
THE CHANGING NATURE OF MARRIAGE IN INDIA: A SPOTLIGHT ON LIVE-IN RELATIONSHIPS

Dr. Sumit Kumar, Assistant Professor, SRRS Law College, Nohar.

ABSTRACT

In India, marriage has always been considered sacred. The relationships developing between men and women outside the realm of marriage have always been condemned, but today people have got the freedom to live in marriage-like relationships (live-in relationships) without marriage. These options have raised questions on the foundation of the traditional marital institution because, in traditional Indian society, living in such relationships is considered unacceptable and prohibited. According to traditional Indian society, such relationships destroy the institution of marriage, and the impact of the destruction of a sacred institution like marriage is not only on the husband and wife but on the entire family, progeny and society, and this creates a mess in the social life. On the other hand, in modern Indian society, the acceptance of such relationships is increasing, and the situation among the youth is changing towards live-in relationships. And the Indian legal system also does not consider it a crime to live in such a relationship. In this way, a topic of heated debate has arisen in India between traditional marriage and live-in relationships. This paper examines the changing circumstances of marriage and marital relations in India and the increasing number of live-in relationships as an alternative to traditional marriage.

Keywords: Marriage, Live-in relationship, Morality, Society.

Introduction

In this era of modernisation, India is also developing rapidly. This new development in modern India has changed the nature of marriage as well. However, since the beginning of the 16th century, a clear change has been seen in the concept of marriage.¹ Marriage, which used to be indissoluble and considered a sacrament, is no longer indissoluble today. Today, lack of commitment, disrespect of social bonds and lack of sensitivity in relationships have transformed everything from *sanskara* to arrange marriage, love marriage and hence live-in relationships.² Although marriage is still a revered institution, it is also a truth that in Indian society, the institution of family is changing through live-in relationships. The modern family is looking quite different from the ancient family.³ Today, the concept of live-in relationships has become a challenge for the family system.

There is a continuous debate going on between traditional Indian society and modern society because traditional Indian society does not recognise live-in relationships. According to them, a live-in relationship is morally wrong and it also poses a threat to a sacred institution like marriage and spoils family harmony. On the other hand, today's young generation is trying to justify live-in relationships. Currently, the Indian judiciary also acknowledges such relationships.⁴ In this way, urbanisation and industrialisation are leading to a swift transformation towards modernity, resulting in a shift from traditional morals to the preferences of contemporary society in India. It is important to evaluate whether this emerging type of relationship is genuinely essential and, more importantly, sustainable, or if it simply represents a form of Westernisation that undermines the sanctity of our traditional values.

Concept of Marriage and Live-in Relationship

Marriage is an important social institution that unites a man and a woman as husband and wife.⁵ It is a socially sanctioned, voluntary, permanent, and exclusive union—a civil and religious contract through which a man and a woman are joined, forming the foundation of civil society.⁶

¹ Abhinandan Malik (ed.), *B.M. Gandhi's Family Law (I)* 8 (Eastern Book Company, Lucknow, 2nd edn., 2019).

² Dr. Divya Sharma, "Concept of Legality of Live-in Relationship in India: A Moral Dilemma" 45(2) *Indian Bar Review* 83-97 (2018).

³ *Supra* note 1.

⁴ Vijay Nagaswami, "Re-Configuring Life Partnerships" *The Hindu*, Apr. 14, 2012.

⁵ P. Ramanatha Aiyar (ed.), *Concise Law Dictionary* 725 (Wadhwa and Company, Nagpur, 3rd edn., 2005).

⁶ Thomas Edlyn Tomlins, *The Law Dictionary (II)* 76 (I. Riley 1811).

In traditional Hindu society, marriage is regarded as one of the sixteen sacraments. The sacredness of marriage as an institution is evident in the *Manusmriti*. According to *Manusmriti*, “Marriage is a divine institution given by the Gods....One should not think that he has obtained her by choice...Her unity with her husband is established by the Vedas.”⁷ Therefore, marriage is an indissoluble union, and it remains so, birth after birth. As observed by Duncan Derrett, “The intention of the sacrament is to make the husband and wife one, physically and mentally, for secular and spiritual purposes, for this life and for after lives.”⁸ In this way, the institution of marriage/arrange marriage embedded idea of lifelong commitment to each other.

Historically, arranged marriages were seen as the ideal choice. However, as time progressed, opinions shifted, and young people began opting for love marriages, viewing marriage as a choice rather than a necessity. This led to the rise of love marriages,⁹ even though traditional society often did not regard them as a sacred bond; nonetheless, some individuals view love marriages also as a form of sacred union. Eventually, as time went on, new concepts such as live-in relationships started to replace marriage. Today, there is a steady increase in cases of live-in relationships in India. According to Renu Bhatia,¹⁰ 60% of the cases coming to the State Women's Commission from 2019 to 2025 are of live-in relationships.¹¹

A live-in relationship is an arrangement in which a man and a woman live together to sustain a long-term relationship, similar to that of a husband and wife. According to an American anthropologist, a live-in relationship involves, “living together for no less than five days a week for at least three months, without being legally or religiously married, yet engaging in a sexual relationship, with or without the intention of marriage in the future.”¹²

It can also be defined as a “continued companionship for an extended length of time, involving lovers who have not been officially married to one another and yet share similar household.”¹³ In simple terms, when a man and a woman live together like a married couple without

⁷ Chap. 9 Verses 26, 95-96.

⁸ J. Duncan M. Derrett, *A Critique of Modern Hindu Law* 287 (N.M. Tripathi, 1970).

⁹ Shaifali Sandhya, *Love Will Follow: Why the Indian Marriage is Burning* 26 (Random House India, Noida, 2009).

¹⁰ Chairperson, State women's commission.

¹¹ *Dainik Bhaskar*, June 29, 2025, p. 1.

¹² Bandita Abhijita, Ilambaridhi Balasubramanian, *et.al.*, “Inception and Evolution of Live-in Relationship in Contemporary India and its Psychosocial Impact” 3(3) *IJHSSM* 529-533 (2023),

¹³ Choudhary Laxmi, Mridula Narayan, *et.al.*, “Live-In Relationships in India-Legal and Psychological Implications” 3(1) *Journal of Psychosexual Health* 18-23 (2021).

undergoing a formal marriage, then it is known as a live-in relationship.

However, the concept of a live-in relationship is not new in India. In ancient times, it was known as “*Maitrikaran*”,¹⁴ which means two persons of different sexes agree to live together as friends and to take care of each other.

Live-in relationship in other Countries

(a) France: For the first time in 1999, France approved a law called “*Civil Solidarity Pact*” or “*Pacte Civil de Solidarite*” (PaCS)¹⁵, which governs live-in relationships. This law allows people to register their partner and they get the same rights as married couples in areas like income, inheritance and social welfare.¹⁶ Those who do not register as live-in do not get these rights.¹⁷

If we talk about the welfare of unmarried couples, France does not give such a guarantee, whereas India provides the benefit of welfare to such couples who are living together without marriage.¹⁸

(b) Philippines: In the Philippines, too, the concept of live-in relationship is not recognised like India, although some provisions have been made in the Civil Code regarding property and salary for those living in such relationships. The Philippine Family Code¹⁹ provides that “when a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules as co-ownership.”

(c) United Kingdom: In the United Kingdom, “cohabitation” (not legally married but living under marriage like condition)²⁰ is not legally recognized as a marriage or civil partnership,²¹

¹⁴ Friendship agreement.

¹⁵ Civil Solidarity Pact, 1999 (PACS) (Act of 1999).

¹⁶ Anon, *Lesbian-Gay Law Notes* (New York: Bar Association for Human Rights for Greater New York 1984).

¹⁷ ESRC Centre for Population Change, *The Increase in Cohabitation and the Role of Marital Status in Family Policies: A Comparison of 12 European Countries* (Jan. 2025).

¹⁸ Aishwarya Pandey, “A Comparative Study of Live in Relationship in India with Other Countries” 4(1) *International Journal of Law Management & Humanities* 261-273 (2021).

¹⁹ Family Code of Philippines, 1987, art. 147.

²⁰ Jan Trost, “A Renewed Social Institution: Non-Marital Cohabitation” 21(4) *Acta Sociologica* 303-315 (1978).

²¹ In the UK, a civil partnership is a legally recognised union between two people, which is similar to marriage but has no religious connotation. It gives the couple legal rights and responsibilities, including property rights, inheritance and tax benefits. Civil partnerships were initially introduced under the Civil Partnership Act, 2004 to

meaning live-in couples in the United Kingdom do not get a similar recognised status as married couples.²² There is no responsibility for the partners to take care of each other, and neither do they have any right to inherit each other's property.²³ If the live-in couple separates, the court has no authority to divide the property as it can in divorce cases. However, the rights of children born out of wedlock are definitely protected by law, and both parents are responsible for the upbringing of their children.²⁴

(d) United States of America: In the United States of America, live-in relationships are also known as "cohabitation". Here, live-in couples do not get similar legal rights as married couples, including health insurance, inheritance or property rights. There is no federal law that recognises or regulates live-in relationships. However, some states like California, Hawaii and New Jersey have laws that provide limited rights and benefits to live-in couples. The term "palimony" was coined to grant maintenance to a woman who was deserted by the man with whom she lived for a substantial period without marrying him.²⁵ Apart from this, live-in partners may register themselves in a "domestic register" or formally enter into a "cohabitation contract", after which they receive legal recognition as "domestic partners".²⁶

(e) Scotland: In 2006, live-in relationships were legalised in Scotland by the Act.²⁷ More than 150,000 cohabiting couples now have legal status in Scotland.²⁸ According to section 25(2),²⁹ the court must recognise two people as cohabiting with each other based on the following factors:

- a) The duration of cohabitation
- b) The nature of the relationship during that period

give rights to same-sex couples, but since 2019 it has been available to both same-sex and opposite-sex couples. Couples can choose to register a civil partnership instead of getting married, or they can convert an existing civil partnership into a marriage.

²² Ms. Wazida Rahman, "Relevancy of Legitimacy of Children Born out of Live-In-Relationship: A Socio-Legal Concern" XIII Army Institute of Law Journal 145-159 (2020).

²³ As per a 2010 note from the House Affairs Section to the House of Commons, unmarried couples have no guaranteed rights to ownership of each other's property on breakdown of relationship.

²⁴ *Supra* note 22.

²⁵ G.K. Goswami & Siddhartha Goswami, "Live-In Relationships: Social Myths, Legal Realities and the Way Forward" 7 *SCC (J)* 25 (2021).

²⁶ Prof. Vijender Kumar, "Live-In Relationship: Impact on Marriage and Family Institutions" 4 *SCC (J)* 19-34 (2012).

²⁷ *Supra* note 25.

²⁸ *Supra* note 18.

²⁹ The Family Law (Scotland) Act, 2006.

c) The nature and extent of the financial arrangement

This Act also empowers a partner to sue for financial support.³⁰

(f) Canada: In Canada, common-law marriages are legally and socially acceptable alternative to marriage for heterosexual couples.³¹ Section 54(1)³² allows two individuals who are cohabiting or intend to cohabit to establish an agreement outlining their respective rights and obligations during their cohabitation. This agreement can address issues like property ownership or division, maintenance, obligations and decisions regarding the upbringing of children. However, such agreements do not grant the right to guardianship or access to the children, which would typically be the case in formal marriages. Moreover, section 53(2) indicates that if the parties involved in a cohabitation agreement eventually marry, their prior cohabitation agreement may be treated as a marriage agreement.³³

(g) Australia: Under Australian Family law, a “*de facto relationship*” is recognised between two individuals of the same sex or opposite sex, regardless of whether they are legally married to other people or in a *de facto* relationship with someone else. Such couples have a social and legal status similar to marriage, as in Canada.³⁴

Legality of Live-in relationships in India

Currently, there is no relevant law in India that addresses the concept of live-in relationships and their legal status. Nevertheless, it is commendable that, despite the lack of specific legislation on this matter, the Protection of Women from Domestic Violence Act of 2005 (PWDVA) provides various reliefs to women in such arrangements, as they are included within the definition of a “domestic relationship under s. 2(f). The definition includes ‘any relationship in the nature of marriage.’ Numerous cases have occurred in which the Supreme Court has viewed live-in relationships as part of domestic relationships.

In 2010, the Apex Court gave a landmark judgement related to live-in relationships in the case of *S. Khusboo v. Kanniammal*.³⁵ The court held that live-in relationships are a part of Article

³⁰ The Family Law (Scotland) Act, 2006, s.28.

³¹ Mary Bernstein, Nancy A. Naples, “Altared States: Legal Structuring and Relationship Recognition in the United States, Canada and Australia” 80(6) *American Sociological Review* 1226-1249 (2015).

³² Family Law Act, R.S.O. 1990, Chapter F.3.

³³ *Ibid.*

³⁴ *Supra* note 31.

³⁵ AIR 2010 SC 3196.

21 of the Constitution of India relating to right to life. The court also determined that cohabitation couples have legal status in India and that such arrangements are not considered a crime under any law. Additionally, the court noted that Indian society has experienced considerable transformation over the last several decades, leading to increased acceptance of relationships that exist outside of marriage.

In 2013, the Apex court addressed the case of *Indra Sarma v. V.K.V. Sarma*,³⁶ stating that a consensual relationship between two adults is not illegal and couples are entitled to cohabit without being married. The court also examined the term “relationship in the nature of the marriage” and also defined the parameters to determine whether the “live-in relationship” would fall within this definition. According to the court, the factors that should be evaluated for live-in relationships are as follows:

- a) The length of the relationship;
- b) whether the couple ever share a household;
- c) Pooling of resources and financial arrangements, *i.e.* whether they had joint property or joint accounts;
- d) Domestic arrangement or how the housework was divided and the role of the woman in the house;
- e) Sexual relationship and whether it includes emotional and intimate relationships, for procreation of children, so as to give them emotional support, companionship and also material affection, caring, etc.;
- f) Children; both having them and sharing the responsibility of their upbringing;
- g) Socialising in public as if they were husband and wife, and
- h) Intention and conduct of the parties.

In another case, the Supreme Court of India, in *Tulsa v. Durghatiya*,³⁷ ruled that a woman who has been in a long-term live-in relationship with a man would be granted the status of wife.

³⁶ AIR 2014 SC 309.

³⁷ (2008) 4 SCC 520.

The court stated that there would be a presumption under section 114 of the Indian Evidence Act, 1872, in favour of wedlock or marriage between the partners if the couple lived together for a long spell as husband and wife. This principle was again upheld in *Chanmuniya v. Virendra Kumar Singh Kushwaha*.³⁸

Inheritance of Property and Maintenance to Women in Live-in Relationships

In 2008, the National Commission for Women recommended that the Union Ministry of Women and Child Development broaden the definition of “wife” in section 125 of the Criminal Procedure Code, 1973 to encompass women in live-in relationships with men. This suggestion aimed to safeguard these women from domestic abuse and provide them with legal rights similar to those of married couples. A committee headed by Justice Malimath was formed by the Apex Court to evaluate this suggestion, and in 2009, the committee proposed an amendment to the definition in section 125 the Criminal Procedure Code, 1973 to enable women in live-in relationships to claim alimony or maintenance. In a later ruling, the Supreme Court confirmed that women in live-in relationships are entitled to maintenance, irrespective of their marital status. This decision illustrates the judiciary’s progressive and open-minded stance.

Based on recommendations made by Malimath in 2008, the Maharashtra Government sanctioned a proposal that recommended granting a woman the status of a wife if she has been in a long-term live-in relationship.³⁹

In 2009, the court issued a pivotal ruling in the case of *Abhijit Bhikaseeth Auti v. State of Maharashtra*.⁴⁰ In this case, the court acknowledged the provision for requesting maintenance, stating that it is not strictly required for a woman to prove marriage in order to claim maintenance. Therefore, even if she is involved in a live-in relationship, she has the right to receive maintenance.

In a different instance of *Chamniya v. Virendra*,⁴¹ the Supreme Court of India affirmed a woman’s entitlement to seek maintenance under section 125 if she is in a live-in relationship. If there is a significant presumption of marriage according to section 114 of the Indian Evidence

³⁸ (2011) 1 SCC 141.

³⁹ “Maharashtra Legalizes Live-in Relationships”, *Hindustan Times*, Feb. 9, 2014.

⁴⁰ AIR 2009 (NOC) 808 Bom.

⁴¹ (2011) 1 SCC 141.

Act for an extended period, then the woman may be entitled to maintenance under section 125.

Dhannulal v. Ganeshram,⁴² is a landmark case that deals with property rights and inheritance. In this matter, the court determined that a woman is entitled to inherit the estate of her deceased live-in partner. The court reasoned that when a man and woman live together in a manner akin to a married couple, it should be presumed that they are cohabiting as such. Therefore, we can say that woman in live-in relationships are legally protected and granted the right to inherit property from their partners.

Status and Property rights of children under Live-in relationships

First time in 1994, in *S.P.S. Balasubramanyam v. Suruttayan*,⁴³ the Supreme Court determined that, “If a man and woman are living under the same roof and cohabiting for some years, there will be a presumption under s.114 of the Evidence Act that they live as husband and wife and the children born out to them will not be illegitimate.” Similarly, in 2008, in *Tulsa v. Durghatiya*,⁴⁴ it was held that a child born out of a live-in relationship will not be illegitimate.

Again in 2010, in *Madan Mohan Singh v. Rajni Kant*,⁴⁵ it was held that the law presumes in favour of marriage and against concubinage, when a man and a woman have cohabited continuously for a number of years. However, such a presumption can be rebutted by producing unimpeachable evidence. A live-in relationship, if continued for a long time, cannot be termed as “walk-in and walk-out” relationship, and there is a presumption of marriage under section 114 of the Evidence Act that they lived as husband and wife and children born to them will not be illegitimate.

The Supreme Court in *Bharatha Matha & another v. R. Vijaya Renganathan & Others*,⁴⁶ held that a children born out of the live-in relationship is not entitled to claim inheritance in ancestral coparcenary property but is entitled only to claim share in self acquired properties, if any.

Positive and Negative Aspects of Live-in Relationships

In this manner, a live-in relationship can have positive and negative aspects. On the positive

⁴² AIR 2015 SC 2382.

⁴³ 1994 SCC (1) 460.

⁴⁴ (2008) 4 SCC 520.

⁴⁵ (2010) 9 SCC 209.

⁴⁶ AIR 2010 SC 2685.

side, a live-in relationship grants individual's significant freedom, including privacy, reduces the societal and familial pressures associated with marriage, minimizes financial costs,⁴⁷ fosters a deeper understanding, and builds trust and confidence.⁴⁸ Conversely, when considering the negative side, a live-in relationship can lead be seen as morally questionable and diminishes the institution of marriage. It can have several detrimental effects on society, such as being perceived as a casual arrangement. Partners may enjoy each other's company, but they can easily end the relationship without mutual consent.⁴⁹ Most couples in live-in situations do not remain committed for long, with only a small percentage eventually choosing to marry later. In live-in situations, couples often wish to establish their own family independent of their parents' wishes, leading to potential strained relationships between the families of the partners.⁵⁰ This can create a constant possibility of conflicting ideas and opinions within the family, ultimately resulting in weakened ties among other family members, which negatively affects society as whole. Children born from live-in relationships may not develop the same mindset as their peers in society. In countries like India, these children often face social stigma and lack the mental well-being of others.⁵¹ Additionally, this type of relationship can also contribute to an increase in pre-marital pregnancies. There is also a heightened risk of sexually transmitted diseases, such as HIV, spreading rapidly among people. Apart from this, couples may have to face many other legal problems in such a relationship.⁵²

Conclusion

In conclusion, it can be argued that live-in relationships are unlikely to become an integral part of Indian society, as critics claim such arrangements contradict the core values of Indian culture. To some extent, this is true —live-in relationships challenge the traditional institution of marriage and family, potentially leading to various negative consequences that affect the broader social fabric. However, in consideration of the need to protect the rights of women and children who suffer in these situations, the Supreme Court has acted as a guardian of their rights and rightly emphasised that legitimacy and morality cannot be equated. At times, the court has

⁴⁷Dr. Sangeeta Chatterjee, "Legal Recognition of Live-In Relationship: An Emerging Trend of Social Transformation in India" 11(1) *Indian Journal of Law and Justice* 1-16 (2020).

⁴⁸Swati Thakur, "Live-In Relationships- Pros and Cons of Live-In Relationships", available at <https://effectivelaws.com/live-in-relationships/>.

⁴⁹ *Supra* note 4.

⁵⁰ *Supra* note 11.

⁵¹ *Supra* note 48.

⁵² *Supra* note 47.

to support actions that may not be morally acceptable.

With regard to live-in relationships, the Court has rightly held that children born from such unions should not be considered illegitimate and are entitled to inherit property under the Hindu Succession Act. Similarly, it has ruled that a woman in a live-in relationship may claim alimony. While the Supreme Court has not given full legal recognition to live-in relationships, it has laid down specific criteria to determine what constitutes such a relationship. It is now essential for Parliament to enact legislation that removes existing ambiguities and ensures the protection of the rights of couples and children involved in live-in relationships.

While drafting these laws, it is also essential to consider the valuable traditions of Indian society and the sanctity of marriage. It's also important to remember that the rights given in the context of marriage should not be equal to the rights given in live-in relationships, as this distinction is crucial for maintaining the sanctity of marriage. Family, marriage, and kinship form the three foundational pillars of Indian society. Live-in relationships, if not carefully regulated, may weaken these pillars-which are essential for maintaining the stability and structure of society.