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LIVE- IN RELATIONSHIPS IN INDIA

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ABSTRACT

The paper deals with one of the contemporary topics of concern – live-in relationships. Live-in relationships are becoming widely popular among the youth of the nation, though they might not be open about it publicly or to their relatives. With the rise in this culture, there is an urgent need to address the issues related to it. Starting from a brief introduction of the origin of live-in relationships Indian history, the paper descends to the current situation of such relationships in India. The paper would then proceed to discuss the scope of such relationships. It is a fact that things devised for the aid of human society always find its way to get exploited and serve the undesired purposes. Similarly, live-in relationships were devised to enjoy the companionship of the loved ones, without commitments and formalities, but the fact that a number of cases of domestic violence are now increasingly being filed by the live-in relationship couples points out the lacuna that this setup witnessed. Despite the emphasis laid down by the judges in various cases to do justice with such victims, the absence of a precise special statute allows these exploitation continuously.

Recommendations then include the need to form a proper statute in place, among others followed by the conclusion.

INTRODUCTION

The post deals with one of the contemporary topics of concern – live-in relationships in India. Live-in relationships are becoming widely popular among the youth of the nation, though they might not be open about it publicly or to their relatives. It is this topic that the paper critically analyses. With the rise in this culture, there is an urgent need to address the issues related to it. We must appreciate the scope of such relationships, the pros, and cons of it. One must utilize the opportunities associated with it and try to eliminate the threats so as to guarantee protection to the vulnerable and construct a way to harmoniously add this culture as socially acceptable. The paper would also discuss a brief history of the origin, apart from different country

perspectives.

LITERATURE And DEVELOPMENT

a. History

Live-in relationship is not defined anywhere but is generally characterized by the cohabitation of two people – a couple, related to each other not by blood or by law but out of love (at least on the face of it). The couple, be it a combination of two males, two females, or a heterosexual couple; live together under one roof and share the daily life encounters under each other's support and companionship along with the other side of the relationship.

This concept of cohabiting together without being tied in the wedlock might seem a result of the western culture influence but the presumption is not true. On the contrary, such set ups were also evident in the Vedic eras as was pointed out by Manu in his Manusmriti. However, they did not enjoy the confidence of the popular opinion. Such relationships were treated as a sin and not regarded as a regular form of marriage.

Instances of such relationships are pointed out in Manusmriti - Gandharva Vivah, wherein two consenting people decided to live together as partners out of affection for each other. For such an arrangement, they did not seek anyone's permission or will; nor did they performed any rituals or ceremonies to call it an official wedding in eyes of the society. The maximum they did was taking vows for each other that too in absence of any pandit to enchant mantras. Thus, it consisted wholly and solely of these two people.

b. Current Situation –

In India, it is continuously becoming a welcome concept. People tend to enter into these relationships for the fact that they would not be burdened with any sort of formalities and commitments. They want an easier way out. In the modern India, the scope of these are really wide. It can be out of love and affection or plainly out of lust. It can even be for compatibility detector as a pre marriage milestone or just a serious relationship without any such conditions. Talking on legal perspective, our courts recognize some definite kinds of domestic relationships as live-ins –

- a. a male and a female, both adult, both consenting, both unmarried
- b. unmarried female, married male, both adult, both consenting
- c. unmarried male, married woman, both adult, both consenting

d. unmarried female, consenting under mistake, married male, both adult¹

There is one more kind of relationship but that is not under the purview of “relationships in the nature of marriage” – it is same sex relationship². This interpretation comes from the definition clause of Domestic Violence Act, 2005³.

Thus, this paper deals with only those relationships as accepted under the statute.

PROS AND CONS

a. Attractions –

There are ‘n’ number of *prima facie* attractions associated with cohabiting together without having to bear the burden of responsibilities and duties. Any couple, especially the latter half of Gen Y and the former half of Gen Z, seem to be really enthusiastic about such ideas and tend to try it once in their lifetime.

The reasons owing to such inclinations are many. There are no commitments for the parties, they are not under the societal pressure of starting their own family through marriage or procreation. The idea in itself seems very adventurous and radical, which excites any youth. They believe that since it is totally their choice, therefore there is no regrets and there will only be the good part of the relationship, and when it descends toward getting bad, they can walk out of it.

It is also a way out of age old conventions. Since it is totally the practice of one’s choice, The couple can decide and distribute responsibilities as per their capabilities. Therefore in a country like India where women are mostly golden with household worlds while the men are burdened with the financial liabilities, here the couple can enjoy doing both kinds of work without being judged. It brings about tolerance. Even if the person is not willing to do it, he will do it out of love for his counterpart.

It eliminates matrimonial complications like the formalities with which the in -laws should be treated, or the incapability of walking out of the marriage because of the fear of being looked down as a person with estranged marriage, especially for women in Indian society.

¹ Indira Sarma Vs. VKV Sarma, 2013(14) SCALE 448

² ibid

³ S.2(f), Protection of Women from Domestic Voilnce,2005

b. Stumbling blocks –

Being in a live-in relationship might sound fun, as it allows one to be “enjoy their life at the fullest” but in actuality, it attracts a lot of societal and legal complications. To begin with deposition is not committed and thus, he/she may get out of the relationship whenever he/she wants. This would affect the mental health of the other partner severely. The left out partner might be the victim of depression, anxiety etc. as it does not turn out to be that casual always. And it is more than obvious, being with someone under one roof for a considerable period of time, to develop feelings and sentiments for them.

Further since there is no surety of commitment, one might misuse it out of being immature or selfish or any other likewise possibility. There is no societal or legal bar on him or her that would prevent him or her from escaping this relationship. Most people don't realise that even though they are trying to escape responsibilities, it is actually inevitable, even though at a smaller scale.

Further, there is also this possibility that the partner is subjecting his or her counterpart with cruelty, either mental or physical. It might so happen that the partner is subjected to physical violence frequently. However the victim is not seeking help out of the fear that he/she is living outside the law. Other fears that might encircle the victim are the social stigma or the taboo of being in a live - in relationship.

Moreover since there is no legality of their relationship many legal complications overflow. They do not enjoy the security and confidence of valid relationship as that of a marriage. Anyone can come and question the status of their relationship and they would not be in a situation to escape these unpleasant encounters. The fear will always exist.

Other serious matter can be unwanted pregnancy. In such situations since it was not desired, therefore it may happen that the pregnant woman is forced to tackle with this situation all alone because there exists no commitment. The male partner can easily take undue advantage of this. Another most notorious aspect of this cohabitation is the result of the process of procreation. The law does not guarantee any legal status to the children born out of live -in relationships. As per the case law of *Bharatha Matha Vs. R. Vijaya Renganathan*⁴, these children are

⁴ AIR 2010 SC 2685

equivalent to the illegitimate children and thus are void of many basic rights, which they would have enjoyed had they been the result of a lawfully wedlock procreation. All these hardships met out to the children and that too when they are at no fault for the situation they are in. However, there are judicial pronouncements made in contradiction to the decision passed above, in an attempt to ease the sufferings of the innocent. For example, in the case of *Tulsa Vs. Durghatiya*⁵, the norm was relaxed, and such children were given the status of akin to legitimate, provided the couple don't treat this relationship as a mere casual "walk in and walk out" relationship. Similar was the condition in the case of *Radhika Vs. State of Madhya Pradesh*⁶, where it was mandated for the couple to be in the relationship as husband and wife for a considerable long period of time in order to grant the status of legitimate child to the child born out of search relationship.

LEGAL STATUS

a. Of the couple

Having been witnessed the numerous problems associated with this "walk in and walk out" relationship, the paper now ascends towards looking into the legal journey and implications of this kind of relationship in India. The focus is now put into the redressal of these problems. The main problem comes here, as it is a well settled principle of any law that *Ubi Jus Ibi Remedium*. This undisputed principle in Latin means that where there is right there is remedy. So, that's where the vagueness comes. The important question under concern is whether there exists any right at all for these people, who have gone far and beyond the societal norms to cohabit, in order to seek remedy. Unfortunately the answer to this is no. In India there is no special law enacted yet to address and govern the laws relating to live in relationships.

However it cannot be said that the law is totally silent and shun about this topic. Owing to the increasing numbers related to these, the judiciary has from time to time, intervened in order to do justice to the aggrieved party. There has been numerous judicial pronouncements to safeguard their rights. To begin with we had a landmark case in the year 2010, *D. Velusamy Vs. Patchaiammal*⁷, wherein it was stated that women in live-in relationships are eligible to get maintenance from her male counterpart through the interpretation of section 125 of CrPC, provided that they meet certain conditions.

⁵ 2008 (4) SCC 520

⁶ AIR 1966 MP 134

⁷ (2010) 10 SCC 469

Apart from these there have been enactments of statutes that do not address the issues of these directly, rather help them in an indirect way. The referred statute is Domestic Violence Act, 2005⁸. The definition clause of this act describes the purview of domestic relationship, where in it includes persons who have lived together at any point of time by the virtue of any relationship in the nature of marriage, in a common household. It thus impliedly extends its protection to the women in the live- in relationships against various instances of domestic violence as described in the act⁹.

Our Constitution¹⁰ also allows the cohabiting of a couple under one roof as legal owing to the reason that it is the fundamental right of any citizen to exercise his//her right of choice and living under the Article 21 (right to life and personal liberty).

Last but not the least, there is a provision in the Indian Evidence Act, i.e., section 114. Under this provision, a male and a female who are living together for a considerable period of time under shared household are presumed and given the status of a married couple. However since it is a presumption it is always rebuttable.

b. Of the child born –

As discussed above the children born out of these relationships are not readily accepted as legitimate. The rights of such children in these circumstances are addressed to some extent through the Hindu Adoption and Maintenance Act, where it mandates that a Hindu to provide with maintenance of his children, whether legitimate or illegitimate¹¹. Similar is the contention in CrPC¹². However, it is minimal narrow right and that too applicable only to Hindu. But again, with the changing circumstances, there are judicial pronouncements in the recent years that award the status of legitimate child to these children born out of such relationships, for Example, in the leading case of *Uday Gupta Vs. Aysha and Another*¹³. With evolution of the society we may expect betterments for these class of children too, through these legal pronouncements. However as of now there exists no special enactments for the same. Also there exists no upward slope of these judgements that fully guarantee the rights to these children

⁸ S. 2(f), Protection of Women from Domestic Violence, 2005

⁹ S.3, Protection of Women from Domestic Violence, 2005

¹⁰ Art. 21, Constitution of India, 1950

¹¹ S. 20(2), Hindu Adoptions and Maintenance Act, 1956

¹² S.125 (1b), Code of Criminal Procedure, 1973

¹³ CrI. No. 3390 OF 2014

as there have always been conflicting views of judges in various cases.

Thus, from the above contentions, it can be concluded that there exists both opinions, in the eyes of law, for and against the existence of live-in relationship in a country like India. There have been attempts to safeguard the rights of the vulnerable getting caught in these worst case scenarios, then there have been also the absence of direct statutes to address these scenarios. There are decisions that do not encourage such relationships, provided there is some perpetuity in the relationships, but then there are also some guarantees to people but not adversely affected from the consequences of such relationships.

Thus, it can be concluded that the judiciary and the legislature want to address such issues but do not want the same format as it is being practiced in the country. It wants only to safeguard those who are into this with a bona fide intention. Clearly it cannot guarantee any right to someone who is trying to escape from best circle of rights and duties. In these cases a harmonious way out could be to practice the live-in relationships with a modified version that suits India and its Society. So like the couple can try these kind of relationships to check the compatibility of their companion with the intention of them getting into a permanent relationship together. Obviously not knowing the partner at all before marriage cannot be done in two days world as it would be huge injustice to both the parties. It may need to unpleasant circumstances adulated point of time. so for these purposes this concept can prove a very beneficial. This way even the society might accept it as the ultimate goal of it would be marriage and people would never object institution of marriage at any case. However if this concept is used as a mere casual thing then it would not be accepted readily in our country and maybe this is the reason why even after so many years of live-in relationships, there are no direct actual statutes in India. Clearly it cannot be a copy paste version of the western countries, rather it has to be fitted with the specifications of each country differently.

RECOMMENDATION

a. Special Statute

There should be an enactment of special statute for safeguarding the rights of the live-in partners, keeping in mind the vulnerable situation they are subjected to in a country like India. Not only the relatives or the peer pressure but also the live-in partners themselves can exploit this vulnerability because of the fact that there exists no regulatory laws as to the rights and duties for such kind of relations. Thus, giving way to increasing abuse and assaults under the

cloak of It is high time for such enactment considering the fact that a huge population of youth are turning towards such relationships.

b. Scope of Live-in

Further, an important recommendation would be to limit the scope of live-ins to a certain temporary period only. It should not be made a permanent thing. There seems no sense in that. When the partners are willing to live together, enjoy each- others constant presence, share work- load and expenses together, and even have babies together then why not get married. Live-in is important to check the compatibility between the partners to reach a decision. To know whether to make the relationship work or end it, to avoid matrimonial mishappening as far as possible. The fact, that India is all about cultures and rituals and families, cannot be overlooked and no alternate relation can enjoy the same status as marriage. If a couple is so committed then why not put it under the permanent socially and legally acceptable category. That'll only help them more.

c. Elimination of taboo

Live-in relations should be viewed as an aid towards establishment of marriages and families rather than the opposite. The fact that people use this as a mere “walk in walk out relation” just out of fun and casual attitude should be discouraged. In a country where even most of the millennials think it as a taboo, the idea of entering into live-ins without intending to marry would be a too radical one. Changes are needed but a gradual slope would be preferable in order to make things work for both the ones for such idea and the ones against it. It would then be acceptable in the society and not seen as that huge a taboo.

CONCLUSION

Live-in relationships should be a welcome thing legally and socially. If the path is not paved for such setups, then the youth would tend to continue observing it inconspicuously and exploit the lacunas in it. Thus, turning a blind eye towards such radical changes or simply suppressing such ideas would only worsen the situation. People would not be able to express their true selves and exact social standing in order to avoid being looked down upon or frowned upon in consequence of such relationships. There can be plenty other complexities. Therefore, understanding and thus recognizing the exact scope, opportunity and need for live-in relationships has become the need of the hour.