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Page: 01-33

## LIVE-IN RELATIONSHIP IN INDIA: A DETAILED LEGAL ANALYSIS

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### ABSTRACT

Live-in relationship which is considered a modern or western concept has deep socio-historical roots in the Indian subcontinent. This research paper undertakes legal, historical, constitutional and socio-legal analysis of legal relationship in India which challenges the dominant narrative which views cohabitation as an alien concept to Indian culture. When we trace the evolution of intimate relationships from ancient Hindu texts such as Manusmriti which deal with eight types of marriages, Gandharva marriage is understood in the context of Kalidasa's Abhijanamshakuntalam. This study establishes that non-formal unions and consensual cohabitation were socially acknowledged in various forms during the Vedic and post-Vedic periods. This paper further explores parallels between the concept of Niyoga and contemporary live-in arrangements highlighting continuity rather than rupture in social practices. This study extends its analysis to medieval India, examining Islamic matrimonial concepts such as nikah, muta marriage, harem culture, and the interaction between Hindu and Muslim matrimonial traditions. It also examines tribal customary unions and non-ritualistic practices which reveal the pluralistic nature of Indian family structures. Its impact can be examined with reference to census practices, social reforms and legal codifications that lead to reshaping the institution of marriage and family structures. In the contemporary context, the research focuses on the provisions related to constitution under article 14, 15, 19, and 21 which are the relevant statutory laws and the judicial pronouncements recognizing live-in relationship and the presumption of marriage. The study also explores the social, economic, psychological and feminist dimensions of live-in relationship and addresses the issues on whether such relationships are a western import. It concludes with critical observations and recommendations that advocate the balanced legal framework that respects individual independence and ensures protection against exploitation, thereby aligning law with constitutional moral principles and social evolution.

**KEYWORDS:** Live-in Relationships, Judicial Pronouncements, Constitutional Morality, Presumption of Marriage, socio-legal dimensions.

## **INTRODUCTION**

Indian society traditionally views marriage as a sacred and lifelong institution governed by religious, social or legal norms. For centuries, any intimate relationships outside marriage were either ignored or morally disapproved. In recent decades, live-in relationships have emerged as a visible social reality. These relationships have generated legal, social and moral debates which are often labelled as a western influence which is incompatible with Indian culture. The concept of live-in relationships challenges the understanding of family, marriage and commitment. It raises important questions related to personal liberty, social morality, gender justice and the role of law in regulating private relationships. While Indian statutory laws expressly recognize live-in relationships, the judiciary plays a crucial role in interpreting the constitutional values that extend protection to consenting adults who live together. Courts have emphasized that morality cannot override individual freedom and dignity. An examination of history reveals that these types of non-formal unions are not totally aliens to Indian culture. From Gandharva Vivaha to Niyoga, from tribal customary unions to royal alliances that is shaped by political realities, Indian society has historically accommodated diverse forms of relationships. The concept of marriage largely developed during the colonial period by way of legal codification, census classification, and Victorian moral values. Limited protection has been provided by judicial recognition, yet the absence of clear legislation continues to create ambiguity. The study also addresses the question of whether live-in relationships are a Western import, as well as the social, economic, psychological, and feminist aspects of these relationships. The necessity of a balanced legal strategy that upholds justice, dignity, and constitutional morality while safeguarding individual autonomy is emphasized in conclusion.

## **Research Methodology**

The concept of live-in relationships in India is analyzed in this study using a theoretical and doctrinal research approach. Most of the research is conducted in libraries, but it also makes extensive use of online academic resources and digital legal databases. To guarantee a thorough grasp of the topic, both the theoretical and practical aspects of cohabitation have been investigated. In this study, primary and secondary legal sources have been methodically consulted. Constitutional clauses, statutes, court rulings, and official government publications

are examples of primary sources. The legal status and judicial treatment of cohabitation have been examined through an analysis of Articles 14, 15, 19, and 21 of the Indian Constitution, pertinent provisions of personal laws, and significant court rulings. Peer-reviewed legal journals, scholarly articles, legal commentary, and reports are examples of secondary sources. For doctrinal clarity, scholarly works published in journals like Vedhas Law Journal and research articles, such as Vinita Ghosh's work published in the Indian Journal of Psychology, have been cited. The psychological and socio-legal aspects of cohabitation have been studied using digital academic platforms like APA PsycNet, Harvard Gazette, and ResearchGate. The study also relies on reputed legal blogs and platforms including iPlaaders, Law Drishti, Legal Services India, Finology Blog, Advocate League, and The Daily Guardian for contemporary legal developments and practical insights. News reports and analytical articles from The Times of India, The Indian Express, The Print, Pune Mirror, PR Newswire APAC, and Outlook India have been examined to understand social trends, public discourse, and policy perspectives. Wikipedia has been used cautiously only for preliminary background understanding and cross-referenced with authoritative sources. A comparative and policy-oriented viewpoint have been incorporated into the analysis of national and international reports. By cross-referencing data from several reliable sources, the study guarantees accuracy, transparency, and dependability. Only reliable, current, and pertinent information has been used. Throughout the study, the methodology upholds originality and academic integrity. To ensure coherence and relevance, the list of sources was finalized only after the research was finished. All sources were consulted and thoroughly examined. This method makes it possible to analyze live-in relationships in India in a fair, logical, and scholarly manner.

### **Significance of the study**

- This study helps in examining live-in relationships as a legal and social reality not as a merely moral or cultural issues.
- This study shows the historical roots of cohabitation in India by connecting this concept with contemporary live-in relationships.
- The research paper emphasizes that it's not only a western concept rather it has its root in Indian culture in different forms.
- It shows clear analysis of constitutional provisions, judicial pronouncements, different laws.

- The study provides valuable insights for the researchers, legal practitioners, law students, researchers, academicians who study family law and constitutional laws.
- The study makes the analysis holistic by incorporating socio-legal analysis, economic, feminist, psychological dimensions.
- Overall, the paper is significant as it aligns legal analysis with social realities and constitutional values.

### **Limitations**

- The study is primarily based on theoretical and doctrinal approaches, there is no inclusion of interviews, fieldwork or empirical surveys.
- This research heavily relies on secondary sources such as books, journals, case laws, reports, online database.
- The research mostly focuses on constitutional and family law whereas other allied areas are studied only to a limited extent.
- The conclusions are largely drawn from judicial pronouncements and social factors due to lack of uniform legislation.
- The fast-changing nature of societal relationships may make some observations time-bound.

### **Concept of live-in relationship**

Live-in relationship refers to an arrangement in which two consenting adults choose to live together in shared households' system without entering in formal marriage system. Such types of marriage do not follow the formalities of marriage rather they are based on companionship, duration, shared responsibilities and mutual consent. Live-in relationships, in contrast to marriages, are informal and mostly determined by personal preference rather than legal requirements.

There is no clear definition of live-in relationship in India. However, courts and legal experts have said that it is a type of domestic cohabitation between adults who choose to live together. Legal forums such as iPleaders explain that live-in relationships are within the ambit of the right to life and personal liberty under Article 21 of the Constitution of India, if the relationship is consensual and between adults.

Live-in relationships differ from marriage in terms of legal formalities, permanence, and enforceability of rights, yet courts have increasingly acknowledged certain legal

consequences arising from such relationships, especially concerning maintenance, protection against domestic violence, and legitimacy of children. The concept has grown mostly through judicial pronouncements rather than legislative action.

Thus, the concept of live-in relationships in India signifies a movement from traditional marriage conventions towards respect of individual liberty and choice. While not equated with marriage, live-in relationships have been judicially recognised as a legitimate form of companionship deserving limited legal protection. While not equated with marriage, live-in relationships have been judicially accepted as a legitimate form of companionship requiring limited legal protection.

## **Historical background**

### **Ancient India: -**

#### **Manusmriti [verses 20–34]**

Manusmriti [Laws of Manu] is one of the significant Dharmashastra text of ancient India. It originated between 2nd century BCE and 2nd century CE. It basically performs two main functions like it is a perspective manual of spiritual and social life and secondly it also acts as a code of conduct. Manusmriti has many contributions, but the main contribution is that it divides marriage into Eight types to understand family and gender relations. This classification defines how conjugal unions are understood in Hinduism.

The Eight types of Marriages are described below: -

- **Brahma Vivaha:** - In this arrangement, the father marries his daughter with a respectable man without expecting any dowry. This is considered most rightful and ceremonial because it is motivated by religion. This form of marriage emphasizes that marriage is not just a union but a sacred obligation towards society and its ancestors.
- **Daiva Vivaha:** - In this variant of marriage, the girl is married to a priest, which is considered a sacrifice. This marriage is acknowledged a lot, but its status is lower than Brahma marriage because the bride is given as a ritual wedding present. This form highlights the strong connection between marriage and Vedic rites.
- **Arsha Vivaha:** - In this arrangement, the price of the bride is paid in exchange for a cow and a bull. Although it is not of commercial nature, still it was recognised among the sages. Its status is lower than Brahma or Daiva marriage.
- **Prajapatya Vivaha:** - In this marriage, the father marries his daughter with the blessing that 'perform your duty together'. This is based on the partnership aspect, where the

husband and wife perform household duties and sacrifices. Its main purpose is the procreation of children.

- **Gandharva Vivaha:** -This marriage was completely based on mutual attraction and consent. The consent of parents or rituals have no importance in this marriage. It is basically based on love and desire. Manu did not consider this marriage acceptable because it overrides the parent's and ritual structure, but he still considered this marriage legitimate.
- **Asura Vivaha:** - In this form, the girl's marriage is done in exchange for wealth and gifts. This marriage can also be called as commercialized marriage. It has been criticized by the Manu, because it converts the marriage into just a financial transaction.
- **Rakshasa Vivaha:** -In this type of marriage, the girl is married after abduction. That is, the marriage which is done with a girl forcibly after defeating or killing her family members in the battle is called Rakshasa marriage. This is considered as Kshatriya practice, but it is also criticized a lot due to its violent nature.
- **Paisacha Vivaha:** - This form of marriage is most condemned where the girl is seduced when she is intoxicated or unconscious. This marriage is considered illegitimate and sinful, but still Manu have included it in the list so that social realities can be understood.

### **Connection Between Gandharva Vivaha and Live in Relationship: -**

Gandharva marriage plays a very significant role in the eighth type of marriage, and the modern readers consider it very fascinating because it basically emphasizes more on personal choice and bypasses the family arrangement system. In this marriage the biggest role is of mutual affection between man and woman. This can also be considered a marriage of passion, where marriage takes place due to love and union, without the presence of family. If the example of Gandharva marriage is taken, then the union of Shakuntala and King Dushyant, and the union of Arjuna and Subhadra can be considered significant. Marriage of lord Krishna and Rukmani also comes under the category of Gandharva Vivaha. Though it is not accepted by the orthodox religion, still it is celebrated as a cultural memory. Modern scholars even today keep live in relationship and Gandharva marriage parallel because both the concepts are based on mutual consent, personal choice, emotional attachment in which consent of the parents is not given importance.

**Kalidasa's Abhijanamshakuntalam:** - This is a Sanskrit play composed by Kalidasa which can be considered of Gupta era. It is adopted from Mahabharata, and this is one such play

which was translated into western language by Sir William Jones in 1789. Shakuntala was the daughter of sage Vishwamitra and Menaka, but she was raised by sage Kanya. During hunting, king Dushyanta was impressed by the beauty of Shakuntala and started loving her and both got married in Gandharva system of marriage. When Shakuntala was lost in her thoughts and could not attend sage Durvasa properly, he cursed that the one in whose thoughts you are lost will forget you. When Dushyant left Shakuntala, he gave his ring to her as a mark, but Shakuntala loses that ring in the river. After Many years later When Dushyant comes to the jungle, he sees Bharat playing with lion cubs and gets impressed by him and goes to his home and his memory returns.

### **The Vedic Age: -**

Vedas are considered as most sacred scriptures which are composed in Sanskrit. These are four in number namely Rig Veda, Sama Veda, Yajura Veda and Atharva Veda. Nilakshi Sengupta has talked about how Hindu marriage has been developing historically over a long period of time in her work Evolution of Rituals. In which she has talked about from Rig Vedic age to common era. In the Rig Vedic period marriage was considered as a sacred and spiritual union. Surya Bridal hymns show things like rituals; the wife was treated with love and affection and was considered as the queen of the house. Marriage was considered as a Holy Sacrament and not a contract and in some cases, women used to choose their husband themselves like Gandharva marriage. Girls used to get married at a mature age. At that time children were not married. As time passes the rituals become mixed and complicated. Grahya Sutra tells steps how marriage should look like. Some basic rituals like kanyadana, saptapadi, mangala mantras, panigrahana are widely followed. Sengupta has also examined in his studies that there was a decline in freedom among women at later age. Although they were given respect as a ritual partner, they were restricted to domestic role. Women started to be treated in such a way as if they were the subservient wife of a man. In Dharmashastra and Smriti, marriage was kept in acceptable and not acceptable category. He mentioned that different types of categories exist in the society but sometimes it gets influenced by tribal and non-Aryan customs. With the passage of time, girls started getting married at a young age whereas earlier they used to be married at a mature age. This practice is more prevalent especially in the upper castes. Its main reason was to preserve purity and avoid intermixture of caste. Similarly, practices related to widowhood were restricted. In the early period, practices of Niyoga started to exist but with time widow remarriage was also restricted. It can be concluded that during the centuries Hindu marriage had evolved a lot from a sacred

practice to the patriarchal system. The social status of women, which was highly respected in the Rig Vedic period, became a dependent figure which started to be controlled by marriage rituals.

### **Connection between the Niyoga and live in Relationship: -**

Niyoga is an ancient practice mentioned in texts like Mahabharata and Dharmashastra. In this practice basically a widow or a childless wife forms a relationship with another man who is her brother-in-law or a relative to have children. Its main purpose is not romance or companionship but to advance the family lineage. Like in Mahabharata times Ambika and Ambalika after the death of king Vichatrvirya had cohabitation with queen mother Satyavati's elder son's VED Vyasa through Niyoga and gave birth to Dhritarashtra and Pandu. Kunti and Madri had given birth to children using this custom. On the other hand, live in relationship means that man and woman as partners live together without any marriage so that they can check the compatibility. Its main purpose is companionship, emotional connection and personal choice. In India, live-in relationship has received legal recognition under certain circumstances. If we talk about similarities, then both the concepts favour sexual relationship formed outside the traditional marriage structure. Both the concepts challenge the conventional definition of marriage in the respective term. Both the concepts are considered against morality and Niyoga was controversial in its time and the concept of live in relationship is still debated.

## **Medieval India**

### **Concept of Hindu Marriage**

In Hindu marriages, there basically eight types of the marriages, whereby, the following are constituted as a part Live-in-Relationship.

### **Gandharva Vivaha**

It happens to be one of the forms of the marriages of the Hindu Marriage. It was an ancient Indian tradition that relied on mutual acceptance between the two persons concerned, and involved no ritual, witnesses, and relatives. In which the marriage of Dhushyant and Shakuntala is historically renowned as a celebrated instance of this group of marriages. Under the Mitakshara school of Hindu law, she was entitled to support (food and clothing) within the property of the male, despite being deprived of the full rights to inheritance in preference to the lawful ones by her children.

### **Maitreya Karars**

Heterosexual couples may also form friendship and companionship contracts, known as Maitreya Karars or companionship contracts, whereby they agree to look after, treat, and live with each other. Developed initially in Gujarat, it was one of the methods of escaping bigamy. A Hindu man may make a covenant with his “other woman” in order to escape this kind of prohibition. The Maitray Karar constitutes the formal agreement between a married man and an unmarried woman to provide food, clothing, housing, and other essentials of life in return for support. The women in Maitray Karar, however, had a more robust status compared to the women who resided in live-in relationships. Women under this type of relationship and their relationship are considered as more valid than the other forms of live in relationship.

### **Concept of Islamic Nikah**

Islamic law introduced the concept of marriage as a civil contract (*Nikah*), unlike the Hindu sacrament, because Hindu marriages are considered as sacrament not like a contract. However, specific forms of temporary marriage provided a theological framework for cohabitation.

### **Mut'ah marriage (Temporary Marriage)**

Nikah Mutah, also called the marriage for pleasure, is a private and verbal marriage contract that is being practised under both *Shia Law* and *Sunni Law*. Where, one of the essential ingredients is the clear specification of the duration of the marriage and the Mahr must be stated as well. Also, in accordance with both communities of the Muslims, such communities, clarified that such practice is not prohibited by the norms defined under *Quran*.

The conditions according to Twelver Shi'a jurisprudence are as follows:

"The bride must not be married,

- Abridged form only—The bride must obtain the consent of her wali (Islamic legal guardian) in case she has never been married before,
- The bride must be a Muslim or member of Ahl al-Kitab (People of the Book), who are Jews and Christian,
- The bride should be chaste,
- The bride must not be known to be an adulteress,

- A bride may act alone in giving consent in one of two situations: in case she is a non-Virgin according to Islam or in case she has no wali (Islamic legal guardian)."

### **Concubinage and Harem Culture:**

Generally, the "harem" is the quarters to which access is restricted to female members of the family only, where the leader or king normally satiates their crave for the lust. This is in addition to being called the women too. Harems were in existence in the Middle East well before the emergence of the Muslim nation. Large harems in the royal courts were common in Egypt, Persia, and Assyria in their pre-Muslim reigns. These harems were made up of the ruler's wives, concubines, female servants, and other servants of high ranking being the court officers too. Leaders further adorned their harems by incorporating the addition of the rulers' wives to be from influential families in support of forming alliances politically. Some women took active roles out of the harems. Some in turn contested in their intra-harem politics to beget power either in their self-rules or in their sons' reigns in offices of importance. Infra-harem politics brought catastrophic levels of politics that in turn destroyed whole dynasties when their politics overstepped in opposition to the rulers' aspirations in rule.

### **Interactions of Hindu-Muslim in Matrimonial Practices**

The interaction between the Hindu and Muslim legal systems created syncretic forms of cohabitation and alliance, which is often driven by political necessity rather than religious conformity.

### **Royal Matrimonial Alliances:**

Mughal emperors, for example, Akbar, Jahangir, marrying Rajput princesses, for example, Jodha Bai/Mariam-uz-Zamani, represented a fusion of practices. These stated women often continued or used to practice their Hindu religious practices or customs within the Mughal harem, to maintain their continuity within their culture as well. While technically *Nikah* was performed, the social conduct of these marriages respected Hindu customs, like refusal to eat beef, maintaining a fire altar, etc, creating a "lived-in" reality that was multicultural.

### **The "Malechha" Stigma vs. Political Reality**

Orthodox Hindu texts regarded Muslims as *Malechha*, known as *Impure*, theoretically forbidding union. However, in practice, cohabitation of the elite and marriage were common. The Vijayanagara emperor Deva Raya I, for instance, gave his daughter to the Bahmani

Sultan in a political settlement, whereby validating cross-religious cohabitation through statecraft.

### **Tribal Communities and Customary Cohabitation survived but Marginalized in Mainstream**

The Dhukua or Dhukuni marriage gives women and men the right to choose their spouse, and this right is guaranteed in almost every tribe on this planet. Therefore, girls belonging to the Oraon, Munda, and Ho communities in the province of Jharkhand in India are free to form a "Dhuku" partnership with their spouse without marrying them in an official manner. However, owing to the social nature of such partnerships, women in these partnerships are referred to by the name "Dhukua" or "Dhukni," and they do not enjoy any ownership rights in this community either. The reason being the absence of resources and time, many couples in this tribe, after being in a relationship for many years, live under the same roof and bring forth a new generation. Furthermore, this tradition is rapidly being adopted in the provinces of central India as well.

### **Impact on live-in Relationship (Historical Antecedents)**

The medieval background or the history of the live in relationship, have drastically and directly impacted the concept of the Modern live in relationship. Whereas, following are the most prominent changes:

#### **Presumption of Marriage**

The prolonged cohabitation of the men and women together for a long period of time, would be considered as a marriage, in Muslim marriage, because of the rule of the *Presumption of Marriage*. In the Hindu Marriages, the medieval concept that "prolonged cohabitation raises a presumption of marriage" is widely used in modern Indian courts, *Badri Prasad v. Dy. Director of Consolidation*. This legal principle derives from the acceptance of the concept of the Gandharva and customary cohabitation in medieval society.

#### **Colonial Era (British India, c. 1857–1947)**

The colonial era gave their initiatives in Socio-legal transformation of cohabitation, both in Hindu law as well as Muslim Law. The British legal intervention or aiding fundamentally shifted the Indian matrimonial landscape from "custom-based diversity" to "text-based rigidity," which marginalized informal unions.

## Codification of Hindu and Muslim law

Pre-colonial India accepted diverse unions of *Gandharva*, which belongs to the Hindu Marriage, or *Muta*, which belongs to the Muslim Marriage. The British judges, relying on translated texts of Halsbury's *Laws of England* which applied to Indian contexts, prioritized formal ritual marriage as the only "moral" standard. The British courts slowly delegitimized *Gandharva* (consensual union of the parties) unless it is being accompanied by specific rituals, which is *Saptapadi*, *Kanyadaan*, etc. This effectively criminalized "live-in" relationships that lacked ritual proof, labelling them as concubinage or prostitution. This hybrid legal system which created a binary: a woman was either a "*wife*" (with full rights) or a "*concubine*" (with limited maintenance rights), eliminating the middle ground of "legitimate informal cohabitation".

## Indian Reforms Act

During the colonial era, Britishers made various reforms to give the structural rigidity to the customs and rites in the societies, whereas following are the important reforms of that were initiated by the Britishers:

### Hindu Widows' Remarriage Act, 1856

Raja Ram Mohan Roy is well-known as a reformer to stop Sati and advocate women's rights, which gave a momentum to other acts, like the Widow Remarriage Act. Together with other reformers, Ishwar Chandra Vidyasagar, vigorously fought for the rights of the widows. The reformer gave strong reasons from the Sanskrit scriptures that the widow remarriage is not prohibited by any ancient Hindu scriptures. The afore-stated act is also referred to as the Act XV of 1856, which was introduced and passed on the 16th of July 1856, and hence, enforced on the 26th of July 1856. The act was authored by Lord Dalhousie, that is, by Lord Canning, during the reign of the British Government in India.

This legislation offered many facilities to the Indian society. However, The Widow Remarriage Act enabled Hindu widows to remarry. The act challenged many odds that existed in widow's remarriage. The act permitted widows of Hindu, Buddhist, Jain, and Sikh communities above the age of 18 to remarry. Moreover, the Widow's Remarriage Act states that no Hindu marriage will be null and void, and the children from that marriage will not be illegitimate although the women was previously married or engaged to someone who was already dead. In the past, when widows remarried, they lost any claim over their dead husband's possessions, which went to the husband's relatives. However, the widow retained

all other possessions and inheritance rights as if it was her first marriage. The Widow Remarriage Act not only protects women but also the men who remarried widows because of the social stigma that existed in these kinds of marriages. The Widow Remarriage Act allowed the relatives of the dead husband to file for a guardian of the children in case the widow remarried. With the prior court approval, the guardian could care for the children, provided that, they guaranteed their support and education, requiring the mother's consent unless the guardian ensured the children's welfare.

### **Age of Consent Act, 1891**

The Age of Consent Act, 1891 (Act X of 1891) represents important turning point in the history of legal Indian reform in the colonial India. This legislation, introduced during British rule, raised the age of the consent for the sexual intercourse, within marriage or outside it, from the age of ten to twelve years old, bringing the issue of child marriage and sexual abuse of minors into the legal purview. Moreover, The Act introduced limited reforms in the law of rape through the amendment of section 375 of the IPC by enhancing the age of consent from ten to twelve years. This made it an offence for any husband to have sexual intercourse with his wife below twelve years of age. However, it retained the general exemption in respect of rape within marriage. It also made an amendment in Schedule II of the IPC by making such rape in the case of a woman below twelve years of age by her husband bailable, in contrast to other forms of rape which remained non-bailable. This indicated the attitude of tolerating husbandly rights over the body of the woman. Moreover, it introduced section 561 in the CrPC.

### **Special Marriage Act, 1872**

Henry Sumner Maine first introduced Act III of 1872, which would permit any dissenters to marry whomever they choose under a new civil marriage law. It can apply in inter-caste and inter-religion marriages. The Bill faced opposition from local governments and administrators, who believed that it would encourage marriages based on lust, which would inevitably lead to immorality." Now in the current independent India, such act has been amended and now it is known as The Special Marriage Act, 1954.

### **Reforms Movement**

During the colonial period there were used to be number of the reformist activities, which worked to "sanitize" Indian society, often targeting informal cohabitation as "immoral". Out of all such movements, movements by Brahmo Samaj and Arya Samaj leads this section.

### **Brahmo Samaj (Raja Ram Mohan Roy, Keshub Chandra Sen)**

The social part of Brahmoism, “Brahmo Samaj,” was a monotheistic reformist movement, a part of the Bengal Renaissance. It was one of the most successful religious movements in India. In areas of social reform, “Brahmo Samaj” sought to destroy numerous dogmatic prejudices and superstitions. The Samaj criticized the common Hindu bias against crossing “sea” and traveling “abroad” (Kala Pani). The Samaj criticized “Sati” practice (burning of wives), opposed child marriage and polygamy, and campaigned energetically for “widow remarriage.” The Samaj criticized “casteism” and “untouchability. Under the guidance of Kesab Chandra Sen. The Government got “Native Marriage Bill” on 18th November 1868 due to the strong efforts of Kesab Chandra Sen. The bill prescribed “fourteen” as the minimum age for girls to be married. In 1872, the bill turned into an “Act,” which gave very few rights to women. The “Act” forbade early “child” marriages, made “Polygamy” a punishable “offense,” legalized “widow remarriage” and “intercaste” “marriage. “The child “marriage” practice continued.

### **Arya Samaj (Dayanand Saraswati)**

Such predominant movement was initiated by the Swami Dayanand Saraswati. The mission of Arya Samaj was to rid the society of the widespread ills that were prevalent at the time. Moreover, it battled against marriage at a young age and enforced widowhood, both of which it considered to be completely *“UnVedic.”* Inter-caste weddings were supported by Arya Samaj, despite of the stated fact that they were clearly against the idea of child marriages. It established the minimum age for females and boys to be 16 years old and 25 years old, respectively. Dayanand was opposed to the practice of widow remarriage, and he believed that neither a widow nor a widower should be able to enjoy themselves. According to *Niyoga*, Dayanand allowed a childless spouse to remarry and a widow to have kids by other people.

### **Concept of Arranged Marriage and Social control**

The sociological ideology of the colonial era had solidified the ‘Arrange Marriage’ as the norm, making the simple and voluntary act of Live in Relationship as an act of rebellion against the Indian society. Whereas the concept of arranged marriages became the dominant, respectable model for many Hindus and many Indian Muslims as well under colonial modernity.

### **Census and caste rigidity**

During the British raj, British and in this case an influential official, saw caste as being motivated by the principle of race purity. From here, it requires only an intellectual jump to equate the words 'cast' and 'race.' This means that the caste system formulated a mechanism that maintained race purity and as such, the casts are the representatives of that which was maintained. This assumption finds further confirmation by Hodson in 1937, as he says that 'classes, races, and languages can be differentiated by visual observation.'

Such reason of social and caste division among the Indians made the Britishers to make the laws according to the Societal needs, hereby the, during law formation Britishers gave more and only importance to the Arrange marriages and leaving behind the concept of Live in relationship.

### **Child Marriage and Widowhood**

The custom of child marriage has continued uninterrupted during the colonial days. This evil custom was brought about by the hereditary caste system and strict social norms. This period was ruled by the patriarchal society under the name "Thoughts," which denied the basic rights to girls. Girls were treated like commodities. During the colonial days, the parents were compelled to marry their daughters at a tender age through the society's dictated norms set by the society's leaders. If parents refused to marry their daughters at a tender age, their daughter, within a maximum age set by him, was denied entry into society. The colonial rulers never dared to intervene in Indian social norms until thirty years prior to the nineteenth century. However, the introduction of western education to India led to the emergence of the educated middle class. The educated class vigorously protested social vices like child marriage, the sati system, and female infanticide, among others. The agitation to stop the practice of child marriage took place mid-nineteenth century. Several initiatives were set by the religious movement against child marriage. The Indian penal code 1860 declared rape is an offence and prescribed punishment. It clearly stated that, if husband commits the sexual intercourse with his wife, who is below the age of 12 years, then, it would be treated rape.

### **Traces of live in relationships in colonial India**

Despite of having strong ideological pressure in favour of formal marriage, multiple pockets of practice in colonial India show the various patterns, which very close to modern live-in relationships, particularly among urban elites, matrilineal communities, and tribals.

### **Customary Unions in Tribes**

The tribe exogamy, clan endogamy (incest) are disapproved of; the pre- marital or post-marital sexual relationship is not uncommon in the tribe in India. The indulgences of the above- mentioned kind of sex are feasible even without the disapproval of society because the pre- marital chastity is not emphasized in marriage. The tribes residing in the central India do not take the pre- marital relationship seriously unless it causes pregnancy. If it causes pregnancy, the male is forced to marry the pregnant girl. In the Bastar district of Madhya Pradesh, the Muria Gonds do not restrict the bachelor's and the "Maiden" from sleeping together in a joint dormitory. They are allowed to indulge in the "Pairing Off" activities in the dormitory. The Oraons, Khaddi, the Hos indulge in "Pairing Off" activities in the significant festivals like Magha-Parab. In the Konyak Nagas, a girl can indulge in pre- marital sex until she becomes a "mother". The Khas indulge in the pre- marital sex but do not allow any kind of extramarital sex relationship for the wives.

### **Urban Liberalism and the "Babu-Baiji" World**

Earlier, company officials (East India Company) did not see any wrong in keeping native women as mistresses and enjoying nautch performances in the houses of native zamindars. Numerous references of baijis and nautch bodily attributes, grace, and art in the earlier days of the raj were recorded. But the situations gradually change from the mid-19th century. They tried to eliminate the oriental indulgences during this time and stigmatized them as 'disturbingly sensual,' even bordering on the disgusting. Nevertheless, the boldest strike to the profession of Baijees was the colonial law and its homogenous implementation. The Act erased the differences between baijees and other public women and created a homogenous class of commercial 'sex workers.' This categorization denied their artistic and aesthetic professional skill and forced them into a single sexual entertainer category. Besides, the anti-nauth movement and social purity movement held by Christian missionaries and Indian social reformers also played an important role in the social displacement of this performing community.

### **Colonial Courts Concubinage**

*"The laws of the Koran with regard to the Mohamedans and those of Shaster with regard to the Gentoos shall invariably be adhered to in all suits concerning inheritance, marriage, caste, and other religious usages or institutions."* Such statement regarding the marriage,

their treatment, etc., defines the level of treatment of the live in relation by the colonial courts, whereby, such treatment also includes in accordance of their own religion.

### **Post Independence Period**

Even after the colonial period, the concept of the live in relationship and presumption of marriage took a various turn in its development and judicial precedents contributed way more in its development.

### **Constitutional provisions**

In the Constitution of India, does not specially or explicitly mention the concept of '*Live in Relationship*', However, the judicial interpretations and precedents provided the conceptual clarity to such concept.

#### **Article 21 (Protection of Life and Personal Liberty)**

According to the Article 21 of the Constitution of India, "No one may be deprived of their life or personal freedom unless a legally prescribed procedure is followed."

The Supreme Court has consistently interpreted the concept of "Right to Life" to include the right to dignity, privacy, and choice of partner, which sometime directly or indirectly correlates with the concept of Live in Relationship. However, in the case of *Lata Singh Vs. State of U.P. & Anr.*, and *S. Khushboo Vs. Kanniammal & Anr.*, wherein it was noted that, despite being viewed as immoral, a live-in relationship between two consenting adults of different sexes does not constitute any crime (with the obvious exception of "adultery"). A major girl can "live with anyone she likes" or marry whoever she wants. ".

#### **Article 19 (Protection of certain rights regarding freedom of speech, etc.)**

According to the article 19 of the Constitution of India, following are the related provisions for the Live in Relationship, "*19(1) states that:*

Every citizen has the fundamental right to reside and settle in any part of India. This, furthermore, also implies that the right of two consenting adults to reside together under one roof without the marital bonds. Such right strengthens the definition and concept of the Live in Relationship. "*19(1)(a) expresses:*

The choice of a partner and the mode of relationship is an expression of individual identity and autonomy, which is being protected under such right of freedom of expression. The Supreme Court of India recently reiterated that denying this choice violates the right to liberty.

### **Article 14 and Article 15 (Equality and Non-Discrimination)**

According to the Article 14 & 15 of the Constitution of India,

***Article 14 states that No one on Indian territory may be denied equality before the law or equal protection under the law by the State.***

This article of the Indian Constitution ensures equal protection of laws. Historically, women in live-in relationships were denied maintenance rights available to married women. The *Protection of Women from Domestic Violence Act, 2005* (PWDVA) rectified this by creating a concept of "relationship in the nature of marriage" category, treating cohabiting women equally to wives for protection purposes to satisfy the core ideology and concept of the Article 14."

***Article 15 states that (1) The State shall not act discriminatory against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. And (2) states that No citizen shall be subject to any disability, liability, restriction, or condition regarding: (a) access to stores, public restaurants, hotels, and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads, and places of public resort maintained entirely or partially out of State funds or dedicated to the use of the public.***

This article of the Indian constitution prohibits discrimination on grounds of sex. It protects the female partner from being stigmatized or denied legal recourse solely because she is not legally married.

### **Hindu Marriage Act, 1955**

This act is also considered as Act No. 25 of 1955, and such act received its assent from the President of India on 18<sup>th</sup> May 1955. Furthermore, this act applies to the whole of India. Whereas, in the section 5 and 7 of this act provides the essential ingredients of a valid marriage and valid ceremonies.

### **Section 16 of HMA,1955**

***"16. Asserts that the legitimacy of offspring from null and annulable marriages is determined as follows:***

***(1) Despite a marriage being declared null and void under section 11, any child born from such a marriage, who would have been considered legitimate had the marriage been valid, shall be deemed legitimate. This applies regardless of whether the child is born prior to or after the enactment of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), and***

*irrespective of the issuance of a decree of nullity concerning that marriage under this Act, or whether the marriage is deemed void for reasons other than a petition under this Act.*

*In instances where a decree of nullity is issued for a voidable marriage pursuant to section 12, any child conceived or born prior to the issuance of the decree, who would have been considered the legitimate offspring of the spouses had the marriage been dissolved rather than annulled at the time of the decree, shall be regarded as their legitimate child despite the decree of nullity.*

Live-in relationship typically lacks the essential ingredients of the valid Hindu Marriage, thereby it prevents the partners from claiming the legal status of "husband" and "wife" under the Act, which later on also affects the validity of the children born out of the Invalid Marriage of from Live in relationship, because of such reason, the Section 16 has been interpreted to protect the legitimacy of children born from void or voidable unions, and—by judicial extension—children born from long, marriage-like live-in relationships for purposes such as inheritance of self-acquired property in line.

### **Fifty-Year Relationship as Valid Marriage**

This part focuses on the landmark utilization of "Legal Presumption" to convert a long-term cohabitation into a valid marriage under the statutory provisions. Whereas, the landmark judgment is,

**Badri Prasad Vs Deputy Director of Consolidation (1978)**, in this authority, given the Hon'ble Supreme Court of India, states that, "*A strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife.*.", such statement clarifies that the cohabiting with the partner for a long period of time can arise the concept of legal presumption of marriage, however the burden of proof, lies on the person, who claims such.

### **Present scenario**

In modern India, live-in partnerships have achieved gradual legal recognition, mostly through judicial interpretation rather than formal law. whereas Indian law does not explicitly associate live-in partnerships with marriage, courts have acknowledged them as a social reality and granted limited legal protection to partners, especially women and children. The present legal position reflects a cautious but progressive approach, balancing individual autonomy with social concerns. The current legal situation represents a cautious but progressive approach, balancing individual freedoms with social considerations.

- Legislative Protection:
- Whereas there is no uniform legislation for live-in relationship, various existing laws indirectly provide protection:
- Protection of women from domestic violence act 2005: The Act recognises unions “in the nature of marriage,” so expanding protection to women in live-in relationships. It presents measures like as orders for protection, residency rights, and maintenance, to safeguard women from exploitation and abuse.
- CrPC 1973, [section 125]: Section 125 CrPC grants maintenance to women who are unable to support themselves. Judicial interpretation has enlarged its scope to include women in long-term live-in partnerships, providing the relationship resembles marriage.
- Indian Evidence Act, 1872 – Sections 114 and 50: Section 114 empowers courts to presume the presence of certain facts, including marriage, from long-term cohabitation. Section 50 enables opinion evidence regarding relationships, which helps prove the nature of a live-in relationship.
- Indian Succession Act, 1925: While the Act fails to specifically address live-in couples, it governs inheritance rights where applicable, particularly for children born from such unions.
- Juvenile Justice (Care and Protection of Children) Act, 2015: The Act centers on the development and best interests of children, regardless of the marital status of parents. Children emanating from live-in relationships have the right to care, protection, and adoption-related measures under this law.
- Live-in Relationships under Personal Laws
- Hindu Law: There is no recognition of live-in relationship in Hindu personal law whereas it recognised long term relationship and grants various rights of heritance and legitimacy.
- Muslim Law: It basically recognizes Nikah as a lawful union and it does not recognize any other form of relationship outside their system, but the secular laws like CrPC and constitutional principles may still apply.
- Christian and Parsi Laws: These personal laws emphasis formal marriage and do not provide recognition to live-in relationships. Nevertheless, constitutional safeguards and general criminal law remedies remain applicable.
- Uttarakhand Uniform Civil Code, 2024: It provides that there is need for mandatory registration of live-in relationships. By regulating disclosure, it aims to control these

interactions, especially to safeguard women and children and but it has also sparked worries about autonomy, privacy, and excessive government meddling in private affairs.

- **Same-Sex Live-in Relationships:** Same-sex cohabitation has gradually been acknowledged by Indian courts as a component of the right to individual liberty and dignity. The Madras High Court ordered protection from harassment in 2019 and recognized the validity of consenting same-sex cohabitation. This demonstrates the judiciary's dedication to constitutional principles notwithstanding the lack of legislative approval.
- **Constitutional Safeguards in the Present Era**
- **Live-in relationships** are protected under various constitutional provisions such as Article 14 ensures equality before law, Article 15 prohibits discrimination, Article 19 protects freedom of expression and choice, Article 21 guarantees the right to life, personal liberty, dignity, and privacy, Article 23 protects against exploitation, Article 39(f) directs the State to ensure healthy development of children.

These clauses collectively provide the constitutional basis for India's judicial recognition and protection of cohabitation.

### **Essential ingredients for live-in relationships**

There are certain essential elements that determine whether the relationship deserves legal recognition. These ingredients help in distinguishing genuine relationships from exploitative ones.

- **Capacity to Enter into Marriage (Consent and Legal Age):** individual must have legal age, consent to enter the valid marriage. If the person lacks it, then marriage or live-in will not be considered as valid one.
- **Voluntary nature of relationship:** there must be no coercion, force, or undue influence.
- **Cohabitation under a shared household:** under live-in relationship, the mere physical intimacy is not sufficient. The parties must be living together in a domestic setup with continuous cohabitation.
- **Social recognition as partners:** the parties must present themselves before friends, Family, society as a couple. It will reflect stability and commitment.
- **Reasonable duration of relationship:** short term or casual arrangements do not provide legal protection.
- **Monogamous nature of relationship:** if any of the party is married or involved in any of the other relationships, then in that case, legal protection is not provided.

- Relationship in the nature of marriage: the characteristics of marriage must be present in the live-in relationship such as emotional bonding, shared responsibilities and mutual dependency.
- Possibility of procreation: whereas procreation is not mandatory, but the mere possibility of procreation is valid ground to gain the legal benefits. Court will always consider this factor while granting the legal benefit to parties.
- Absence of commercial or exploitative elements: the relationship must not be based on commercial elements such as financial dependency for sexual services.
- In *Indra sawney vs. V.K.V. Sarma*, The Hon'ble SC clearly distinguished live-in from relationship of convenience.
- Protection under the PWDVA, 2005: women under these relationships are given benefits under the Protection under the PWDVA, 2005.
- Mutual Respect, Commitment, and Emotional Support: court heavily relies on these qualitative factors to determine legitimacy.

### **How is marriage different from LIR**

#### **1. Meaning of Live-in Relationship**

Marriage: legally solemnized and socially sanctioned union.

Live-in relationship: informal arrangement based on mutual consent without legal solemnization.

#### **2. Legal Recognition of Live-in Relationships**

Marriage: enjoys complete statutory recognition

Live-in relationships: receive only limited judicial recognition.

#### **3. Validity of Live-in Relationships**

Marriage: it is valid only after fulfilling legal conditions and ceremonies.

Live-in Relationships: valid merely through consent between adults.

#### **4. Legal Rights of Partners**

Marriage: married partners have well defined statutory rights

Live-in relationship: Parties have restricted rights which evolved through judicial interpretation.

#### **5. Legitimacy of Children Born from Live-in Relationships**

Marriage: full legal and inheritance rights

Live-in relationship: legitimate but limited inheritance rights.

6. Social Acceptance

Marriage: widely accepted across Indian society

Live-in Relationship: parties face social hesitation and cultural resistance.

7. Maintenance

Marriage: Statutory Rights

Live-in Relationship: it is granted only if the relationship resembles marriage.

8. Alimony

Marriage: it provides for permanent alimony after divorce.

Live-in Relationship: There are no statutory provisions for live-in relationship in India.

9. Property rights

Marriage: Grants automatic inheritance and property rights.

Live-in Relationship: limited to individual rights.

10. Protection under criminal laws

Marriage: It attracts broader matrimonial protection.

Live-in Relationship: limited to individual rights.

11. Religious dimensions

Marriage: Governed by religious personal laws.

Live-in Relationship: Have no religious sanctions.

12. Involvement of the State

Marriage: The state actively regulates marriage through laws and regulations.

Live-in Relationship: Its role in live-in relationships is minimal.

13. Dissolution of Live-in Relationship

Marriage: It requires formal legal divorce for dissolution.

Live-in Relationship: It can be terminated informally.

14. Formalities

Marriage: It requires Ceremonies, Registrations, and Legal compliance.

Live-in Relationship: Requires no formalities.

### **Judicial pronouncement**

1. Dinoahamy V. W.L. Blahamy (1927)

The hon'ble court emphasized that until the contrary is demonstrated, a man and a woman who live together for an extended period are presumed to be married.

2. Badri Prasad V. Dy Director of Consolidation (1978)

The hon'ble court emphasized that in the sake of social fairness, a **50-year** cohabitation was deemed to be a legal marriage.

3. Tulsa V. Durghatiya (2008)

The hon'ble court emphasized that **Long-term cohabitation** may result in the presumption of marriage and legitimate children.

4. Madan Mohan Singh V. Rajni Kant (2010)

The hon'ble court emphasized that a strong assumption of marriage is created by **continuous cohabitation** and can only be refuted by compelling proof.

5. S. Khusbhoo V. Kanniammal (2010)

The hon'ble court emphasized that live-in relationships are not illegal or immoral and **fall within the ambit of Article 21**.

6. Nandakumar v. State of Kerala (2018)

Even if a couple is not eligible for marriage, they have the **right to cohabit** under personal liberty.

7. Lata Singh V. State of UP (2006)

A live-in relationship between consenting adults is **not an offence**, and society cannot interfere.

8. Soni Gerry V. Gerry Gouglas (2018)

The hon'ble court emphasized that adults have the unalienable freedom to select their partners, and courts ought to uphold this right.

9. D. Velusamy V. D. Patchaiammal (2010)

The hon'ble court emphasized that under the PWDVA, 2005, only unions "in the nature of marriage" are eligible for legal protection.

10. Indra Sarma V. V.K.V Sarma (2013)

The hon'ble court emphasized that relationships involving adultery or exploitation are not covered, therefore not every cohabitation is protected.

11. Chanminiya V. Virendra Kumar Singh Kushwaha (2011)

The hon'ble court emphasized if the parties lived like spouses, maintenance shouldn't be refused only because they weren't legally married.

12. Alok Kumar V. State (2010)

The hon'ble court emphasized that unlike marriages, live-in partnerships are **walk-in/walk-out** agreements with no legal commitments.

13. S. Palani V. State of Tamil Nadu (2019)

The hon'ble court emphasized that adults who live together voluntarily are protected by personal liberty and privacy laws.

14. Ajay Bhardwaj V. Jyotsana (2016)

The hon'ble court emphasized that uncommitted casual relationships do not meet the criteria for marriage-like relationships.

15. Kuttukandi Edithil Krishnan V. Kattukandi Edathil Valsan (2022)

The hon'ble court emphasized when awarding legal relief, long-term cohabitation may be presumed to be a marriage.

16. Baratha V. Vijaya Renganathan (2010)

The hon'ble court emphasized that marital rights are not automatically granted by living together without intending to be married.

17. Payal Sharma V. Superintendent Nari Niketan (2001)

The hon'ble SC held that even if society disapproves, adults can live together.

18. Gokal Chand V. Parvin Kumari (1952)

The hon'ble court emphasized that continuous cohabitation raises presumption of marriage, but it is **rebuttable**.

19. SPS Balasubramanyam V. Surutayan (1994)

The hon'ble court emphasized that a **long-standing** live-in relationship should be treated as valid marriage for legitimacy of children.

20. Ravish Singh V. State of Uttarakhand (2023)

The hon'ble court emphasized that registration requirements under UCC for live-in relationships must **respect privacy and autonomy**.

21. Sreeja V. Commissioner of Police (2018)

The hon'ble court emphasized that adults in a live-in relationship are entitled to **police protection** from family interference.

22. Khushboo V. Kanniammal (2010)

The hon'ble court emphasized that living together without marriage is a **personal choice** protected under constitutional liberty.

23. Velusamy V. Patchaimmal (2010)

The hon'ble court emphasized that live-in relationships must fulfill marriage-like conditions to claim legal protection.

24. Alok Kumar V. State (2010)

The hon'ble court emphasized that Live-in relationships **do not create binding legal obligations** like marriage.

25. Lata Singh V. State of UP (2006)

The hon'ble court emphasized that honour-based objections to adult relationships have **no legal sanction.**

#### **Punjab and Haryana HC on live-in relationship**

In certain cases, Punjab and Haryana HC has restrictive and conservative views. It states that parties can not directly claim the legal protection merely based on personal liberty. Adult cohabitation is not *per se* illegal, but it cannot be considered as equals to marriage, nor can it override prevailing social morality, family structure, and public order considerations. Due to instability, lack of social acceptance, misuse of legal remedies, couples in live-in relationships must not be provided with blanket protection.

#### **What are the reasons that adults opt for live-in relationships?**

There are various reasons for opting live-in relationships by the adults such as Freedom, considering LIR as trial period, protection from lengthy divorce process, to escape from forced marriage, urbanization, women's empowerment, adoption of westernization, concept of equal partnership, freedom from marital burden, legal recognition of significant rights, freedom of cohabitation, avoidance of marriage, gender equality, beating patriarchal system, delay of parenthood, breaking religious and communal boundaries.

#### **Rights and obligations in live-in relationship**

Parties enjoy Cohabitation rights, protection from abuse, maintenance rights, residential rights, children's right of inheritance, right to custody in matter of children, privacy and dignity rights and equality rights. Some of the significant obligations of partners are financial support, mutual respect, legal duty to maintain children, protection from abuse, no cruelty, bound by criminal laws.

#### **What should be the legal status and property rights of children born out of live-in relationship?**

To avoid prejudice based on their parents' marital status, children born into cohabitation should have complete legal legitimacy. Indian courts have always ruled that the child's wellbeing and dignity must take precedence over societal morality and that legitimacy cannot be rejected just because the parents did not get married. The legal status of children born to parents who live together for an extended period is further strengthened by the presumption of marriage that is frequently raised. Regarding property rights, court interpretation

acknowledges these children's ability to inherit their parents' self-acquired property, but inheritance in ancestral or coparcenary property is still restricted by traditional Hindu law.

### **Adultery and Hidden Marriage Argument in Live-in Relationships**

These types of unions have conservative judicial approach. After the decriminalization of adultery u/s 497 of the IPC in *Joseph Shine v. Union of India* (2018), adultery was repealed and now only considered as civil wrong in matrimonial cases. Courts states that women engaged in adultery cannot be entitled to receive any legal protection under Protection of Women from Domestic Violence Act, 2005, as such a relationship does not qualify as a "relationship in the nature of marriage." Therefore, the children born out of such relationships are considered as legitimate under Indian law. Women considered under adulterous relationship are denied right to maintenance.

### **Protection of Women from Domestic Violence: Reform-Oriented Perspective**

Reform organizations and policy institutions have emphasized the importance of providing protection to women in vulnerable nonmarital partnerships. Regardless of formal marital status, the Justice Malimath Committee on Criminal Justice Reforms emphasized the need to expand legal protection to include women who are emotionally and financially dependent. In a same vein, the National Commission for Women's recommendations and the Maharashtra government's plans have promoted a more comprehensive understanding of domestic relationships under the PWDVA, 2005 in order to reflect new socioeconomic realities. These suggestions highlight the fact that women in cohabitation frequently lack legal recourse against abuse or abandonment when they are denied protection. Judicial application is nevertheless cautious, giving marital legitimacy precedence over social justice concerns, notwithstanding these reform-oriented recommendations.

### **Same sex marriages and live in relationship**

According to the Supreme Court's ruling in *Supriyo @ Supriya Chakraborty v. Union of India* (2023), same-sex marriage is not recognized by India's current personal laws or secular marriage regulations. However, as live-in relationships between consenting adults are under the purview of personal liberty and privacy granted by Article 21 of the Constitution, the lack of marriage recognition does not nullify same-sex couples' right to cohabit. The recognition of sexual orientation as an essential component of personal identity and dignity by Indian courts has grown (*Navtej Singh Johar v. Union of India*, 2018). While some High Courts have granted limited protection, such as police protection and the right to cohabit peacefully,

acknowledging such relationships as valid expressions of autonomy, same-sex couples in live-in relationships do not enjoy marital rights, such as inheritance, adoption, or spousal benefits (Madras High Court, 2019). Therefore, live-in relationships are the only legally acceptable way for same-sex couples to express companionship, choice, and constitutional freedoms in the current legal environment, even while same-sex marriage is still illegal.

### **Philosophical Foundation of Human Relationships: Contract vs. Companionship**

Human relationships, especially marriage were viewed as contracts based on societal norms and legal obligations. Relationships are seen in modern thought as companionship based on permission, choice, and affection. This change emphasizes the fundamental right to achieve personal pleasure as well as individual freedom, autonomy, and dignity.

### **International legal spectrum**

USA: Through common-law marriage and cohabitation statutes, several states recognize cohabitation relationships and offer limited property and maintenance rights.

UK: Although live-in couples are acknowledged as cohabitants, they are not automatically granted spousal rights unless they are covered by laws or agreements.

France: Through the PACS (Civil Solidarity Pact), which offers legal rights without marriage, France recognizes cohabitation.

Canada: After a predetermined amount of time spent together, common-law relationships are legally recognized and grant rights to property, maintenance, and taxes.

Scotland: The Family Law (Scotland) Act, 2006 recognizes live-in relationships and grants them some property and financial rights.

Australia: De facto relationships are legally recognised, granting rights like marriage, including property division and maintenance.

Philippines: Although live-in relationships are prevalent in society, they are not given much legal status, particularly when it comes to inheritance and property.

Nepal: Live-in relationships are acknowledged in Nepal for protection and maintenance, and talks on legal regulation are still in progress.

Bangladesh: Under current legislation, live-in relationships are not recognized by the state and are typically seen as socially inappropriate.

Germany: Registered relationships, which offer restricted legal privileges different from marriage, are an option for cohabiting couples.

Sweden: The Sambo Act recognizes live-in relationships and grants rights pertaining to joint housing and property.

Japan: Although courts have expanded some rights in tenancy and inheritance disputes, live-in relationships have little legal status.

### **National and international reports**

According to a survey, more than 80% of Indians are in favor of cohabitation, and 26% would rather live together forever than be married. In five major Indian cities, 68% of respondents said they would think about living together before getting married, and 64% said they should move in within the first six months. According to a survey of 10,340 active daters between the ages of 22 and 35, 39% of unmarried Indians think marriage is optional. Women in cohabitation report lower levels of happiness than married women, according to the Drishti poll, which included 43,255 women from 29 states. A piece on the Lionsgate play "Relationship Meter" demonstrated how attitudes toward intimacy and commitment are evolving, demonstrating how emotional compatibility rather than legal status is increasingly used to assess relationships in the present era.

### **Social-legal dimension**

Particularly among metropolitan millennials, live-in relationships show a move away from traditional, marriage-centric societal norms toward personal liberty and choice. Courts have increasingly prioritized constitutional principles like liberty and dignity over social morality, even though live-in relationships are often viewed with moral mistrust in Indian society. Despite the lack of legislation, judicial recognition has attempted to protect women from domestic violence and abandonment by expanding protections under current statutes. Legal observers contend that this developing body of law is an effort to reconcile constitutional ideas with socioeconomic reality.

### **Psychological Dimensions**

Relationship happiness, connection, and emotional health are all impacted by live-in partnerships. Research shows that autonomy, mutual trust, and good companionship in cohabitation have a favorable impact on mental health and personal development. According to attachment theory research, stable emotional ties are essential for lowering anxiety and enhancing relational stability, whether in cohabitation or marriage. Additionally, research from India has demonstrated that cohabiting couples frequently report better communication and conflict-resolution abilities, which improve psychological resilience in general. However,

social stigma and lack of official recognition can cause stress and insecurity, particularly for women, underscoring the need for both legal protection and social assistance. In general, live-in relationships that are founded on mutual respect, trust, and emotional reciprocity might enhance psychological well-being.

### **Economic and feminist lens**

The above both implications have applied on the live-in relationships. Economically, partners can keep autonomy, share resources, and lessen financial burdens, all of which are particularly important in India's cities. From a feminist standpoint, cohabitation challenges conventional marital standards without direct conflict by enabling women to exercise autonomy, negotiate equality, and oppose patriarchal systems.

### **Silent resistance against patriarchy**

One way to silently oppose patriarchal dominance is through cohabitation. People, particularly women, gently challenge social structures by choosing cohabitation over conventional marriage to express their equality, independence, and decision-making authority.

### **Gamification of relationship**

Tinder, Bumble, QuackQuack, and other contemporary dating apps have gamified the process of forming relationships, encouraging premarital cohabitation, compatibility-based partner selection, and deliberate intimacy choices. This change reflects the evolving sociocultural environment, which views relationships more as negotiated, experiencing partnerships.

### **Is live in just a western import**

Although live-in partnerships are sometimes seen as a Western invention, historical data indicates that Gandharva weddings and other nonmarital cohabitation customs existed in India during the Vedic and medieval eras. Therefore, cohabitation has cultural and historical roots in India and is not only a contemporary or Western phenomena.

### **Religious and cultural objection**

Religious and cultural opponents of live-in partnerships contend that they violate moral standards and conventional family values. Such unions are still stigmatized in some societies because they are seen as going against social norms and customary rules.

## Recommendations

- There is a need of comprehensive legislation. India relies on judicial pronouncements for the regulation of matters related to live-in relationship. The judge-made laws are progressive, but it basically lacks certainty and uniformity. Uniform and comprehensive statute will provide clarity to rights, duties, and remedies. It will reduce confusion.
- There is no clear definition of live-in relationship that creates ambiguity in determination of what elements constitutes live-in relationship. There is a need of definition that is based on cohabitation, duration, and shared responsibilities. It would help in distinguishing genuine relationship from the casual ones.
- Recognition should rely on objective factors such as financial interdependence, long term cohabitation, and social representation as partners. It will ensure the legal benefits.
- There must be the codification of rights and duties of partners in live-in relationship such as maintenance, residence, and separation.
- Explicit statutory protections are necessary for women in live-in relationship to protect her from abandonment, economic exploitation, and social insecurity.
- There is a clear need for the protection of children born from live-in relationship. Children should not suffer any disadvantages whether legal or social because of the nature of their parent's relationship. There is a need of law to ensure equal rights relating to inheritance, legitimacy, education etc.
- Judicial pronouncement must be consolidated as they are basically scattered and contradictory in nature. It would ensure consistency, provide clear guidance to lawyers, courts, and litigants.
- The shared household concept should be applicable in uniform manner. It is necessary because partners in live in should not be denied the right to residence because of technical interpretation.
- There is a need of public education and legal awareness as many individuals enter live-in without knowing its legal consequences.
- Sensitization programs are essential to prevent harassment, unlawful interference etc.
- Disputes related to live-in relationship are often personal and sensitive therefore mediation and counselling can resolve disputes in efficient manner. It will also reduce emotional as well as financial burden of prolonged litigation.
- There is a need to recognise this concept as social reality existing parallel to marriage and regulate them without threatening the concept of marriage.

- Continuance of progressive judicial approach by courts is also relevant for the purpose of legislative clarity.

## **CONCLUSION**

India's complex intersections of history, social transformation, constitutional principles, and changing judicial philosophy are reflected in live-in relationships. Historical customs like Gandharva vivaha, niyoga, and traditional tribal unions show that non-marital relationships have long existed in Indian civilization, defying the notion that cohabitation is a contemporary Western import. However, such agreements were eventually marginalized by post-independence social rigidity, codified personal rules. In the modern period, courts have been crucial in acknowledging cohabitation as a partnership "in the nature of marriage" for certain legal objectives, especially to safeguard women and children. A change from societal morality to constitutional morality is shown by judicial reliance on Articles 14, 15, 19, and 21 of the Constitution. Live-in relationships can foster equality, liberty, and affection, but they also expose partners to insecurity because of social stigma and legal ambiguity, according to psychological, economic, and feminist research. The lack of comprehensive law leads to uneven protection notwithstanding court protections, leaving important concerns of maintenance, property rights, and dissolution insufficiently handled. As a result, cohabitation must be viewed as a parallel socio-legal reality that needs equal legal acknowledgment rather than as a threat to marriage. To balance individual freedom with societal stability and constitutional values, a progressive yet culturally aware legal framework is necessary.

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