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CRITICAL ANALYSIS AND EVALUATION OF LAWS RELATED TO GENDER BIASES IN LIVE-IN RELATIONSHIPS IN INDIA.

ABSTRACT

Live-in relationships in India, once considered a social taboo, have gradually gained judicial recognition. However, they remain largely unregulated by comprehensive statutory frameworks. While existing legal provisions—such as the Protection of Women from Domestic Violence Act, 2005, and the Hindu Marriage Act, 1955—offer significant protections to women in live-in relationships, there is a notable absence of similar legal protections for men and other genders, raising concerns about gender-based disparities in legal treatment. This paper critically examines the current legal framework, focusing on key statutes, landmark judicial decisions, and the constitutional principles of equality enshrined in Articles 14, 15, and 21 of the Indian Constitution. It explores issues such as gender bias in maintenance rights, protection from abuse, and legal recourse for false accusations, while addressing counterarguments rooted in the historical vulnerability of women. Drawing upon comparative legal perspectives from jurisdictions like the United Kingdom and Australia, the paper proposes a gender-neutral legislative approach that ensures equal legal recognition, protections, and remedies for all individuals in live-in relationships. The suggested reforms aim to harmonize Indian law with constitutional mandates and contemporary social dynamics, fostering a more equitable legal environment for all genders in such relationships.

Keywords: Live-in relationships, gender bias, maintenance rights, domestic violence, comparative family law, constitutional equality.

INTRODUCTION

In India's evolving social landscape, love and relationships increasingly navigate the complex intersection of tradition and law. Live-in relationships, once largely a private matter, are now recognized by the courts, though they continue to be met with social resistance. However, beneath this legal recognition lies a nuanced issue: the legal framework often affords greater protection to one gender, creating disparities and uncertainties for the other.

The concept of live-in relationships is gaining increasing acceptance in India, yet there remains a lack of comprehensive legal recognition or regulatory framework to govern such relationships. While not classified as illegal or criminal, live-in relationships are often perceived as contrary to traditional Indian values and customs.

In Indian context, live-in relationships generally refer to couples who cohabit under a roof with mutual consent, carrying out all the household responsibilities, without being wedded. There is no particular and exact legal definition of live-in relationships but it can be termed as : “An arrangement of living under which the couples which are unmarried live together to conduct a long-going relationship similarly as in marriage.”¹It can be understood as an arrangement

1 Sanjay.Kumar Sah, 'Live-in Relationship: Laws in India' (Legal Services India E-Journal,) <<http://legalservices.co.in/blogs/entry/Live-In-Relationship>> Accessed 22 May 2024

whereby a couple or two consenting adults opt to live together on a long term basis in an emotionally and/or sexually intimate relationship in a close association.

BACKGROUND

The formal acknowledgement and recognition of the live-in relationship concept is through the recent times, when the Protection of Women from Domestic Violence Act, 2005, was passed and came into force, extending legal protection to the women who cohabit or reside with their partners without marriage and who are the victims of domestic violence which is considered as similar to the ones suffered by women in marriages.

India first recognized the concept of live-in relationships, in 2010, when the Supreme Court passed the historic decision that ‘ live-in relationships are not illegal and immoral ‘ in the case of “Khushboo vs Kanniammal”². It also stated that two consenting adults in a heterogeneous relation have a right to cohabit together like a married couple without getting married.

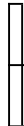
In another landmark case of 2015 of Velusamy vs. D. Patchaiammal³ The Supreme Court held that long- term live-in relationships can be considered as or similar to a valid marriage under certain circumstances and situations where the woman is also entitled to maintenance from her partner in case of separation.

Further , in the case of “Indra Sarma vs V.K.V. Sarma.”⁴The Supreme Court, by further enlarging and elaborating the rights of women , held that

women in a live-in relationship are entitled to maintenance after separation from their partners even though live-in relationships are not recognised and considered as valid marriages in the view and eyes of the Indian laws. The Indian law doesn't promote or support pre-marital sex.

LEGAL STATUS OF LIVE-IN IN INDIA

Live-in Relationships are not explicitly recognised in India. It is also not considered as illegal or a criminal offence rather it has been given recognition by the Supreme Court as valid relationships thereby providing the couples certain rights and protections cohabiting in a live-in relationship. In terms of rights individuals in a live-in relationship do not carry the same rights as married couples.



2 Khushboo vs Kanniammal AIR 2010 SC 3196 3D.Velusamy vs D.Patchaiammal AIR 2011 SC 479 4 Indra Sarma vs V.K.V.Sarma AIR 2013 SCW 6783

LAWS GOVERNING THE PROTECTION AND WELLBEING OF WOMEN IN A LIVE-IN RELATIONSHIP

1. The Hindu Marriage Act, 1955 states that even if live-in relationships are not recognised as valid marriages in India, still the women cohabiting in a live-in relationship has a right to seek maintenance from their partners in case of separation, only if she is able to prove that the relationship is similar to a marital relationship.
2. Domestic Violence Act, 2005, protects the women against violence and abuse in a live-in relationship.
3. Protection of Women from Domestic Violence Rules, 2006, provides for the procedure to file application for the protection orders, residence orders, and monetary reliefs by the women in a live-in relationship.
4. As per the Indian Penal Code, in case of a live-in relationship, offences like rape, adultery, and bigamy are provided, available and dealt with as criminal offences under the criminal liabilities.
5. The Hindu Adoption and Maintenance Act, 1956, says that a woman in a live-in relationship is entitled to the same rights as a legally wedded wife under the Hindu Marriage Act, 1955 and the child born out of such relationship is legal and entitled to maintenance. ([Payal Sharma v. N. Talwar \(2018\)5](#))

According to the Indian Evidence Act, 1872, women need to prove that the long term live-in relationship entered into by her and her partner is similar to a valid marriage.

MAINTENANCE AS PER THE HINDU MARRIAGE ACT,1955

Maintenance refers to financial assistance and help provided to either of the plaintiffs on an application made and only through an order passed by the court's defined jurisdiction and upon the implantation of order in this regard as per law. It is often referred to as "alimony" or a kind of monetary support or financial backing from the spouse also known as spousal assistance. The term of "maintenance" is financial needs as required by the wife or the husband, covering the basic necessities of life including food, shelter, clothes, medical costs and education.

As per the Section 24⁶, either the husband or the wife can apply for interim maintenance, on the ground that the claimant has no independent source of earning of his/her to support himself/herself in case of separation.

Further as per Section 24, "a "deserving man" is a person who does not have any independent source of income adequate to support his living and who does not even have the unavoidable expenses for the proceeding, can claim maintenance from his wife, if she can bear the same. 'Section 25 authorises permanent alimony and maintenance to the husband'.⁷

5 Payal Sharma v. N. Talwar AIR 2001 All 254

6 The Hindu Marriage Act, 1955, s 24

7 The Hindu Marriage Act, 1955, s 25

Providing maintenance by the male is not essential for every independent woman, but if she needs it due to a paucity of finances in a live-in relationship, such an association is not socially acceptable in India and hence not recognised as per law.

MAINTENANCE IN CASE OF SEPARATION IN LIVE-IN RELATIONSHIPS AND LACK OF LAWS FOR MEN

The Hindu Marriage Act, 1955 observes the right of a woman in a live-in relationship to seek maintenance in case of a separation. But there is no such clause or law for men recognised by the act in such case .The right to maintenance does not deal with the men's right to maintenance even if he is a "deserving man " who cannot support and maintain himself due to lack of income or his inability to earn for himself as per the Section 125(1)(a) of the Criminal Procedure Code, 1973 unlike the Section 24 and

the Section 25 even if the live-in relationship is similar to marriage (Ajay Bhardwaj v. Jyotsna⁸)

Only the woman may file for maintenance. It does not provide any assistance to men in live-in relationships under The Protection of Women from Domestic Violence Act, 2005.

Since there is no recognition of any act related to the payment of maintenance or alimony in case of separation , in a live-in relationship , even if the man in the relationship is considered to be as ‘deserving’ according to the definition of the said act, he is not legally entitled to any financial assistance from the woman and there is no obligation on the part of the woman to provide him maintenance , unlike in the case of a valid marriage. But the woman in a live-in relationship has a legal right to claim maintenance after separation to support her finances. Considering the gender injustice and inequality in India, there is a clear gender bias towards the females in a live-in relationship.

In the case of Abhijit Bhikaseeth Auti V. State of Maharashtra and others⁹, the Supreme Court passed the judgement that it is not required and necessary for a woman to strictly establish marriage to claim maintenance. Whereby in the regards to this statement it can be understood that a man needs to enter into a valid marriage bond to claim maintenance in case of separation, as they cannot claim if he is cohabiting with a woman in a live-in relationship.

CONSEQUENCES OF LACK OF LAWS FOR MEN AND WHETHER THE INDIAN LEGAL SYSTEM PROVIDES ANY AID?

As the people began to incline towards live-in relationships, number of false charges of rape came into the picture. In many cases, after the separation, female partners filed false FIR of rape.

Rape has been elucidated under [section 375 of Indian Penal Code, 1860 \(hereinafter referred to as IPC\)](#). It states that, if a man has committed “rape” i.e. he undertakes sexual intercourse

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8 Ajay Bhardwaj v. Jyotsna 2017 ALLMR (Cri) 43

9 Mr.Abhijit Bhikaseeth Auti vs State of Maharashtra & Anr AIR 2008 LawSuit(Bom) 3624

with a woman with her consent, knowing he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be law-fully married or it was done against her will or without her consent or her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt or with her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupe-fying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent or with or without her consent, when she is

under sixteen years of age. Apart from these conditions, if sexual intercourse has been made under the false pretext of marriage then it would be regarded as rape as such consent will be given under the misconception of marriage. It would not amount to consent under section 90 para 3 of IPC. Uday vs. Karnataka [2003 (4) SCC 46](8), SC held that, “It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under misconception of fact. A false promise is not a fact within the meaning of the Code ”

The reason for women to file a false case of rape mostly is shame, exclusion and rejection that accompany with the failure to get married with the person with whom she had pre-marital sex and relations. In this case, an observation by the Court is telling: “This Court finds that this is another case where, after enjoying the live-in relationship, the young couple have parted ways. The girl, like in the majority of cases, has lodged an FIR in a vain bid to enter into a secure relationship of marriage with the applicant and come within the ambit of the socially accepted norms and relationship of marriage”.¹⁰ The victim’s only motivation to file a complaint alleging rape by promise to marry (a criminal offence under the law) is to enter into marriage and meet societal expectations. The order notes: “While it is not difficult to find another female live-in partner or wife for the male counterpart of a live-in relationship, it is very difficult for a female partner to find a male partner for marriage”. Whereas no one considers the judgement and opinion of the society if the man is falsely accused of rape of a woman. If the man in a live-in relationship fails to prove his innocence regarding the charges of rape and violence against the woman, he is then admitted and charged as per the law, which ultimately destroys his image, social standing, and future.

Even in a few circumstances it has been found out that the women in a live-in relationship undertake domestic violence against the men and threaten to defame him or file false case of accusations like rape, filthy behaviour, domestic violence etc. or blackmailing him with threats of suicide if he refuses to stay or marry her.

10 Chiranth S, ‘Law and live-in relationships’(Deccan Herald , 21 September, 2023)<<https://www.deccanherald.com/opinion/law-and-live-in-relationships-2694566>> accessed 4 June 2024.

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A few aids have been provided by the legal system. First since the relationship is consensual, the woman cannot file a rape complaint. If at all any false complaint has been filed then the accused, in case of false

charges of rape can apply for anticipatory bail and can request for the victim's medical examination. In the case of such circumstances where the woman acts in such a way that terrifies the man with her behaviour, he can move out and break the relationship anytime.

SUGGESTIONS

The Parliament should pass certain laws regarding the right, obligations and protection of the persons in a live-in relationship :-

1. The couples who want to stay in a live-in relationship have to get their relationship registered in the family court to get protection from the law.
2. There should be an agreement entered into by the couples, which should be enforceable by law, mutually decided before cohabiting together without tying knots regarding the inheritance of property, child born out of such association, maintenance etc.
3. A special act related to laws governing live-in relationships must be passed, protecting both the partners in such a relationship from violence and false accusations, thereby protecting the dignity of both the partners.
4. The person who is found guilty in a live-in relationship of any charges, should not be allowed to undertake live-in with any other person again.
5. Tenure for cohabiting together in the case of a live-in relationship must be fixed.
6. Separate sections must be dedicated in the live-in relationship laws for rape, domestic violence, false accusation alleging rape laying down the punishments and penalties for the same.

CONCLUSION

In India, the legal status of live-in relationships has been evolving and shaped by the Supreme Court's many rulings. It is time for efforts to be made to adopt a legislation on live-in relationships with explicit provisions regarding the time required to give the relationship legal status, registration, and the rights of parties and children born from it. A live-in relationship is where two individuals who are romantically connected with each other shack up without being married to each other. The couple shares a common household, engaging in sexual relationship, but not formalising it by entering into the holy bond of marriage. It is considered valid in the eyes of law but not as per the society. Judicial pronouncement in various instances has proved the legality of live-in relationships on several occasions by upholding the rights of the partners. The court has also given legal status to the rights of women in a live-in relationship wherein

they are entitled to inherit property as well as maintenance from their partner, but no such special rights are recognised for the men in live-relationship which should be considered.

The journey of live-in relationship jurisprudence in India reflects a slow yet steady move towards recognizing non-traditional partnerships. Judicial pronouncements have broken the myth that cohabitation outside marriage is immoral or illegal, extending significant protections to women under the Domestic Violence Act, Hindu Marriage Act, and other statutes. However, the glaring absence of reciprocal rights for men — particularly in maintenance, protection from false accusations, and domestic abuse — signals a deep legislative gap.

If the objective of law is justice, then it cannot remain gender-selective in its empathy. The need of the hour is a gender-neutral live-in relationship framework that registers partnerships, defines rights and obligations, and ensures equality before the law regardless of gender. Such a statute would not only reduce misuse but also strengthen the institution of consent-based relationships by replacing ambiguity with legal certainty.

As India embraces new forms of companionship, the question is no longer whether live-in relationships deserve recognition — but whether our laws are ready to recognize all partners equally, without the blindfold slipping from the scales of justice.

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