The word wife means a woman who is a legally wedded partner of a Man. According to Section 125 of the Criminal Procedure Code 1973, the persons who are eligible for maintenance under the code are wives, children, fathers, or mothers¹⁷. In the landmark case of *Chanmuniya v. Virendra Kumar Singh Kushwaha and others*¹⁸, the court had an opinion that broad and expansive interpretation should be given to the word 'wife' and added that men and women

¹³ Nishtha Malhotra, Live in relationship and protection of women from domestic violence act,2005, lawyersclubindia, (Oct. 10, 2023, 9:29 PM), <https://www.lawyersclubindia.com/articles/Live-in-relationship-and-protection-of-women-from-domestic-violence-act-2005-7565.asp>,

¹⁴ Rajendra Anbhule, *Aggrieved Women And Live-In Relationships: Judicial Discourse*, The Manupatra, (Oct. 10, 2023, 9:29 PM), < <https://docs.manupatra.in/newsline/articles/Upload/0F9385C7-DDF2-41EB-A7DB-FA111C39BFD8.pdf>>

¹⁵ D.Velusamy v. D. Patchaiammal, AIR2011SC479

¹⁶ Nishtha Malhotra, *Live in Relationship and Protection of Women from Domestic Violence Act,2005*, Lawyers Club India, (Oct. 10, 2023, 9:29 PM), < <https://www.lawyersclubindia.com/articles/live-in-relationship-and-protection-of-women-from-domestic-violence-act-2005-7565.asp> >

¹⁷ Neha, Maintenance Under Section 125 Cr. P. c, The Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), <<https://www.legalserviceindia.com/legal/article-4889-maintenance-under-section-125-cr-p-c.html#:~:text=Here%20'wife'%20includes%20a%20woman,means%20a%20legally%20married%20woman.>>

¹⁸ Chanmuniya v. Virendra Kumar Singh Kushwaha and others, (Civil) No.15071 of 2009)

who are living together as husband and wife for a reasonable amount of time, are eligible for maintenance under the Section 125 Criminal Procedure Code. The Apex court includes those relationships that are not legally wedded but will be considered legitimate relationships.

Maintenance in Live-in Relationships in other countries.¹⁹

In France, the Civil Solidarity Pacts allows two adults of different gender or the same gender to live together and allows them to enjoy the rights of married couples, after entering into a union by signing a contractual form before a court clerk. But there is no aspect of maintenance covered²⁰.

In the United Kingdom, live-in relationships do not enjoy any legal benefits and status of a married couple. Bereavement Allowance is not available to live-in partners. However, the maintenance law seeks to protect the rights of a child born under such relationships²².

The couple had to sign a contract for a live-in relationship in China. However, the rights of partners to maintenance are not covered by the Chinese Law²³.

▪ Right To Property

The right to property in a live-in relationship depends upon the duration of cohabitation and the money they have shared for the expenses. Unlike married women, the condition appears to be more complicated for a woman in a live-in relationship. Even though, the Supreme Court of India has permitted the legal status of Live-in relationships, on the contrary, what if one partner decides to walk out of the relationship?²⁴

These are some questions that the Indian citizens and learned courts are still struggling to find a correct explanation. As we all know, we don't have any specific Act or regulation that directs the live-in relationship.

▪ Right to Child Custody and Maintenance

Custody, Maintenance, and Legitimacy rights are the principal entitlements of a child born out of a Live-in relationship. Child custody has no specific laws to govern these rights of women in Live-in

¹⁹ lawcommunity, <https://www.lawcommunity.in/articles/maintenance-in-live-in-relationships>, (last visited Oct. 10, 2023).

²⁰ Raunak Sood, Maintenance In Live-In Relationships, The Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), <<https://www.legalserviceindia.com/legal/article-2021-maintenance-in-live-in-relationships.html> >

²¹ *Id.*, at 963.

²² Raunak Sood, Maintenance In Live-In Relationships, The Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), <<https://www.legalserviceindia.com/legal/article-2021-maintenance-in-live-in-relationships.html> >

²³ Raunak Sood, Maintenance In Live-In Relationships, The Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), <<https://www.legalserviceindia.com/legal/article-2021-maintenance-in-live-in-relationships.html> >

²⁴ Saloni Sinha, *Property Rights Of Women In A Live-In Relationship And Laws Relating Thereto*, Legal Service India E-Journal, (Oct. 10, 2023, 9:29 PM), < <https://www.legalserviceindia.com/legal/article-5247-property-rights-of-women-in-a-live-in-relationship-and-laws-relating-thereto.html> >

relationships, so courts consider them as married women. The welfare of the child is of foremost attention and, the aim of the arrangement is to make sure of the child's best interest. Furthermore, the non-custodial partners are normally obligated to arrange for financial backing for their child, guaranteeing that the conflicts between parents are not a disadvantage for them.²⁵

The court believes that all children born in a live-in relationship are legitimate to recent judgments. In June 2022, the Supreme Court in *Kattukandi Edathil Krishnan and Another vs. Kattukandil Edathil Valsan and Others*²⁶ ruled that a child born out of a Live-in relationship can be deemed as a legitimate child. But this is only on one condition the cohabitation between unmarried couples should be a long-term relationship and not of "walk in, walk out" nature.²⁷

The Supreme Court also adjudicated that these children are also entitled to be part of ancestral properties.²⁸

"Long course of living together between a male and female will raise a presumption of marriage between them and the children born in such relationship are considered to be legitimate children," the bench said.²⁹

CHALLENGES WOMEN FACE IN LIVE-IN RELATIONSHIPS:

- 1- Lack of social support and assistance** - It is a notable fact that women living in a live-in relationship lack social support and assistance in comparison to married ones. The absence of formal recognition and lack of social support can limit their access to social networks. With this, they could fall into social-emotional strain and psychological stress. Despite the fact that it is not considered in some cultures it is demanded that people should consider it and provide proper assistance and support to the women so that they would be relieved from it and work for their betterment without any such dependency and failure.

²⁵ Sukriti Mathur and Mayank Raj Maurya., Legitimacy of a child born in a live-in relationship, blog.iplayers., (Oct. 10, 2023, 9:29 PM), <https://blog.iplayers.in/legitimacy-child-born-live-relationship/>

²⁶ Kattukandi Edathil Krishnan vs Kattukandi Edathil Valsan, CIVIL APPEAL NO(S). 6406-6407 OF 2010

²⁷ Drishti, https://www.drishtiiias.com/daily-updates/daily-news-analysis/supreme-court-judgment-on-inheritance/print_manually#:~:text=Note%3A%20In%20June%202022%2C%20the,in%2C%20walk%20out'%20nature (last visited 09 October 2023)

²⁸ Altacit Global, <https://www.altacit.com/family-law/rights-of-women-in-live-in-relationship/> (last visited 08 October 2023)

²⁹ Ananya Singh, *How Does the Law Protect People in Live-in Relationships?*, The SWADDLE (Oct. 10, 2023, 9:29 PM), <https://theswaddle.com/how-does-the-law-protect-people-in-live-in-relationships/#:~:text=This%20is%20based%20on%20law,judgment%20in%20a%202022%20case.>

- 2- Child Custody Concerns-** In case of separation and parting, women often face the issue of their child custody and the establishment of their legal rights in that context. Such problems arise mainly when the legal support becomes Incompatible and fails to define parental rights in such relationships. This can create more devastation and somehow affect those women who fail to get their child custody resulting in an emotional war and psychological stress. They must be made aware by any concrete means so that they can certainly enforce their rights and navigate these challenges. The legal framework must ascertain then with that so that they could maintain the balance between the Societal approach to mental well-being and the protection of the rights of the women living in live-in relationships.
- 3- Economic vulnerability-** Economic vulnerability is considered to be the biggest downfall for an individual. So, it is in the case of live-in relationships. Unlike married spouses who may have clear legal access to their financial assets, women in informal unification may find themselves in a state of economic vulnerability in case of a breakup or parting. This dependence may lead to a sense of insecurity among them. The deprivation of their legal rights imbalances the financial cycle and leads to their downfall. Lack of legal access to the financial assets is a bone of contention. This highlights the significance of financial agreements and legal documentation for the partners to protect their financial well-being.
- 4- Social Stigma-** With the evolution of time society and its attitude have also evolved but the social stigma surrounding live-in relationships still perseveres in some cultures and communities. Women may encounter judgment and disapproval from their family members, friends, and somehow from the society at large. In present times it has become an agenda thereby creating mental and social pressure that would end up affecting the well-being of the women facing them. This social pressure sometimes creates imparity and leads to Psychological and emotional downfall.
- 5- Legal Ambiguities-** Legal ambiguities arise due to the complexity and uncertainty regarding property custodial and financial assets. They may face challenges when they try to secure their rights and in this process, they could get into serious stress and pressure. Getting legal advice and guidance may save them and clear these uncertainties. Women in live-in relationships need to be aware of their rights as they could turn out to be beneficial to them. In this way, they would be able to safeguard

and protect their rights and could lead a life free of any disturbance and pressure irrespective of any separation or parting.

Case laws:

Indra Sarma v. V.K.V. Sarma (2013)³⁰ This is a landmark case related to live-in relationships in India before the Supreme Court. This case is about live-in relationships with a married man for about 18 years, domestic violence, and maintenance. The respondent had opened a company in the name of the appellant, later he left the appellant and started living with his family because his family was opposing his live-in relationship and forced him to leave the appellant.

The main issue was whether a live-in relationship would qualify as a domestic relationship under section 2 (f) of the Protection of Women from Domestic Violence Act 2005^{31,32}. The court held that live-in relationships with a married woman or with a married man are not recognized as in the nature of marriage. The court states that in order for there to be marriage, these conditions must be there³³:

- The couple must agree to be married.
- The individuals are living in a segment of the union.³⁴

The court also laid down certain guidelines for determining whether a live-in relationship falls within the preview of the Act.³⁵

Lata Singh v. Uttar Pradesh and Anr³⁶ This is a landmark judgment in the legal history of India. The case is about the enforcement of the appellant's rights, that is to marry a person of her choice with her own will. The facts of the case were, that the appellant was a 27-year-old woman married to a man of her own choice, which was an intercaste marriage against the wishes of her family³⁷. The complaint against the husband was filed by the family. In this case,

³⁰ Indra Sarma v. V.K.V. Sarma, AIR 2014 SC 309

³¹ Rishika Ramchandra Boddu, *Case Analysis: Indra Sarma v. V.K.V. Sarma AIR 2014 SC 309*, Vidhi Nama, (Oct. 10, 2023, 9:29 PM), <<https://vidhinama.com/case-analysis-indra-sarma-v-vkv-sarma-air-2014-sc-309/>>

³² Indra Sarma (Appellant) Versus V.K.V. Sarma (Respondent).

³³ Rishika Ramchandra Boddu, *Case Analysis: Indra Sarma v. V.K.V. Sarma AIR 2014 SC 309*, Vidhi Nama, (Oct. 10, 2023, 9:29 PM), <<https://vidhinama.com/case-analysis-indra-sarma-v-vkv-sarma-air-2014-sc-309/>>

³⁴ byjus, <https://byjus.com/question-answer/a-group-of-similar-individuals-living-in-a-given-area-that-have-the-potential-to-1/>, (last visited Oct. 10, 2023).

³⁵ *Id.*, at 966.

³⁶ Lata Singh v. Uttar Pradesh and Anr, AIR 2006 SC 2522; (2006) 5 SCC 475; 2006 (56) ACC 234

³⁷ K. Mihira Chakravarthy, *Lata Singh v State of Uttar Pradesh & Anr*, LEXPEEPS, (16 AUGUST 2022)

<<https://lexpeeps.in/lata-singh-v-state-of-uttar-pradesh-anr/#:~:text=conclusion,the%20partner%20of%20their%20choice.>>

the court held a major girl has the right to marry any person of her choice and also has the right to live with anyone she likes.

CONCLUSION:

To summarize, in India people's point of view on live-in relationships is amending slowly but surely, although live-in relationships are not legally acknowledged as marriage, they do have the benefit of an extent of legal protection, but especially for women, underneath several acts and court rulings. Even though there is progress, there are some challenges faced by women such as economic vulnerability, social stigma, lack of support, and legal ambiguities. These issues need comprehensive legal modifications, and social consciousness and recognition are vital. Women of Live-in relationships should know their rights. By encouraging acknowledgment, indulgence, and legal lucidity, the people of India can initiate a more rightful atmosphere for individuals in live-in relationships. Whereas landmark cases ensure that the choices of an individual in a live-in relationship are respected and protected.

REFERENCE:

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