

Live-In Relationship and Challenges Ahead for Live-In Couples

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Abstract

Live-in relationship is a talk of the town in India these days. It is gaining popularity day by day among the young generation of India. Couples in most of the metro cities in India are preferring live-in as one of the option to take their relationship one step ahead. Everything goes well with couples till the romance blossoms through distance relationship, however, when the same couple starts living together life starts posing number challenges which both the partners may be facing it for the first time. The harsh realities of life start dominating the romance and the couple starts understanding the ground realities. In the present article author is trying to bring out the problems faced by live-in couples in day today life especially due to lack of support system.

This article is divided into seven parts: I Introduction, II Aims and Objectives of Research Paper, III Marriage and Live-in Relationship, IV Reality of live-in Relationship V. Live-in Relationship and Indian Legislation VI Legality of problems faced by Live-in couples VII Expectations and reality of Live-in relationship VIII Conclusion and Suggestions

Keywords: Live-in, shared resources, law, support, child, maintenance

I. Introduction

Human beings are rational and at the same time emotional animals. Thinking power and emotions differentiates human beings from rest of the animals existing in nature. Human beings live in society in a group called family and hence called as social animal. Being rational, human beings crave for reasons to know why they are existing. The existence should have some purpose and meaning. Emotional and psychological need unite all the human beings in one unit called society. For emotional wellbeing human beings live in small group called family. Fellow being around gives a sense of security, happiness, love and care. Want of love and care is the root cause of human beings longing for relationship. Relationships varies from need and emotions. Variety of emotions makes new bond of relationship, and named as wife, daughter, son, friend, father, mother, mentor, enemy, rival, etc. Out of number of emotional bonds one bond that a person seek beyond immediate family is that of companionship. Companionship might start with physical need but finally entangles human beings into emotions. Companionship in civilized society been given utmost importance because companions staying together may end up in starting a family. Child may have born out of the companionship started merely for physical pleasure. In order to protect the interest of human child and also to regulate interest of the parties involved in companionship in order to have orderly society concept of marriage emerged. Marriage further received sanction from religion of modern time as well as of old time. The protection further extended by State. State framed laws to protect the interest of parties involved in marriage. The main purpose behind to stop emotional exploitation and

to protect parties through financial ways. Slowly, in western world people started feeling that there is too much of interference of law and state in persons individual freedom of choice of entering into relationship and to come out of such relationship and a concept of live-in relationship slowly started growing in United State of America and today the situation is such that fifty percentage of couples live as live-in partners and starts family also without formal marriage. The same concept of live-in relationship has started gaining popularity in Countries like India. Asian countries where family system has strong roots has slowly accepting live-in relationship as one of the option to enter into and to try companionship before entering into permanent bond of live-in relationship. So in Asian countries the modern day concept of live-in relationship is in nascent stage. Slowly but steadily young couples in modern times in Asian countries like China and India has started preferring live-in relationship as one of the popular option for cohabitation. Specially in metro cities it is often found young couple due to economic constraint, professional commitments, starts living together for sharing of an apartment and then take the relationship one step further.

II. Aims and Objectives of Research Paper

- a. To have comparative study of matrimonial system and live-in relationship
- b. To study status live-in relationship in modern India
- c. To study the problems faced by live-in-partners
- d. To study how the live-in partners resolves the problems faced by them?
- e. To study and analyse difficulties faced by live-in couples in the absence of special legislation as well as judicial responses received by live-in couples in India
- f. To suggest remedial measures on problems faced by live-in couples

III. Marriage and Live-in relationship

It is argued that live-in relationship is not a new concept of living arrangement between two people in fact it is much older concept than marriage. Live-in was there much before marriage. The first live-in couple on earth, Adam and Eve, is the best example of live-in relationship¹. As society progressed and civilized a need for controlling human desires and wants in the form of multiple relations and in order to maintain purity of blood and genes concept of societal sanction for living arrangement started in the form of marriage. As time passed the marriage system became for rigid. Slowly it started gaining popularity because it was supporting family system. Concept of marriage was based more on obligations than purely on love. Human existence is beyond animal existence. There is purpose to human life. Human beings are subject to emotional need besides physical need². Marriage system addresses the basic need of human being safety, security and support in permanent form. Marriage goes beyond basic function of union of opposite genders, i.e., merely a procreation, and going one step ahead it addresses psychology of security and stability for growth of human personality. Hence in order to have healthy, balanced society family system is must and for stable family marriage treated as one of the most important system. Marriage system received sanction from both religions as well as from State. In modern times there are well defined religious as well as State laws protecting individuals in marriage system including the outcome of marriage, the children. Throughout the world almost all the religions give sanction to man and woman

¹ Sanjay Gaur, Live-in Relationship, Yking Books, (January 1, 2011)

² Alison Diduck, Marriage and Cohabitation (The Family, Law & Society), Routledge; 1st Ed. (2nd March, 2017)

unity falling beyond particular degree of prohibition either through blood or otherwise. Followed by religious laws State also framed laws to control man and woman unity under the name of marriage. Marital laws are special laws dealing with matrimonial matters of persons. Over a period of time matrimonial laws are becoming stringent and rigid day by day. The rigidity is unable to adjust the relationship in modern context. The religious laws as well as State laws are catering to the need of society by regulating marital relationships however too much of State interference in personal relationship has somehow adversely affected marriage.

Live-in relationship in modern times has come as an alternate to marriage. Rigidity of laws, economic pressure is forcing more and more couple to opt for live-in relationship. Easy entry in marriage system but complicated and long process for exit, tedious long legal battle just to end up relationship has forced many to rethink about marriage. Person marries for love, care and happiness. Complicated marital laws have shaken the very basis of relationship and legal protection to parties have just ended up modern day marriage in system of rights and duties. Party in marriage think more of legal rights and as the day passes tend to become more practical and self-centred Increasing role of State machinery in domestic life of people has a toll on family and marriage system. People have started thinking that it is better to have broken marriage than to have bad marriage. Marriage in modern world lost its true sense of love and security. What remained is obligation and loads of expectations which are backed by laws. The formalities to some extent have taken away the soul of marriage and it has become a formality. People are unable to get what they are expecting from marriage and the legal system bringing constraints on marriage making marriage as less popular option for living a peaceful life. Lesser influence of religious and moral obligations coupled with growing individualism has resulted into breaking down of marriage system in European and American continent and slowly in Asia also marriage system has started losing its popularity. In countries like China, India people have slowly started the option of live-in relationship³.

In metro cities of India more and more couple are opting for live-in relationship. Increasing marriage age, high competition in job market, increasing cost of living, staying away from home for career, rigid societal structure is giving way to live-in relationship. Live-in relationship is preferred because it is an individual's decision who is in love with other individual. Live-in is popular because no formalities are required to live together and no formalities required getting out of such relationship where love is over and couple do not want to live together. There is complete freedom based on individual's choices. Responsibilities are shared by both the parties the way they want and it is not predefined like marriage system. In marriage system families have lot of say and in most of the cases in India because interference from families of bride and groom act like a catalyst in breaking the relationship. Marriage system work more on predefined roles, guaranteed returns and legal protection. In live-in relationship it is the couple who are in love decides to live together and defines role, distributes responsibilities, shares resources and try together to work towards the relationship. The moment either party feels any exploitation in the form of financial, physical, emotional then that party may prefer to break the relationship and can put an end to that relationship just simply by walking out of that relationship.⁴ There are no court battles, no cases, family pressure, and societal pressure. It's an individual's private life and the decision purely is of individual to remain or to

³ Anne Barlow, Simon Duncan, Grace James and Alison Parks, *Cohabitation, Marriage and the Law: Social Change and Legal reform in the 21st Century*, Hart Publishing, (23rd June, 2005)

⁴ Beliza Ann Furman, *Test Driving Marriage: How to Tell If Your Live-In Relationship Is Headed to the Altar*, UNKNO (June 1, 1998)

come out of the relationship. There is no family, no society and no state playing role to dictate how personal life to be led.

Live-in relationship is not illegal because it is completely based on consensus of two individuals. When there is consensus then that is not crime. Although the society by and large opposing live-in relationship stating that it is a great threat to family system which is ultimately having toll on children who are future of society. Individual freedom in long run will have adverse effect on children and family system. Permanency backed by legal protection in marriage system versus individual's freedom of choice in live-in relationship without any interference from anyone is what a debatable issue. Though there is no security, no guarantee still the arrangement of live-in is gaining popularity among young couples in India.

IV Reality of Live-in relationship

In India live-in relationship is relatively new concept and couples preferring live-in relationships are relatively less in number and concentrated mainly in metro areas. As the concept of relatively new in India there is neither well developed legal system nor societal system acknowledging live-in partners. As on date live-in couples are free to decide the way they want to cohabit together. There is no restriction either from family or from society to live-in particular manner. Due to lack of set examples and lack of any legislative directions couples are completely free to choose the way they want to live-in. This has good as well as bad effect. Good effect is couples are experimenting and living freely that is helping their bond to become strong. They are understanding the responsibilities of life and able to face problems together. There are no constraints of traditions to define the role as to who will earn and who will cook and run the house. There are shared responsibilities and division of labour. Sharing of resources also brings maturity between the couples⁵. This is about good side of live-in relationship. As every coin has two sides similarly every relationship has two sides live-in relationship has also other side. Live-in couples are neither supported by family nor by society. Immaturity of either partner may spoil the cohabitation. Not each partner has same intention to enter into live-in relationship. Partner may exploit other partner either financially or economically. There may be chances of use and throw and a partner who is emotionally dependent may get exploited. There may be chance of unplanned birth of child which may be denied by other partner and the child may suffer for no fault. Lack of clarity on relationship goal may affect the partners adversely. Sensitive partner may get psychological set back. There are instances wherein couples from entertainment industry have tried live-in relationship and ended up in break up badly. Very few live-in couples take relationship one step ahead towards marriage. Many live-in partners due to lack of seriousness from either partner end up relationship on bad note with broken heart and wounds never to heal. The recent case of late actor Sushant Singh Rajput is one of the best example wherein person may enter into live-in relationship for economic benefits and professional up lift.

V. Live-in relationship and Indian Legislation

In modern times more and more couple prefer live-in relationship because of its simplicity. In European countries there are laws on live-in relationships shaping and treating live-in relationship as common law marriage. Live-in relation in India is in nascent stage and the percentage of people living in live-in relationship are less in number and hence there is no strong demand from society to frame legislation on

5. Vivek Mathur, Live-in Relationship Sex & Beyond, Kalpaz Publications (January 1, 2011)

live-in relationship. In India except Protection of Women from Domestic Violence Act, 2005 there is no official acknowledgement of live-in relationship under the any law in India.⁶

There is no specific law or direct legislation covering live-in relationship or addressing issues faced by live-in couples. Live-in relationship is guided by couples own their own. There are no rules regulations protecting live-in partners since this relationship is based on mutual consensus. There is a demand for laws to control the exploitation if any. Any injustice done by either party to another party should have been addressed by formal legal system. However, there are no formal legal ways to resolve any issues faced by live-in couples in their day today existence.

VI. Legality of problems faced by Live –in couples

Live-in relationship is opposed by society since it is a threat to well established marriage system in turn resulting adverse effect on family system which is foundation of healthy society. There is opposition to live-in relationship because the very base or foundation of live-in relationship is uncertainty. Though love is the base for such relationship same alone is not sufficient for day today existence. There are other stake holders in relationships. Child born out of relationship which has no fixed future or protection of law what will be the fate of such child if his parent lives each other just because love between then finished. There are other relationships which are attached to person what is the fate of those relationships? There is no clarity on same in the absence of no sanctions from family for live-in relationship.

Persons already married and having living spouse and entering into live-in relationship may amount to cheating. Married man and woman living together for couple of years and separates then whether the live-in woman can claim maintenance or not? If there are children born from marriage and children born from live-in relationship, then who will succeed to father's property? In the absence of any legislative measures it becomes difficult to resolve day today as well as long run problems faced by live-in couples. If no protection offered to live-in partner, then there is a fear that live-in relationship may turn into live-in prostitution and females may be used as concubines. In order to avoid exploitation of female live-in partners whether laws need to be framed or not is a debatable issue.

VII. Expectations and reality of Live-in relationship

In western countries like United States of America there are well defined laws protecting live-in couples. In India there are no such laws except Protection of Women from Domestic Violence Act, 2005⁷. In live-in relationship there is no defined law on how property to be managed, daily expenses to be managed between the couple. In case of joint accounts how monies will be apportioned. In case marital rape how the crime will be handled? Fate of the child born from such relationship. In case live-in partner runs away what other partner left with? There are instances wherein live-in relationships are treated as one-night stand. There are instances wherein one partner simply enters into for physical enjoyment and walks once need been satisfied. Thus exploiting other partner sexually under the garb of live-in relationship. There are neither criminal laws nor civil laws protecting live-in partners. In the absence of any legal control live-in relationships are used by many for different motives other than mere happiness.⁸ Besides physical need it is the emotional need that compels individuals to enter into relationship and to stay in such relationships

6 Ghosh Jayanta, Live in Relationship & Hindu Marriage Paperback – LAP Lambert Academic Publishing, April 28, 2015

7 Ms. Anupama Yadav, Dr. Anand kumar, "Live-in relationship: A study on legal actions", <https://ijcrt.org/papers/IJCRT2108495.pdf>, Last visited on July 21, 2022

8 Jawale Kalpana Vithalrao, Live-In Relationship: Recent Development and Challenges in India (April 26, 2012).

for mental peace and stability. There are leading cases decided by Apex Court from time to time are the only guiding torch available to live-in couples. These cases are on defining rights and liabilities for live-in couples but these cases are silent on how daily issues to be handled by live-in couples and protection available to partner who is not at fault and has to face wrath of other partner.

VIII. Conclusion and Suggestions

India has rich tradition of deep rooted family system. Advent of globalization not only melted the borders of countries economically but also culturally many things been exchanged freely. Changing ways of living life is having toll on marriage and family system. In India also individualism has started growing with that coming in of rejecting old ideas, way of life, rejecting old institution, less botheration of society and family, has slowly breaking the very strong aged old system of marriage. People are choosing live-in relationships to avoid legal battles, family interference and to live free life with no or less obligations. No interference from family members. Live-in partners are entering into relationship with mutual consent without any expectations for long term commitment⁹. There is no security of long run relationship and further benefits accruing from it, like marriage. Easy entry and easy exit is the main reason behind opting for live-in relationship. But when this love relationship becomes sour, then problem starts. Now, in the absence of support from family as well as from society coupled with no special legislation on live-in relationship the victim of live-in relationship becomes completely devastated. If legislation is framed protecting live-in relationship or controlling live-in relationship, then the basic essence for which people prefer live-in relationship will be lost and again acknowledging live-in relationship may affect right of legally wedded wife.

There are various sources of law one such source is judge made law which is made through case law. The problem with land mark cases are guiding live-in couples but these judgements are again varying from case to case basis and there is no uniformity in deciding live-in relationship. Sometimes the judges become liberal sometimes the judges take conservative view. Recently on 12th April, 2022 Hon'ble High Court of Madhya Pradesh, Justice Subodh Abhyankar of the Indore bench of the High Court made the observation while rejecting a pre-arrest (anticipatory) bail plea of a 25-year-old man accused of raping a woman made below observations, referring to live-in relationship¹⁰,

“Taking note of the spurt of such offences in recent times arising out of live-in relationships, this court is forced to observe that the bane of live-in-relationship is a by-product of Constitutional guarantee as provided under Art. 21, engulfing the ethos of Indian society, and promoting lascivious behaviour, giving further rise to sexual offences”.

Thus the Courts are sometimes liberal but while delivering the judgements they are also understanding the side effects of live-in relationship. The side effects are more severe and serious than the benefits one derives from live-in relationship. Hence it is high time that country like India a spiritual and cultural capital of world should wake up and frame a legislation which not only protect live-in partners but will also regulate live-in relationship without affecting its essence of complete freedom with responsible behaviour towards live-in partner as well as towards society.

9 Deepali Sharma, Shikha Rajpurohit, “Legal & Social aspects of live-in relationship” International referred research journal, January, 2012

10 <https://www.outlookindia.com/national/live-in-relationships-are-giving-rise-to-sexual-offences-high-court-news-192264>

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