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Live In Relationships, A Law By Assumption?

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Live-In Relationship happens when a couple who are involved in a romantically or sexually are move in and live together on a permanent basis. This type of an arrangement is usually in reference to unmarried couple.

In India, cohabitation is considered a taboo and people often consider it to be a sin. However, idea of cohabitation instead marriage is slowly being accepted in the society. Unlike a marriage, couples in a live-in relationship are not married to each other but live together under one roof, which in turn resembles a relation like that of a marriage. In India, relationship between a man and a woman is considered to be a legitimate one only when marriage has taken place between the two based on the marriage laws of the country. All other relationships of similar kind are deemed to be illegitimate.

The reason why people choose to have a live-in relationship is to check the compatibility between couples before getting legally married. It helps the partners from the chaos of drama from family and lengthy court procedures in case the couple decides to undergo divorce and child custody etc. Whatever the reason might be, it is very evident that in a conventional society like that of India, where the institution of marriage is considered “sacred”, an rapidly increasing number of couples choose to have a live-in relationship, even as perpetual plans, rather than going through with marriage. In circumstances like that, a lot of legal and social issues have risen which are widely debated.

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Law in India

There is no particular law in India which governs the matter of live-in relationship. There is no legislation to lay down the rights and liabilities for the parties in a live-in relationship, and for the status of children born out of such wedlock. Furthermore, there is no any particularly accepted legal definition of live-in relationship and in this way the lawful status of such sort of connections is not proved. The Indian law does not give any rights or liabilities to the parties of live-in relationships. However, several courts have drawn a picture for the notion of live-in relationship through various judgments. Though law is still unclear about the status of such relationship, some rights have been granted by interpreting and modify the existing enactments so that misuse of such relationships can be prevented by the partners. A few examples are the **Domestic Violence Act, 2005**, interpretation of **Section 125 of the Criminal Procedure Code** and many Judicial Pronouncements.

Indian judiciary has managed to fill the void that was created in absence of a definite statute in reference to live-in relationships. It is regarded as an immoral act in the eyes of community but it is not illegal in the eyes of the law. The motive of the Indian judiciary is to render justice to the partners who are in live-in relationships, who were earlier not protected by any law when they are subjected to abuses coming out of such relationships. Judiciary is not directly promoting such concept nor prohibiting such kinds of relationships. It is, however concerned that there should not be any mistake of justice. Therefore, while deciding various cases, the judiciary kept in mind many factors including societal pattern and constitutional values.

Revanasiddappa v. Mallikarjun¹

In this case, Justice A.K. Ganguly in his judgment said “With changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today.”

¹(2011) 11 S.C.C. 1.

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In the year 2013, the Supreme Court of India in the case *Indra Sarma v. V.K.V. Sarma*² laid the following guidelines for a relationship to be called a Live-In Relationship. The 2 major criteria are:

a. Duration of Period of Relationship

There has been no clear definition as to what constitutes live-in relationship on the basis of time but the court has given liberty to the others to determine the time based on facts and circumstances of each case. So what might be 2 years in one case might not be the same in another.

b. Shared Household

The Court held that the couple must be living under one roof.

In *Dhannulal v. Ganeshram*³, the Supreme Court held that couples who are in a live-in relationship are presumably married legally. Also held was that the woman in the relationship would be able to inherit the property of her partner after his/her death. This judgment has been taken as a precedent in many judgments which followed in the years after.

Legal Status of Children Born from Live-In Relationship

S.P.S. Balasubramanyam v. Suruttayan⁴

The Supreme Court held that a child born to a man and woman living under the same roof for some years will be presumed to be a legitimate child under Section 114 of the Indian Evidence Act and also reiterated the direction given under Article 39(f) of the Constitution to take adequate steps so that children develop in a proper manner and their interests are safeguarded.

Bharatha Matha v. R. Vijaya Renganathan⁵

²(2013) 15 S.C.C. 755.

³Civil Appeal No. 3410 of 2007.

⁴A.I.R 1994 S.C. 133.

⁵(2010) 11 S.C.C 483.

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The Supreme Court established that if a child is born out of wedlock to parents who are in a live-in relationship, those children is considered to be legitimate child and should be allowed to inherit the property of the parents.

The same was reiterated in the case *Revanasiddappa v. Mallikarjun*⁶. The court went on to say that the birth of a child should be viewed independent from the relationship between that of the parents and is entitled to all the rights and inheritances there is to children born out of valid marriages.

Conclusion

Live-in relationship has always been the spot light of controversies as it carries threats to our basic societal framework but legally not considered an offense as there is no law which prohibits this kind of relationship. In order to bring justice to victims of live-in relationships, the judiciary took a step, brought new understanding and made such settlements valid. Still India has not legalized it. Legalizing means having a dedicated legislation. As of now, there is no law that governs matters related to succession, maintenance, guardianship in reference to live-in relationships. The Domestic Violence Act of 2005 has recognized, though not explicitly, the right of partners in a live-in relationship. It has acknowledged and assented to live-in relationships through many judgments so that the couple is protected from abuse.

At the same time, courts have abstained from taking any step towards legalizing such practice by allowing any compulsory agreements between unmarried couples as this could be against the notion of the general society strategy. It is pretty obvious that the Indian judiciary is not prepared to treat all kind of living relations as akin to marriage. Only couples with stable and reasonably long period of relationship are given the advantage of the 2005 Act. It is the duty of the judiciary to ensure that legislations or statutes have to accommodate with the evolving plot of the society. While courts in many judgments have attempted to get a clearer picture regarding the status of live-in relationships, it remains unclear on various aspects. There is an urgent need for having different sets of rules and regulation and codification with regards to such kind of relationship.

⁶(2011) 11 S.C.C. 1.