



Live-in relationships in India: A comparative study with an international perspective

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Abstract

A live-in relationship is a long-term, marriage-like living arrangement when an unmarried couple shares a home together. Recently, cohabitation has become more popular than marriage. In India, the number of persons choosing to be in live-in relationships has significantly grown. This article examines how Indian culture and the Indian court have responded to cohabitation and compares their experiences to those of other countries. The thought of live-in relationships makes families uncomfortable because it suggests having sex for pleasure rather than for procreation, as marriage implies. Western nations never view marriage as a religious institution and are not particularly concerned with upholding their social and familial responsibilities. In summary, the situation has undoubtedly improved as a result of court decisions that have acknowledged these connections and changed the laws to shield women from unjustified harassment, even though these ties don't really provide much security. This research study investigates the notion of live-in partnerships in India, looking at the Indian court have responded to cohabitation and compares to international perspective.

Keywords: Cohabitation, live-in partnerships, western nations, legal. partners, Indian Court, safeguards and India

Introduction

Indian culture has witnessed a dramatic shift in the nature of romantic partnerships, with the idea of live-in relationships becoming a popular substitute for customary marital arrangements. Live-in couples, which were formerly considered unorthodox and discouraged by conservative norms, have progressively acquired acceptability, reflecting changes in the social fabric and views towards intimate relationships. Live-in relationships are becoming more and more common, but the laws in India governing them are still unclear and ambiguous. In contrast to the institution of marriage, which is subject to a wide range of laws and rules, live-in partnerships have an unclear legal status, which leaves partners exposed and without certain rights or safeguards.

The purpose of the study piece is to understand why couples decide without getting married and what negative effects, if any, result from living together instead of being married. The study also intends to determine the status of live-in partnerships in other nations across the world and examine how the Indian judiciary has responded to them.

The lack of specific regulation in India pertaining to live-in relationships is one of the main obstacles they face. India lacks a logical legal framework for live-in relationships, in contrast to nations like France and the US, where laws specifically acknowledge and control cohabitation. As a result, participants in these kinds of agreements frequently have to deal with ambiguity and uncertainty in the law regarding their duties and rights.

However, the Indian judiciary has been instrumental in influencing the legal conversation over cohabitation in recent years. Prominent rulings, such *Indra Sarma v. V.K.V. Sarma* and *D. Velusamy v. D. Patchaiammal*, have clarified important issues regarding the rights of cohabiting partners. These decisions have upheld the legality of cohabitation and given partners more protection under the law, especially when it comes to situations involving domestic abuse and maintenance disputes.

It is still difficult to define the obligations and rights of cohabiting partners in spite of recent court rulings. There is opportunity for uncertainty and inconsistent legal treatment across jurisdictions due to the lack of explicit legislation and the inconsistent interpretations of the law by judges. In addition, cultural norms and societal views still shape the legal debate in India over cohabitation. Live-in partnerships may still be viewed with mistrust and disfavour in rural regions and conservative groups, even if they may be more accepted and tolerated in larger centres.

Even while live-in relationships are becoming more common in Indian culture, there is still uncertainty around their legal status, which makes it difficult for partners to get clarification and protection from the law. This article nvestigates the notion of live-in partnerships in India, looking at the Indian court have responded to cohabitation and compares to international perspective.

Indian Court Response to Live-in Relationships

The Indian constitution's Article 21 guarantees the fundamental right to life and liberty, however it excludes socially acceptable relationships like live-in relationships. According to S.114 of the Indian Evidence Act, 1872, there is a presumption of marriage if a man and a woman live together as husband and wife for an extended period of time. The general principle "Where a man and woman are proved to have lived together as a man and wife, the law will presume, unless the contrary be clearly proven, that they were living together as a consequence of a valid marriage and not in a state of concubinage" was established by the Council in the case *A. Dinohamy v. WL Blahemy*.

Two years later, in the *Mohabhat Ali v. Md. Ibrahim Khan* case, the Council took the same stance, declaring that when a man and woman live together for a certain amount of time, the law presumes that they are married and not in a condition of concubinage.

The absence of particular law in India has led to inconsistent legal treatment across various jurisdictions and a variety of

interpretations on live-in relationships. In spite of the lack of specific legislation, the judiciary has become a vital resource for identifying and defending the rights of cohabiting partners by interpreting the law in a way that is progressive. Important rulings, such as *Indra Sarma v. V.K.V. Sarma* and *D. Velusamy v. D. Patchaiammal*, have made a substantial contribution to the legal acceptance of cohabitation and the defence of partners' rights.

A major step towards confirming the legality of live-in partnerships in India was taken in 2013 when the Supreme Court resolved the case of *Indra Sarma v. V.K.V. Sarma*. In this instance, the court ruled that long-term cohabitation between partners without a formal marriage does not constitute an immoral or criminal relationship. The verdict underlined how important it is to acknowledge how modern Indian society's social dynamics and ideas about relationships are changing. The Court's acceptance of live-in partnerships as legitimate marked a significant legal milestone for these arrangements and emphasised the value of honouring people's decisions about their personal relationships.

In a similar vein, the 2010 Supreme Court decision in the case of *D. Velusamy v. D. Patchaiammal* helped to define the rights of participating partners and set forth the legal standing of live-in partnerships. A legal live-in relationship must meet specific requirements, as established by the court in this decision, which include mutual consent, long-term cohabitation, and public disclosure of the partnership. Legal protections against domestic violence and exploitation were extended by the judgement, which stressed that partners in live-in relationships are entitled to protection under the Domestic Violence Act, 2005.

In *Badri Prasad vs. Dy. Director of Consolidation, 1978*, where a man and woman had been living together for approximately 50 years, the Apex Court assumed that they had been married for some time.

In another case *Payal Sharma v. Superintendent, Nari Niketan, Agra*, the court stated that "In our opinion, a man and a woman can even live together without getting married.

In the *Kushboos* case, the Supreme Court ruled on March 23, 2010, that a man and a woman living together without being married are not guilty. "What punishment will two adults face if they want to live together?" Is that a crime? Cohabitation is not a crime. "This cannot be considered a crime," said a three-member panel of judges consisting of Chief Justice K.G. Balakrishnan, Deepak Verma and B.S. Chohan. According to folklore, Lord Krishna and Radha also lived together, the court said.

These important rulings highlight the need for legal protection and redress in live-in relationships and show that judges are acknowledging the rights and vulnerabilities of partners in these kinds of partnerships. The Indian judiciary has been instrumental in bridging the gap between changing societal norms and legal recognition by upholding the validity of live-in couples and providing legal protections to partners. Nevertheless, there are still difficulties in guaranteeing that live-in relationships have consistent and uniform legal treatment throughout various jurisdictions, even in light of these noteworthy court decisions. Due to the lack of clear laws governing live-in relationships, there is potential for ambiguity and inconsistent legal interpretation, which might result in differences in the rights and privileges of partners across the nation.

Furthermore, the legal language around live-in partnerships is still shaped by societal views and cultural conventions, with conservative viewpoints frequently standing in the way of the acceptance and acknowledgment of such arrangements. In order to address these issues, a thorough legal framework that upholds the rights and dignity of all parties involved while clearly recognising and regulating live-in relationships is necessary.

Although live-in relationships are not specifically regulated by law in India, the judiciary has been instrumental in advancing the progressive interpretation of existing laws to recognise and protect partners' rights. Significant rulings like *Indra Sarma v. V.K.V. Sarma* and *D. Velusamy v. D. Patchaiammal* have given live-in partnerships vital legal legitimacy and expanded safeguards for partners under specific conditions. But in order to solve the issues of cultural attitudes and legal uncertainty, a coordinated effort is needed to pass comprehensive law that protects the rights and dignity of people living together.

A bench consisting of Justices BS Chauhan and Chelameswar declared in 2014 that children resulting from extended cohabitation could not be classified as illegitimate. In a 2015 ruling, a bench of judges led by Justices MY Eqbal and Amitava Roy stated that a couple's ongoing cohabitation would increase the likelihood of a lawful marriage and that the burden of proof would be with the other side to disprove their relationship.

In the Indian context, the judiciary has recognized live-in relationships and provided certain legal protection to partners. The Supreme Court of India has ruled that a live-in relationship, if it meets certain criteria, can be considered akin to marriage and grant rights to partners in areas such as maintenance, property rights, and child custody.

Comparative Analysis and International Views

A Review of Other Countries' Live-in Relationship Law

Several countries have passed laws to control cohabitation and provide unmarried couples legal protections and recognition. As an illustration

United States: State-specific regulations on cohabitation exist in the United States. Common law marriage is recognised in some places, meaning that after living together for a specific amount of time, a couple is deemed legally married. Legal recognition and protections for unmarried couples are afforded by state-specific regulations establishing domestic partnerships or civil unions.

The phrase "palimony" was used to describe supporting a woman who lived with a guy for a significant amount of time without being married and who is later abandoned by him. The first case involving palimony was *Taylor v. Fields* and *Marvin v. Marvin*. In both cases, the well-known actor Lee Marvin was involved, and Michelle, a woman, lived with him for a long time without being married before he abandoned her and filed for palimony.

Despite the fact that the gift has no formal foundation

The United States courts have awarded alimony on a contractual basis, notwithstanding the absence of a legislative basis for such awards. A man and a woman may have an implied or constructive contract if they have lived together for a significant amount of time without getting married. However, some US courts have held that there must be a written or oral agreement between the parties stating that the man will give palimony to the woman in the event of their separation.

European Union: Germany, and the Netherlands are just a few of the European nations that have passed legislation accepting cohabitation and giving single couples legal rights. These laws guarantee that couples in cohabitation have access to legal remedies and safeguards, and they usually address matters like property rights, inheritance, maintenance, and child custody.

Australia: Family law in Australia recognises de facto partnerships, which includes live-in relationships. De facto couples have the same rights and safeguards as married couples, including child custody, maintenance, inheritance, and property rights.

United Kingdom

Married couples are entitled to certain legal privileges and status, which are not available to live-in couples. Individuals in these kinds of relationships are unrestricted. There is no Bereavement Allowance programme for widowed spouses, and partners do not have the ability to inherit each other's property. The legislation, however, aims to safeguard the rights of a kid born into such a partnership. It is the responsibility of both parents to raise their children.

France

In November 1999, the French parliament enacted laws permitting couples to tie the knot by signing in front of a court clerk. This contract unites "two adults of different sexes or of the same sex, in order to organise their joint life."

China

A contract to live together can be signed by a couple in China.

A kid born outside of marriage enjoys the same privileges as a child born within a marriage, ensuring that their rights are protected.

New Trends and Prospects for the Future

The legal framework pertaining to cohabitation in India is undergoing notable transformation due to shifting societal standards, court actions, and the acknowledgement of basic rights. Courts and legislators are facing more difficult decisions on the rights, obligations, and legal standing of cohabiting partners as society grows more tolerant of different types of partnerships. In this regard, a number of new developments and potential paths are influencing the conversation in India on cohabitation.

Legal Acknowledgment and Defence

The growing legal acknowledgment of cohabiting partners' rights is one noteworthy development. Supreme Court rulings in seminal instances like *Indra Sarma v. V.K.V. Sarma* and *D. Velusamy v. D. Patchaiammal* have validated the legality of cohabitation and given partners more protection under the law, especially when it comes to inheritance, maintenance, and domestic abuse. The rights and privileges of partners in non-marital partnerships are being recognised more and more via the progressive approach shown in these court rulings.

Lawsuit Proposals

There is a growing recognition of the necessity for complete legal frameworks to handle partners' rights and obligations,

even in the lack of explicit legislation governing live-in partnerships. A number of private member bills supporting the adoption of particular cohabitation laws or a standard civil code have been submitted in the Indian Parliament. By giving live-in partnerships legal clarity, uniformity, and legitimacy, these legislative efforts hope to protect partners' interests and advance social justice.

Safeguarding Vulnerable Persons

A crucial factor to take into account while discussing live-in partnerships is safeguarding those who are more susceptible, especially women and children. It is important to provide partners with sufficient legal protections and support systems due to the power dynamics and vulnerability that come with intimate relationships, particularly whether it comes to abuse, desertion, or financial reliance. Extending protection to live-in partners and providing them with legal recourse in the event of domestic abuse, the Domestic Violence Act, 2005, is a major step in resolving these issues.

Gratitude for Property Rights

In cohabitation, property rights and ownership have become divisive topics, with partners frequently finding it difficult to stand up for their rights to jointly owned property. As more and more courts address property rights conflicts in cohabitation, they are recognising the need of equity and justice in determining the contributions and intents of cohabiting spouses. However, in order to resolve property disputes amicably and safeguard the interests of both parties, more precise legal precedents and rules are required.

Conclusion

In summary, the growing number of live-in partnerships in India highlights the need for legislative action to preserve the rights and safeguards of all parties involved. The dynamic nature of society necessitates the development of a comprehensive legal framework that provides guidance and clarity on a range of issues, such as property rights, inheritance, child custody, maintenance obligations, and the social stigma attached to cohabiting couples.

Live-in partnerships have always been a topic of discussion and controversy. The question of whether a man and woman living together without being married may legally be considered in a relationship has long been debated. In most countries, it is now acceptable for single persons to cohabitate due to shifting societal mores. Currently, the law sees nothing illegal about live-in relationships, especially in a nation like India that is surrounded by countless cultural customs and traditions. The Supreme Court is only recognising the societal reality as a result of the increasing number of these instances. Furthermore, ethics and societal standards define what it means to live; laws do not dictate how we should live.

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