

Live-in Relationship

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Abstract

In the modern fast changing world, technological and industrial advancements are occurring at a very rapid pace for last two decades, which has revolutionized all aspects of human life. Globalization during last few decades has hastened the change affecting almost all aspects of our social life, like family structure, marriage, conjugal right and relationship and so on. Live-in Relationship is one of them. A live-in relationship is when two individuals living together with mutual consent and without any boundaries of marriage. It has pros and cons both. Although live-in has legal status in most of the countries all around the world.

Keywords- Modern, Technological, Industrial, Decades, Revolution, Globalization, Social life, Live-in, Mutual consent, Pros, Cons.

In Modern age, the concept of Live-in relationship is accepted by the western countries openly. Live-in relationship means where a male and female living together without marrying. This is unstable form of family. It is like living together before marriage taking a car for test drive. Live-in relationships are not new phenomenon in the society. In ancient time, the concept of 'Mitru Sambandh' was live-in relationship. Live-in relationships, living relationships and mitru sambandh all are equal things. The only difference is that now people have become open about it. The theory behind live-in concept is that "It's better to have a live-in relationship rather than having a divorced life". Live-in relationship is not new for western countries but now-a-days the concept is adjusting its roots

in east also. The simple legal definition of live-in relationship is “an agreement of living under which the couples which are unmarried live together to conduct a long going relationship similarly as in marriage. In some countries these types of relationships are valid but some countries are highly strict for accepting the concept. It has been found that younger generation is wider to accept the live-in relationship.

Position of live-in relationship in other countries- It is declared by the Supreme Court of India that the right to live together is a part of the right to life under Article 21 of Constitution of India. Now it is the need of the hour to look at the legal rights and obligations for live-in couples around the world. While heterosexual couples who are live-in relationship are called and known as ‘co-habitant’, same sex couples are legally defined as ‘civil partners’. But the law on cohabitation rights is largely evolving and many participants are still unaware of their rights and duties to each other.

- 1) **United States-** Cohabitation was illegal in United States prior in 1970, but went on to gain status as a common law, subject to certain requirements. The American legal history was then a witness to several consensual sex legislations, which paved the way living together contracts and their cousins, the ‘prenuptial agreements’. The country later institutionalized cohabitation by giving cohabiters essentially the same rights and obligations as married couple, a situation similar to Sweden and Denmark. Those living together are not recognized as legal parents.
- 2) **Australia-** The family law act of Australia states that a ‘de facto relationship’ can exist between two people of different or of the same sex and that a person can be in a de-facto relationship even if legally married to another person or in a de facto relationship with someone else.
- 3) **Canada-** Live-in relationship or living together is legally recognised as “common law marriage” in Canada. Common law couple has the same rights as married couples under the federal law of the country. There are various clear law about this concept. A common law relationship gets legal sanctity if couple has been living in a conjugal relationship for atleast 12

continuous months or the couple are parents of a child by birth or adoption or one of the persons has custody and control of the child and the child is wholly dependent that person for support.

- 4) **Ireland**- living together is legally recognised in Ireland. The public of Ireland is up in arms against a new legislation to introduce legal rights for 'separated' live-in couples to demand maintenance or share their property with their dependent partners. The scheme will apply to both opposite sexes and same sex unmarried couples who have been living together for three years, or two years in the case of a cohabiting couple with children. The Government, with this legislation, intends to provide legal and financial protection for the vulnerable and financially dependent cohabitants in the event of death or break up of a relationship.
- 5) **Scotland**- Live-in relationship was first time legally identified and in the process by default by Family Law (Scotland) Act, 2006. Section 25 sub-clause(2) of this act states that a court of law can consider a person as cohabitant of another by checking on three factors : (a) the length of the period during which they lived together (b) the nature of relationship during that period (c) the nature and extent of any financial arrangements.
- 6) **France**- Live-in relationships are governed by the Civil Solidarity Pact of 'pacte civil de solidarité' passed by the French National Assembly in October 1999. Cohabitation is defined as a 'de facto stable and continuous relationship' between two person of different sexes or the same sex living together as couple. The pact defines, the relationship as a contract, and the couple involved as "contractants". The contract binds "two adults of different sexes or the same sex, in order to organise their common life". For a valid contract to exist, the contractants 'may not be bound' by another pact. 'by marriage, siblings and lineage.'
- 7) **United Kingdom**- Live-in relationships are largely covered by the Civil Partnership Act, 2004. Though a man and woman living together in stable sexual relationship are often referred to as 'common law spouses', the expression is not wholly correct in law in England and Wales. The government feels that live-in partners owe each other more than that to be worthy of the term.

Position of live-in relationship in India- Live-in relationship or living together as couple without being married to each other in a legally accepted way is considered a taboo in India. But recently, such relationships are being increasingly common due to a variety of reasons. In absence of any specific legislation, rules or customs on the subject, the Supreme Court has issued certain guidelines in its judgement for regulating such relationship. Live-in relationship between two consenting adults is not considered illegal and if the couple present themselves to the society as husband and wife and live together for a significant period of time. The relationship is considered to be a relationship in the nature of marriage is considered to be a relationship in the nature of marriage under the Prevention of Domestic Violence Act, 2005.

- a)** The female partner is entitled to claim alimony under its provisions.
- b)** Children born out of such relationships are considered legitimate.
- c)** Children entitled to get share in the self-acquired property of their parents, though they are not entitled for a coparcenary share in the Hindu Undivided Family property.

Still, the couple faces multiple social and legal problems in day to day living. The concept of live-in relationship has pros and cons both.

Reason behind live-in relationship- There are various reasons behind the acceptance of live-in relationship.

- a) They may want to test their compatibility before they commit to a legal union.(test for marriage)
- b) They may want to maintain their single status for financial reasons.(financial burdens get sorted).
- c) Who are living as gay or lesbian couples and law does not allow them to marry.
- d) The partners may feel the marriage is unnecessary.
- e) Free from social dictat.
- f) A live-in relationship gives the time to create a strong bond and grow more fond of each other.
- g) Sharing of equal responsibilities.

- h) It's hard to survive in metro cities/big cities alone for girls and boys, so they prefer to live-in relationship to share their daily routine burden.
- i) Less chances of divorce, if a couple tie a knot after live-in.
- j) Weight of expectations from each other would be less as comparison to a marriage.
- k) There is always a mutual respect.

Reasons against live-in relationship-

- a) Societal censure. Though live-in relationships are a rising trend in urban India, our society is yet to accept it open-heartedly.
- b) Easy way out.
- c) Women suffer most.
- d) Effect on children.
- e) Respect for marriage is missing.
- f) Lack of commitment
- g) Takes the charm out of the marriage
- h) Breaking up is harder
- i) Lack of support
- j) Disput of legal rights
- h) Unawareness of legal rights

Case Laws and Indian Supreme Court views on live-in relationship-

Live-in relationship between consenting adults is not considered illegal under the Indian Law, in 2006.

In the case of **Lata Singh vs State of UP AIR 2006 SC 2522**- It was held that a live-in relationship between two consenting adults of opposite sex though perceived as immoral, does not amount to any offence under the law.

S. Khushboo vs Kanaimmal and another 2010 (4) SCALE 462- The Supreme Court observed though the concept of live-in relationship is considered immoral by the society but is definitely not illegal in the eye of the law. Living together is a right to life and therefore it cannot be held illegal.

Badri Prasad vs Deputy Director Consolidation 1979 SCR (1) 1- If man and woman who live as husband and wife in society are compelled to prove, after half a century of wedlock by eye witness evidence that they were voidly married fifty years earlier few will succeed. A strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable a heavy burden lies on him who seeks to deprive the relationship of its legal origin. Law leans in favour of legitimacy and frowns upon bastardy.

SPS Balasubrahmanian vs Suruttayan AIR 1994 SCC (1)- It was observed that where a man and a woman live together as husband and wife for long time, presumption under the law would be in favour of their being legally married to each other unless proved to the contrary and children born out of such live-in relationship would be entitled for inheritance in the property of the parents.

Indra Sarma vs VKV Sarma (2013) 15 SCC 755- It was another landmark case on the matter of live-in relationship in which implications of different types of relationship view that all live-in relationships are not relationships in the nature of marriage. In this particular case, it was found that the appellant, having been fully aware of the fact that the respondent was a married person, could not have entered into a live-in relationship in the nature of marriage, because it has no inherent or essential characteristic of a marriage, but a relationship other than in the nature of marriage. The court further made following observation in this case- Relationship in the nature of marriage is the concept of live-in relationship. Section 2(f) "Domestic Relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family."

Live-in relationships are now very popular in India. The law does not prescribe how we should live; it is ethics and social norms which explain the essence of living in welfare model. The court itself notices that what law sees as no crime may still be immoral.

Reference-

- a) Domestic Violence Act, 2005
- b) Supreme Court Cases
- c) All India Reporter
- d) United states prior of 1970
- e) United Kingdom Civil Partnership Act, 2004
- f) Family Law (Scotland) Act, 2006