

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 4 | Issue 2
2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Security of Live-in Relationship

DEEPSHREE CHAUHAN¹ AND ANSHUL AGRAWAL²

ABSTRACT

The debate between marriage and live-in-relationship is never ending. The acceptance of live-in in country like India was itself a very big thing. Though it's still not accepted completely and for sure it will take years too; as we all know that the concept of love marriage is still been not completely accepted in our Indian society so, we can imagine how much time is required for live-in. Well acceptance is secondary thing; the foremost and important thing is about the security of the partners and their off-springs. Security in the sense legal, social and financial security of the partner's. Focusing on this concept the authors have divided the paper in five parts. The first part of this paper is Introduction, which gives a brief about the marriage and live-in-relationship, The second part is tries to make an attempt to continue the ongoing debate of marriage and live-in and to bring a conclusion, The third part comes with a very important topic that is security in live-in relationship, The fourth part is basically the suggestion part in which authors have tried to make an attempt to give some measures by which live-in relationship can be making more secure, and the fifth and the last part of this paper is the concluding part.

I. INTRODUCTION

“We can change world. We can change the law. We can even change the method, but we can't change the law of nature”.

If we see the concept of marriage and live-in from the eyes of law of nature, we can state:

“Holding the same relations; just with a change in thinking”.

A stage of life, from which the man and the women, starts to live together with each other; for sharing life and responsibility with each other. Earlier marriage was the only institutions which allow this, but marriage is not just a simple thing it knocks the door with lot of duty and responsibility. Every religion has their own methods for procuring marriage for some it's a holy thing where as for some it's a mere contract. In India, marriage is a holy aspect which is solemnized with lots of rituals, believing that the bride and groom are the incarnation of

¹ Author is a Visiting faculty at Disha Law College, Raipur (C.G), India.

² Author is an Advocate.

Goddess Lakshmi and Lord Vishnu respectively.

Moving away from the mythological concepts, law also gives recognition to the marriage, not just in India but all the countries around the globe. Even special laws have been framed for the marriage. Some of them are:

1. Hindu marriage act,1955
2. Muslim marriage act,1939
3. Special marriage act,1954
4. Foreign marriage act,1969
5. Indian Christian marriage act,1972

All this act give brief rules and regulations for the legally solemnized marriage in India and it also tells about the grounds for the dissolution of marriage and to give financial security to the women after the breaking down of marriage the law bring out the concept of maintenance. To maintain the proof of the marriage the law gives a special marriage certificate to the couple, which bounds the couple not just socially but legally too.

But this was the concept of earlier times, when living with a partner comes with so much of social and legal duties and responsibilities. As at that time there was just one institution which allow for this. But today with the change in environment around a new concept has been arisen. That is “Live-in-Relationship”. Here the partners are allowed to live together with each other but they are not bound to take any responsibility of duty. It’s completely their will, whether they want to or not but no social or legal pressure is upon them.

The concept of live-in is a western concept which came in India around year 2000, but it came in the eyes of the law in the year 2006 with the first case that is *Lata Singh v. State of U.P & Anr*³ where the court held that “*The concept of live-in-relationship is legalized only for those heterogeneous gender of the society who cannot solemnized the marriage*”

Finally in the year 2010 with the famous case of, *S. Khushboo v. Kanniammal and Anr*⁴

The special there judge bench of Honorable Supreme Court constituting the honorable The Chief Justice of India, J.Balakrishnan , J.Deepak Verma and J.B.L.Chauhan it was held the “Live In Relationship is a right to live under article 21 of the Indian Constitution”.

And from that the new concept of letting partners live together accepted in India though not with complete social acceptance but legally it was.

³ Lata Singh v. State of U.P & Anr, A.I.R 2006 S.C 2522 (India).

⁴ S. Khushboo v. Kanniammal and Anr A.I.R 2010 S.C 2196 (India)

II. THE GAME IS STILL ON...

The game of creating difference between marriage and live in is still going on and it's hard to say whether it will ever going to come to an end with the conclusion which method of cohabiting is better one.

Here is a brief comparison between marriage and live-in-relationship

S.no	Marriage	Live – in – relationship
1.	It is an old and traditional concept.	It is a new and modern concept.
2.	Based on rituals and customs.	There are neither rituals nor any customs.
3.	There is no specific time period when this concept was started it is believed that it started with the existence of life, even the holy ⁵ and mythological books has defined the concept of marriage.	The concept has been started after end of cold world war somewhere around 1990's.
4.	It is based on commitment and financial, moral and social security and responsibility.	There is n commitment with no kind of security and responsibility.
5.	In marriage easily moving in and out is not so easily possible.	Whereas, in live – in – relationship it is easy to move and out.
6.	Accepted legally, morally and socially everywhere in the society.	Though now it is legally accepted in India, but still a taboo for many.
7.	There is a specified law for the marriage. ⁶	There is no specified law for marriage.
8.	The child of the partners are legitimate and have the rights on the both ancestral and the property of the father. ⁷	The child procured is not termed as the legitimate one and he don't have any right on the ancestral property but he or she has full rights over his father personal

⁵ Bible, Genesis 2:24, ESV.

⁶ The Hindu Marriage, Act, 1955.

⁷ Section 16(3), The Hindu Marriage Act, 1955.

		property. ⁸
9.	There is a special court known as “Family Court” for sorting down the conflicts in marriage. ⁹	Well there is no such specific court but court entertain the cases and many time the Supreme Court solve the cases and bring out the new revolution and up gradation in the legality of live in relationship ¹⁰
10.	Marriage is not always based on the will of the partners especially in India; it is more of the concept of parents and family.	While live-in-relationship is based on the complete will of both the partners with no permission required from any one.

The authors feel that there is no comparison required between marriage and live-in-relationship as both are the two different ways to live a life. Everyone in our country India has right to life¹¹ which is being given by the Constitution of India. Even the Supreme Court, has held that live-in-relationship comes within the ambit of right to life under Article 21 of the Constitution of India. The Court further held that live-in relationships are permissible and the act of two major living together cannot be considered illegal or unlawful.¹²

III. ARE YOU SECURE WHEN YOU ARE IN LIVE IN?

In this chapter the authors are trying to find to how secure live-in-relationship is for both male, female and their child on the basis of social, legal, moral and economic aspect.

We don't have any specific law to deal about this way of living, but time to time the honorable Supreme Court of India with their judgments gives an idea about how it should work.

Following are the various aspects by which authors are trying to find about the security of live-in-relationship on the concern of both the partners and their child.

1. Social Aspect

The Indian society is still not accepting the concept of live-in-relationship, few did but many didn't. But according to Supreme Court of India, live-in-relationship is a way to live a life under article 21 of the Constitution of India.¹³ But Indian society still takes it as a taboo, though

⁸ Bharata Matha & Ors v. R. Vijaya Renganathan & Ors, A.I.R 2010 S.C 2685.

⁹ The Family Courts Act, 1984.

¹⁰ *Id.* at 600

¹¹ Article 21, The Constitution of India Act, 1975.

¹² S. Khushboo v. Kanniammal, (2010) 5 SCC 600.

¹³ *Id.* at 600

in metropolitan city like Mumbai, Bangalore etc... it has become a common part of life. And the Indian Film Industry (Bollywood) is also making an effort to make people accept the new way of life in the society by making movies on this theme such as Luka-Chuppi, Sudh Desi Romance etc...

But if we talk about the social security, we authors feel that it's not available as, generally in India live-in-relationship are accepted only by today's youth and not by their parents. The partners live with each other but hiding the things from their parents and relatives, and not allowing any one to know about this, somehow it becomes the reason to move off from such relationship easily because even for a very small conflicts. Other than that they even don't get a status in a society. Sometimes the youth just to makes thing trendy goes with such relationship without thinking about the pros and cons. If we talk about the children then though they are legitimate under the eyes of the law but not in the eyes of the people sometimes. Well in India, people are still giving importance to marriage no matter its youth or the elders; in such case live-in-relationship have just become a trial before the marriage, well it's somewhere good as well which help in declining the rate of divorce in the country.

2. Legal Aspect

Though we don't have special law or special court to deal with this but amendments have been brought in many laws such as domestic violence, marriage, maintenance etc... to deal with such cases and as well as the Supreme Court of India also tries to give time to time guidelines for the same.

The Domestic Violence, Act was the first act which acknowledged live-in-relationship. It states that: "*Domestic relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.*"¹⁴

This helped the women to make themselves secure from the domestic violence or any kind of fraud.

The Code of Criminal Procedure has also accepted the term live-in-relationship with the amendment brought by the Malimath Committee.¹⁵ Now, section 125 of the Crpc, includes women who are in live-in-relationship for a long period of time by including her under the

¹⁴ S. 2(f) of the Domestic Violence Act, 2005.

¹⁵ www.thehindu.com/news/national/the-malimath-committees-recommendations-on-reforms-in-the-criminal-justice-system-in-20-points/article22457589.ece.

category of wife for the maintenance¹⁶.

The Hindu Marriage, Act talks about the legitimacy of child in live-in-relationship. The child is termed as legitimate child in the eyes of the law, and has the right in the property of his father though don't have any right in the ancestral property.

3. Moral aspect

Morally live in relationship is a taboo for the Indian society. And somehow this become the only reason that live-in-relationship is though legally accepted in India but within the ambit of marriage. It is known as the nature of marriage, and partners are termed as like husband and wife, though actually they are not.

4. Economic Aspect

The concept of live-in-relationship sounds secure especially for the men when we talk about financial or economic aspect. Unlike marriage it doesn't become social, moral and legal obligation to bear all the expenses of her partner. As when partners decide to be in live-in-relationship they decide how it will work at the very beginning which don't lead to bring burden just over the male.

IV. FROM THE MIND OF THE AUTHOR...

The Right to freedom of speech and expression, the fundamental right given by the Constitution of India; allowing authors to keep their views on live-in-relationship.

A question which always arise in the mind after reading any judgment about live-in-relationship is Why the decision are giving with the criteria of marriage? We are accepting live-in-relationship but its being treated a like nature of marriage. It's like having a plate of continental food but in Indian style. People generally come in such relationship because they don't want a relationship like marriage. Though it's again true that in India we can't completely accept the things as it's their in other country of the world as here we have different environment and different mindset of the people. Though it is taken like this to secure the concept of live-in-relationship but actually it is ending up the concept and indirectly converting it into the traditional concept of marriage.

The other loophole, which arises here, is the specific time period is not given for treating live-in-relationship like a marriage. The court states the term, "for a longtime" but how long that is nowhere specified.

¹⁶ Section 125, Code of Criminal Procedure, 1973.

The one way of securing live –in – relationship can be making it as a relationship of contract, which consists of all the mutual terms and conditions of both the partners the way they want this relationship to go.

Other than that a specific time period should be there by the law, which makes it a permanent relationship and the law should bind the partners not to walk out directly after such period of time but it can be done only with the interference of the law.

A special live-in-relationship counselor should be provided by the court, who can give proper counseling to the partners in every aspect before they are planning to walk out relationship.

V. CONCLUSION

“A relationship bind by the society makes the partner obliged to follow. But a forceful relationship gets break in a very less time.”

This is actually happening in the Indian society and that’s become the whole and sole reason why institution of marriage is suffering so much. Live-in—relationship is stated as walk-in walk-out relationship. But the same is with the marriage too, people get divorced not after a very long period but even at the starting period. Not just divorce but even a relation of marriage is in progress and its gets end. So, making live-in-relationship a taboo just because of the very vague reason is completely useless.

The authors really feel no harm for the partners who are in live-in-relationship in India in today’s scenario. It has many advantages and it is especially for the partners of same sex.
