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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

STATUS OF WOMEN UNDER LIVE-IN RELATIONSHIP IN INDIA

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Abstract:

When there aren't any clear-cut rules or regulations in place, the courts rely a lot on past rulings and their interpretations of the law to make decisions.

Although live-in relationships are not officially covered by law, the Indian judiciary has created jurisprudence through a number of rulings over the years. As per the ruling in *Badri Prasad Vs. Dy. Director of Consolidation* (1978) by the Supreme Court of India, live-in partnerships are permissible in India, subject to certain limitations such as marital age, consent, and mental stability.

Because fundamental freedoms are generally read widely and are relatively elastic, the legality or legitimacy of live-in relationships was a pretty easy issue for the courts to decide. Nonetheless, a number of laws dealing to various aspects of cohabitation still are too rigid for the courts to extend or interpret them for the benefit of live-in partners.

The Indian Constitution's Articles 19(a) and 21, which guarantee the right to life and personal liberty and the freedom of speech and expression, respectively, make live-in relationships lawful.

"The right to life emphasizes a person's freedom to enjoy life to the fullest, unless doing so is against the law." One is free to live anywhere they choose in this free society. According to Calcutta High Court lawyer Debrup Bhattacharyya, "the Right to Life under Article 21 is applicable in the context of live-in relationships in the sense that an individual has the right to live with a person of their interest with or without marriage."

Key words: live-in relationship, Cohabitation, Palimony, Adultry, Concubinage.

Introduction:

One may trace the legitimacy of cohabitation back to the 1970s.

In "Badri Prasad Vs. Board of Consolidators," the Supreme Court decided in 1978 that if a man and a woman have lived as husband and wife for a significant amount of time, there is a presumption of marriage.

When two people have lived together for an extended period of time as husband and wife, there is a strong presumption in favor of wedlock. The Supreme Court decided that even while the assumption is rebuttable, the person trying to strip the connection of its legal foundation bears a heavy burden.

In the 2001 case of "Payal Sharma Vs. Nari Niketan," the Allahabad High Court held that cohabitation between a man and a woman is lawful. The HC made a distinction as well between law and morality.

She can therefore move anywhere and live with anyone because she is a major [adult]. We believe that a man and a woman can live together even if they choose not to be married. Although society may view this as immoral, it is not against the law, according to the HC.

In the 2006 case of "Lata Singh Vs State of UP," the Supreme Court decided that cohabiting individuals of different sexes are not breaking any laws. "A live-in relationship between two consenting adults of heterogenic sex does not amount to any offense (with the obvious exception of 'adultery'), even though it may be perceived as immoral," the Supreme Court stated in its 2010 decision in "S. Khushboo Vs.

Kanniammal & Another," which upheld the 2006 ruling.

Since adultery was made less illegal by the Supreme Court in "Joseph Shine Vs. Union of India" (2018), the adultery exception is no longer valid.

The woman partner in a live-in relationship is protected by the Protection of Women from Domestic

Violence (PVDV) Act, 2005, according to a 2013 Supreme Court decision in the case of "Indra Sarma vs. VKV Sarma."

5. Types Of Live-In Relationships Under

Indra Sarma vs. VKV Sarma

The Supreme Court ruled that not all cohabitation is equivalent to marriage. The appellate court mentioned specific circumstances wherein the rapport between the aggrieved party mentioned in Section 2(a) and the respondent mentioned in Section 2(q) of the Domestic Violence Act would or would not constitute a marriage-like relationship. The bench listed certain categories in the judgment, but they are merely meant to serve as examples.

1. Domestic relationship between unmarried adult female and unmarried adult male: Relationships between unmarried adult female and unmarried adult male that resided in or were previously residents of a shared household are defined by Section 2(f) of the Domestic Violence Act. If domestic violence occurs, the relationship is covered by Section 3 of the Act, and the victim can always seek remedies available under Chapter IV of the Act.
2. Domestic relationship between an unmarried adult woman and a married adult male: When an unmarried adult woman knowingly starts dating a married adult male, things can get complicated. The issue is whether or not a relationship of this kind qualifies as being "in the nature of marriage" for the purposes of Section 2(f) of the DV Act.
3. Domestic relationship between an adult married woman and an adult single male: It is possible for an adult married woman to intentionally start a relationship with an adult male who is not married. The question is whether this kind of relationship qualifies as being "in the nature of marriage."
4. Domestic relationship between an unmarried woman and a married adult male: In certain circumstances, an unmarried woman and a married adult male may fall under the definition of Section 2(f) of the DV Act. In the eyes of the aggrieved party, this type of relationship may even be considered to be in the "nature of marriage."

5. Domestic relationships involving same-sex partners (lesbians and gays) are not recognized by the DV Act and are not eligible to be referred to as marriage-like relationships under the Act.

Legal Rights Of A Woman In Live-In Relationship In India

Your next question may be, "Do live-in couples have any rights?" after learning about the legal status of live-in relationships in India.

These couples undoubtedly have limited rights, or perhaps more accurately, the female partners in these relationships have certain rights. The parties to live-in relationships are guaranteed protection by the Indian judiciary, which acknowledges their existence. The purpose of these rights is to address the violence against women by intimate partners that they experience while dating. The Indian judiciary has rendered notable rulings in recent times, considering their sufferings. What, then, are the most significant and fundamental legal rights in India for a woman living with her partner?¹

Right To Protection Against Domestic Violence In Live-In Relationships

Are cohabitation relationships covered by the Protection of Domestic Violence Act as well? Indeed. Under the Protection of Women From Domestic Violence Act of 2005, Indian laws provide protection to women who are living together in addition to married women.

The legal status of live-in relationships in India is not specifically regulated by legislation; however, over time, the Indian judiciary has developed jurisprudence through the aforementioned judgments. Numerous rights for women living together have been introduced thanks to this string of rulings. The right to be shielded from domestic abuse is the most important one.

In order to protect women, the bench led by Hon. Justice K. S. Radhakrishnan formulated guidelines in 2013 that would incorporate live-in relationships into the definition of marriage for the protection of women from domestic violence. Supreme Court in **Indra Sarma vs VKV Sarma** held that women

¹ <https://bnblegal.com/article/rights-of-a-woman-in-a-live-in-relationship-in-india-legal-status-and-landmark-judgments/>

partners in live-in relationships are protected under PWDV Act.

According to Section 2(f) of the Protection of Women from Domestic Violence Act, a "domestic relationship" is defined as a relationship between two people who currently reside together or have previously resided in a shared household, regardless of whether they are related by consanguinity, marriage, adoption, or other familial relationships.

The Act shields women from abusive spouses and family members who live together in shared housing. The PWDV Act defines "shared household" in Section 2(s). Section 2(f) of the Act adds that the term also refers to a relationship that is similar to marriage for a married couple.²

Right To Maintenance In Live-In Relationships — Palimony

Can a live-in partner claim property?

The term "alimony" was first used by the California Supreme Court in the 1976 case of Marvin v. Marvin. Palimony is the term used to describe a man's financial support of a woman who has lived with him for a long time without getting married, only for him to leave her later.

In the cases of "D. Velusamy v. D. Patchaiammal" and "Chanmuniya v. Virendra Kumar Singh Kushwaha," the term "alimony" was first discussed in Indian courts. Sections 25 of the Hindu Marriage Act, 125 of the Cr.P.C., the Domestic Violence Act of 2005, and Section 37 of the Special Marriage Act of 1954 all contain provisions regarding maintenance for married women. Nonetheless, Palimony is not specifically covered by any Indian laws.

In November 2000, Home Ministry appointed "Malimath Committee" which was a Committee on Reforms of Criminal Justice System. The Committee submitted its report in 2003 where it made several recommendations in connection to the offences against women. One recommendation was to amend Section 125 of the Code of Criminal Procedure to alter the meaning of "wife". As per the revision made, the expression "wife" incorporates the ladies who were previously in a live-in relationship and now her accomplice has abandoned her at his will so a lady in live-in relationship

² <https://www.altacit.com/family-law/rights-of-women-in-live-in-relationship/>

can now get the status of a wife.

It means that a woman should have the same legal rights as a spouse and be eligible to receive maintenance under Section 125 CrPC if she has been living with her partner for a reasonable amount of time. It was observed that an assumption in favor of wedlock would arise when partners cohabit as husband and wife.

Since the Section pertains to women who are lawfully married, many have objected to the same. A woman can file a claim for compensation under Section 20(3) of the Protection of Domestic Violence Act of 2005 if she can show that her live-in relationship was both domestic and in the nature of marriage, according to a report published in the Jus Corpus Law Journal.³

Right To Shared Household In Live-In Relationship

In May 2022, the Supreme Court in the case of “Lalita Toppo vs. The State of Jharkhand and Anr” noted that a live-in partner can seek maintenance under the provisions of the **Protection of Women from Domestic Violence Act, 2005**.

The bench comprising former CJI Ranjan Gogoi, Justice Uday Umesh Lalit and Justice KM Joseph observed, *“In fact, under the provisions of the DVC Act, 2005 the victim i.e. estranged wife or live-in-partner would be entitled to more relief than what is contemplated under Section 125 of the Code of Criminal Procedure, 1973, namely, to a shared household also.”*

Legal Status And Rights Of Children Born In A Live-In Relationship

The Supreme Court gave legal validity to children born into cohabiting relationships for the first time in the 1993 case of S.P.S. Balasubramanyam v. Suruttayan. Furthermore, the bench noted that Section 114 of the Indian Evidence Act, 1872 establishes a presumption of marriage for a man and a woman who live in the same home and cohabit for a considerable amount of time. In the end, the kids will be accepted as legal adults and be qualified to inherit a portion of the family's assets.

³ <https://www.livelaw.in/columns/evolution-of-the-live-in-relationship-in-india-vis-a-vis-personal-law-218948>

The Supreme Court ruled in *Bharatha Matha v. Vijaya Renganathan* (2010) that a child born into a live-in relationship may be eligible to inherit the parents' assets, if any, and as a result, be granted legal legitimacy.

The Supreme Court ruled in *Kattukandi Edathil Krishnan & Others Vs. Kattukandi Edathil Valsan & Others*, which was decided in June 2022, that children born to partners in live-in relationships can be regarded as legitimate as long-term relationships rather than "walk in, walk out" ones.

“Long course of living together between a male and female will raise a presumption of marriage between them and the children born in such relationship are considered to be legitimate children,” the bench said.⁴

The supreme court stated that if a man and woman cohabitated voluntarily for an extended period of time and their child cannot be denied the shares in the ancestral properties, then the law presumes in favor of marriage and against concubinage.

Right To Visa Extension In A Live-In Relationship

The Supreme Court considered the case of an Uzbek national woman who sought to extend her visa because she had been living with an Indian man in the historic "*Svetlana Kazankina v. Union of India*" case. The respondent stated that the reason the visa extension was denied was because the relevant rules only allowed for such an extension in the event of marriage and not in cohabiting relationships. The Court observed that provisions concerning the granting of visas to foreign nationals married to Indian nationals allowed for the enjoyment of companionship, love, and affection by these couples. The highest court stated that marriage and cohabitation should not be viewed differently, viewing cohabitation as a fact of life, and granted the extension of a visa⁵.

⁴ <https://bnblegal.com/article/rights-of-a-woman-in-a-live-in-relationship-in-india-legal-status-and-landmark-judgments/>

⁵ <https://www.leadindia.law/blog/en/legal-rights-of-a-person-in-live-in-relationship/>

Supreme Court Guidelines On Live-In Relationships In India

What makes your cohabitation acceptable enough to be regarded as a marriage?

The Supreme Court outlined some guidelines for cohabitation in the historic ruling of Indra Sarma v. VKV Sarma. These guidelines are crucial in determining whether a relationship qualifies as marriage or not.

Duration of Relationship: The phrase "at any point in time" is used in Section 2(f) of the Protection against Domestic Violence Act of 2005 to denote a significant amount of time to establish and maintain such a relationship, which may vary depending on the circumstances.

Shared Household: According to Section 2(s) of the DV Act, a shared household is one in which the person who was wronged resides or has lived in a domestic relationship with the respondent at any point, either alone or with the respondent. This includes households that are owned or rented jointly by the aggrieved party and the respondent, or by either party alone, and in which neither party has any rights, titles, interests, or equity. Additionally, shared households may be households that are a part of the joint family that the respondent is a member of, regardless of whether the aggrieved party or the respondent have any rights, titles, or interests in the shared household.

Pooling of Resources And Financial Arrangements: A guiding factor could be helping each other out financially, sharing bank accounts, buying real estate in the woman's name or in joint names, making long-term business investments, and acquiring shares in both joint and separate names in order to maintain a long-lasting relationship.

Domestic Arrangements: A marriage-like relationship is demonstrated by giving the woman, in particular, the authority to manage the household and perform domestic tasks like cooking, cleaning, and housekeeping.

Sexual Relationship: Marriage-like relationships refer to sexual relationships that are not only for fun but also for emotional and intimate relationships, for the purpose of creating children and providing companionship, emotional support, and material affection, among other things.

Children: A marriage-like relationship is clearly indicated by having children. As a result, the parties hope to have a long-lasting relationship. It's also a good sign if you share parenting and supporting responsibilities.

Socialisation in Public: One of the most important ways to maintain the marital status of a relationship is to act as though you and your partner are husband and wife when you interact with friends, family, and the public.

Intention and Conduct of the Parties: The essence of a relationship is essentially determined by the parties' shared intentions regarding what the relationship will entail, what roles each will play, and other details.

Eventually, on April 8, 2015, the Supreme Court bench, which included Justices M.Y. Eqbal and Amitava Roy, announced in a historic ruling that live-in couples would be assumed to be legally married.

Conclusion:

Living together Cohabitation, then, refers to a situation in which two individuals choose to live together permanently or for an extended period of time in a close, emotional, and/or sexual relationship. The phrase is most commonly used to refer to unmarried couples. The Supreme Court's ruling may not have the desired effect of encouraging more couples to choose live-in partnerships over marriage, but it could give more young men and women more confidence because they would now be certain that there is no legal violation associated with living together. One can only consider the advantages and disadvantages, as well as how their choice will affect their family and, most importantly, themselves.