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## LEGAL STATUS OF LIVE IN RELATIONSHIP IN PRESENCE SCENARIO IN INDIA

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### ABSTRACT

We are all living in the 21st century where we are aware of our rights, so we can choose our religion and our life partner according to our will. So in the fast generation, a concept developed that is called the live-in relationship. If I talk about the previous time, at that time, men and women could live together after marriage. But in the 21st century, a new concept has emerged that is called "live in relationship". In this concept, a man and a woman live together even without getting married, according to their wish. "Live in Relationship" is a concept under which a man and woman live together without getting married.

### Introduction -

For the new generation, cohabitation without marriage is just normal, but according to Indian society, it's taboo. The concept of living together before marriage is considered extremely controversial morality. In India, couples who are living in a living-in relationship face a lot of discrimination from Indian society. Even if they search for a residential house for living, then it's too much trouble for them. If any landlord gave them, then they demand a huge rent for this. The landlord only accepts married couples. Couples who are living in a live-in relationship have to face many things because society deems them against the culture as well as immoral. According to Indian society, the live-in relationship concept is for people of loose character. In this 21st Century, Live-in relationship now legal in India and people are enjoying this right but still patriarchal still didn't accept it. But some people are accepting change and react according to changes time. Supreme Court already gives the legalized status to the Live-in relationship but our Society didn't accept till now. This 21st Century, slowly accepting the Concept of Live-in relationship but some people still didn't accept till now.

### Live-in relationships are a path to test compatibility for Marriage

live-in relationship gives the couple financial freedom. In this concept, each person bear own expenses and expenses are divided. This concept teaches the couple about the reasonability of life. In a living relationship, couples are just like free birds; if things are not working, they can live separately.

**Case** - The Supreme Court ruled in the landmark case of S. Khushboo v. Kanniammal that a live-in relationship is protected by the right to life under Article 21 of the Indian Constitution. The Court also ruled that live-in relationships are legal and that the act of two adults living together is not illegal or unlawful.

### Concept of Live-in relationship is better rather than divorce

.In a divorce, a person breaks down mentally. In a divorce, a man as well as a woman suffers from fear, anxiety, depression, self-doubt, and guilt.

In the live-in concept, when a couple separates, they don't get any regret or face depression, but in the case of divorce, they break badly from the soul. Moving out and moving in is far better than divorce. In India, divorce is just like stigma, but the live-in relationship allows separation of couples without state interference..

In Indian society, people look at a divorced woman in a dirty way, and if I talk about the woman's family when she is uneducated, they treat her just like a burden, and during that time she has to face a lot of problems.

**Live –in relationship are legal in India** – The Supreme Court ( apex court) has already said in many judgments that living in a relationship is not illegal. It's not a sin. If a couple wants to live with each other, then they can. Article 21 gives them the right to liberty. As a result, living in a relationship is not a criminal offence. The Supreme Court declared that a live-in relationship can be immoral by society's standards but not illegal. A Couple living together is a choice that falls under the right to life. As a result, no criminal offence exists. So, **in India, live-in relationships are legal.**

The government, the law, the constitution of India permits 'Live-In Relations.' Though statistics show more than 80% people of the country are accepting live-in relationships but less than half percent lives like this. So go ahead and try it out like an internship before taking on a job which will prepare you for the best and worst case scenario.

**The right to live in a relationship is included in the Fundamental Right.** Article 21 already gives the right to live with anyone according to their choice, and no one can restrict that choice, and various high courts have already given protection to those couples. Every person has freedom to choose partner according to their will and can live with them it's a fundamental right. Right to choose partner Our country is a

democratic country and we all have the right to live according to our choice, so we also have the right to choose our partner according to our will, so male or female, both can live with each other before marriage. This concept is included in the right to life . The right to stay in a live-in relationship is covered under Article 21. The court said that a couple in a relationship has the liberty to live together and no one has the right to interfere in their peaceful living. A couple living together is a choice that falls under the right to life. As a result, no criminal offence exists. So, in India, live-in relationships are legal and it's a fundamental right enshrined in article 21.

**Live –in relationship couples presumed to be legally married** : When a couple has cohabited continuously for a long time, then they would be presumed to be legally married to each other, and if the one party says that they are not legally married and have not lived in a long-term relationship, then the burden of proof is put on that party who said all this. If a Couple Cohabit like a Husband and wife and treat with each other like this for a long time , then Law will presume them as a as husband and wife.

**Right to Alimony** - The Domestic violence Act 2005 provides protection and maintenance, alimony to women in a live-in relationship. The courts have the liberty to decide the maintenance under this law and individual facts of the case. The concept of claiming maintenance has also been opined in various such judgments. A woman has a right to inherit the property after the death of the male partner and as well as a child born in this relationship is presumed to be a legitimate child and that child has a right to inherit the property.

Many Women's file a Petition for Inheritance of Property and, on that Petition High Courts and the Apex Court have passed various judgments. The Supreme Court and High Court gave the

judgment that in a live-in relationship, women also have the right to inherit property after the death of their male partner, but that property should be self-earned and not ancestral.

**Right to Privacy** - No Person has right to interfere in Live-in relationship couple life - Delhi High Court already said in a Judgment that No third person has right to interfere in Couple's Life who are Living as a Husband and Wife . Third Person word also involves Family members. Couples who are living in live-in relationship has a right of Protection and state have to give protection according to law because it's a constitutional right. In our Constitution, Every Person has a Right to Security and no one can give harm to that couple. Right to Security is a Constitutional Right. Right to Live –in relationship comes under the Article 21 and this right is legal now so if both people wants to Live with each other then they can Live Freely and its not Illegal

**Legitimacy Of The Child Born Out Of A Live-In Relationship** : The Supreme Court held that a child born out of a live-in relationship is not entitled to claim inheritance in Hindu ancestral coparcenary property (in the case of an undivided joint Hindu family) and can only claim a share in the parents' self-acquired property. The Bench set aside a Madras High Court judgment, which held that children born out of live-in relationships were entitled to a share in ancestral property as there was a presumption of marriage in view of the long relationship.

Reiterating an earlier ruling, a Vacation Bench of Justices B.S. Chauhan and Swatanter Kumar said, "In view of the legal fiction contained in Section 16 of the Hindu Marriage Act, 1955 (legitimacy of children of void and voidable marriages), the illegitimate children, for all practical purposes, including succession to the

properties of their parents, have to be treated as legitimate. They cannot, however, succeed to the properties of any other relation on the basis of this rule, which in its operation, is limited to the properties of the parents." A child can only make a claim on the person's self acquired property, in case the child is illegitimate. It can also be interpreted in a way in which a child could lay a claim on the share of a parents' ancestral property as they can ask for that parents' share in such property, as Section 16 permits a share in the parents' property. Hence, it could be argued that the person is not only entitled to self acquired property but also a share in the ancestral property.

The Apex Court also stated that while the marriage exists, a spouse cannot claim the live-in relationship with some other person and seek inheritance for the children from the property of that other person. The relationship with some other person, while the husband is living is not 'live-in relationship' but 'adultery'.<sup>[4]</sup> It is further clarified that 'live in relationship' is permissible in unmarried heterosexuals (in case, one of the said persons is married, the man may be guilty of adultery and it would amount to an offence under Section 497 of the Indian Penal Code).

### Conclusion And Suggestions

Live-in relationships are now very popular in India. The law does not prescribe how we should live; it is ethics and social norms which explain the essence of living in welfare model. The Court itself notices that what law sees as no crime may still be immoral. It has said in a judgement of 2006, notices by the Court now, that two consenting adults engaging in sex is not an offence in law "even though it may be perceived as immoral." Of course, such protective sanctions may potentially lead to complications that could otherwise be avoided. But simply

raising the hammer may not be the best route to taming the bold and the brave. Awareness has to be created in these young minds not just from the point of the emotional and societal pressures that such a relationship may create, but also the fact that it could give rise to various legal hassles on issues like division of property, violence, cases of desertion by death of a partner and handling of custody and other issues when it comes to children resulting from such relationships.

While the Supreme Court's opinion might not have the undesirable effect on more and more couples preferring live-in relationships rather than opting to wed, it could certainly embolden more young men and women as they would now be convinced that there is no breach of law in the live-in relationship. One can only weigh the pros and cons and take into account the impact of their decision on their family and most importantly on themselves.

#### References -

1. [https://www.researchgate.net/publication/357687262\\_Livein\\_Relationships\\_in\\_India\\_A\\_Legal\\_Analysis](https://www.researchgate.net/publication/357687262_Livein_Relationships_in_India_A_Legal_Analysis)
2. Avantika Sarkar, (2015) " Law, Religion and Conjugal Ties: A Study of 'Live-in-Relationships' in Contemporary Indian Society", IJHRLR Vol. 1- Issue,ISSN 2455-5924.
3. Anuja Agrawal (2012), Law and 'Live-in' Relationships in India, Economic & Political Weekly, vol xlvi no 39.
4. [https://www.researchgate.net/publication/350202468\\_Live-In\\_Relationships\\_in\\_India-Legal\\_and\\_Psychological\\_Implications](https://www.researchgate.net/publication/350202468_Live-In_Relationships_in_India-Legal_and_Psychological_Implications)
5. <https://www.rgnul.ac.in/PDF/d0fb7efc-5940-42a4-980f-7e5c2d565c44.pdf>
6. <https://ijcrt.org/papers/IJCRT2108495.pdf>