

CONCEPTUALISING RIGHTS OF WOMEN IN LIVE IN RELATIONSHIP

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ABSTRACT

Relationships between men and women that are not based on a genuine marriage are considered "meretricious," "illegitimate," and other derogatory terms in Indian culture. Bigamy is a crime punished under Section 494 of the Indian Penal Code, save in the case of Mohammedans and for all other religions. When a conflict emerges between the parties to a marriage and the legal system, it is understood that marriage is a "social institution" and comes with a bundle of rights, duties, and legal remedies. Rights of 'wife' under various laws, such as the right to residence, right to maintenance, rights against cruelty and harassment, protection against domestic violence, and a legal duty is cast upon the husband to provide the basic necessities of food and shelter to maintain the family, protect women in patriarchal societies. Analysis was conducted utilizing theory-driven directed content analysis and theoretical frameworks that reflect family and gender-based views on violence.

KEYWORDS: Live in relationship, women, Patriarchal, Legal, Conflict, Indian Penal Code

INTRODUCTION

A LIVE-IN RELATIONSHIP is a long-term living arrangement in which an unmarried couple lives together under the same roof in a relationship that resembles marriage. In this way, a man and a woman might live together in a committed relationship without ever being married. In metropolitan areas, this kind of partnership has supplanted traditional marriage as a viable choice. With or without the desire to develop a long-term commitment, a "live in relationship" is a partnership in which two people of different sexes live together under the same roof or shared home. It isn't required that there be any kind of sexual interaction. Critics claim that this kind of connection is unstable and only meant to last for a short time. We have to realise that this way of life is not new or strange. For centuries, it has been a common practise in our culture. Many instances can be found in India of men who had many wives as well as multiple live-in relationships in their Zenanas.

LITERATURE REVIEW

HANNAH ZAGEL et.al (2020) Defamiliarization as a paradigm for comparing state-market-family ties is evaluated in this research for its merits and drawbacks. Despite rising theoretical criticism of defamiliarization in the past decade, its usage in empirical large-N research has increased dramatically. Although the idea has a high degree of parsimony, theoretical value, and field useability, it also has issues with the notion's resonance and coherence as well as its differentiation. It is our contention that the idea of defamiliarization is most logical and useful when its origins in welfare state theory are recognised. Our interpretation is that defamiliarization should be considered in conjunction with the independent notion of familization as a multi-dimensional concept of economic and social dependence in family ties, and as a way to address both gender and intergenerational dependence. Although the notion may be operationalized in empirical research, it places great demands on the data needed and the analysis that can be performed.

MANDEEP KAUR et.al (2019) Marriage in India is seen as sacred and holy by the rest of the world, and it is viewed as such by many Indians, too. Being able to view someone in real time is not at all novel in Indian culture. There is a major difference in the current day since people are now more open about their feelings. Individuals of opposite sex live together and care for each other's needs and actions in such a partnership. As time passes, we can witness a shift in our general public's attitude about romantic unions, such as the shift from admiration for romantic unions to the current trend of "living" with someone. In the case that an investigation is undertaken into why such relationships are growing so swiftly in today's environment, then undoubtedly avoiding the responsibilities of marriage would be the primary reason. The lack of responsibilities in such relationships, the disrespect for

social ties, the buzzing concept of daily workplace culture, and the absence of resilience in seeing someone have given rise to an alternative to relational unions. I'd like to examine the socio-legal impact of living together in our Indian traditional culture in this article, and I'd like to offer some therapeutic approaches to satisfy the changing requirements and demands of the current world in general.

Amy A. Conroy et.al; (2019) Sexual and reproductive health interventions in Sub-Saharan Africa will be most successful when they are built on an understanding of gender and power dynamics from an emic (insider) viewpoint. More than 60 young Malawians, aged between 18 and 25, participated in eight focus groups in which we delved into their views on gender roles within Malawian society. The three social structures of the Theory of Gender and Power: the sexual division of labour, the sexual division of power, and social norms and emotional attachments surrounding femininity and masculinity were used to guide our research. Gender interactions were described by young people using three interconnected and opposing narratives: tradition, unity, and rights. Gender roles and standards in patriarchal societies are often depicted via the usage of traditions. Some participants used themes of unity and rights to oppose this dominating discourse. Love and marital reciprocity were shown to be crucial sources of "power with" rather than "power over" in the unity tales. When it came to rights narratives, some participants acknowledged that the existence of the family depended on the rights of women, while others said that the rights of women were problematic for gender relations. As part of gender-sensitive interventions, it is important to address the many narratives on gender and power, including unity as a type of power that is gender-equitable.

Katherine Lippel (2018) The prevalence of violence against women has been examined extensively. We don't know enough about the many forms of violence that women have to deal with on the job. Working paper commissioned by the International Labor Organization's Gender, Equality, and Diversity Branch to provide an overview of literature on occupational violence, from a wide range of disciplinary perspectives, including conceptual papers and descriptions of regulatory frameworks from around the world. As a starting point, the article examines the many types of violence that may occur at work, from the physical to the psychological to the sexual, to the kind that is motivated by bias or prejudice, including sexual harassment. It then turns to psychological risk factors and structural violence as predictors of occupational violence. The conceptual portion ends with a discussion of the need of employing a gender lens to understand occupational violence and its origins.

An additional focus on women's issues is included in the article's discussion of various regulatory methods to the prevention of workplace violence. Finally, it argues for an integrated approach to workplace violence legislation in order to optimise the adoption of rights and the efficacy of preventative measures while ensuring that men and women have access to safe workplaces.

LIVE-IN-RELATIONSHIP AND RIGHTS OF WOMEN IN INDIA

The word "live-in relationship" does not have a legal meaning. "An arrangement of living under which the couples who are not married live together to conduct a long-term relationship similarly to marriage," is what the term "live-in relationship" refers to. It is a long-term or permanent connection between two individuals in which they live together emotionally and/or sexually intimately. Couples who are not married are more likely to use the word. In reality, it's a proclamation of freedom from the "shackles" of traditional marriage. To reject the institution of marriage, the stereotypes it spawned, and the limits and injustices it has come to represent is a conscious choice to do so.

In India, the majority of people still oppose live-in partnerships. For the time being, in Indian culture, these topics are still considered taboo. The vast majority of people see this as a morally repugnant and socially inappropriate arrangement.

Men and women living together without a legal marriage has been common for a very long time. For centuries, it was quite acceptable for males to cohabit with women who were not their spouses. An Avarudhstri was a concubine maintained for the man's pleasure and comfort. Women grew increasingly conscious of their rights after independence, when bigamy was prohibited and society matured. Even though this technique is now banned, it hasn't stopped individuals from breaking it.

Live-in relationships may be divided into two categories: "by choice" and "by chance." "By choice" refers to people who have agreed to live together willingly and are doing so without coercion. However, if two individuals are living together as husband and wife because of a mistake or a scam, they may be classified as "by circumstance." Living in a relationship voluntarily has no legal ramifications since there is no need for formal recognition; nevertheless, living in a relationship

unintentionally might give rise to complications due to a misunderstanding of the legal status of marriage. Live-in relationships may have been frowned upon in Indian culture traditionally. It's encouraging to see the number of such couples increasing, however. The Justice Mali Math Committee (2003) suggested to the Law Commission of India 2003 that if a woman has been in a live-in relationship for a significant amount of time, she may claim support under Section 125 of Criminal Procedure Code.

LEGAL ASPECTS

Under Indian law, a live-in relationship between two consenting adults is not prohibited. While a live-in relationship between two consenting adults of opposing sexes may be seen as immoral, it is not illegal, according to the 2006 ruling in "Lata Singh v. State of U.P." Although society considers live-in relationships unethical, they are not unlawful in the eyes of the law, as the Supreme Court stated in the case of *Khushboo versus Kanaimmal and others*. Living together is a fundamental human right that cannot be denied."

If a couple has been living together for a long time and presents themselves to the public as husband and wife, they might be legally recognized as husband and wife. It was noted as early as 1978 in the case of "*Badri Prasad vs Deputy Director Consolidation*" that "if man and woman who live as husband and wife in society are compelled to prove, after half a century of wedlock, by eye-witness evidence that they were validly married fifty years earlier, few will succeed. Prejudice favours marriage when the couples have been married for a lengthy period of time. Even if the assumption may be rebutted, the onus is on the one attempting to strip the connection of its legal foundation. Legitimacy is favoured by the law, but bastardy is discouraged. *SPS Balasubramanian Vs Suruttayan* made the same observation, in which it was observed that where two people live together as husband and wife for a long time, presumption under the law would be in favour of their being legally married to each other unless proven otherwise, and children born out of such a live-in relationship would be entitled to inheritance in the property of the parents. Neither party may claim the advantages of a formal marriage if the connection is just sexual. *IndraSarma vs. VKV Sarma* was a landmark case in which the consequences of various sorts of partnerships were considered in respect to live-in relationships. No offence is committed if both couples are unmarried and engage into a mutual partnership.

Domestic cohabitation between a married man and a married woman was formerly considered "adultery" under Section 497 of the Indian Penal Code, although only for the male (IPC). In September 2018, the Supreme Court of India nullified this clause in the case of "*Joseph Shine versus Union of India*" because it was found to be in violation of Article 14 of the Indian Constitution. The clause discriminated against men and women since only the male may be prosecuted for adultery, not the woman. Furthermore, only the woman's husband had the authority to bring charges against the alleged perpetrator, and she could not do so. When it comes to civil matters, cohabitation with any married man or woman might be a reason for divorce, which is gender neutral, even if adultery is no longer criminalized. Section 377 of the Indian Penal Code (IPC) also defined cohabitation with sexual contact between two adults of the same sex as a crime of unnatural offence prior to 2018. However, in "*Navtej Singh Johar versus Union of India*," the situation was reversed. The Supreme Court overturned Section 377, which criminalized private gay intercourse between two or more consenting people. Articles 14, 15, 19, and 21 of the Constitution were found to be violated by it, as well as being unconstitutional, illogical, and arbitrary. It is still in the law book as legitimate and applicable to Section 377, which relates to nonconsensual sexual actions between two adults, as well as to children and all bestiality. The same sex weddings have been authorized in India, however the country does not recognise them, even if a symbolic same sex marriage is not illegal.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

Live-in relationships have been recognized by the Protection of Women from Domestic Violence Act (hereinafter PWDVA) 2005, which gave rights and protection to females who are not married, but are living with a male under the same roof in a relationship that is similar to but not identical to that of a wife (Auroshree , 2019). In the 2005 Domestic Violence Act, Section 2(f) is defined as:

People who live together in a common home and are connected to each other through consanguinity, marriage or a connection in the nature of marriage, adoption or are family members who live together as a joint family might be considered to be in a domestic relationship.

The Act does not define a live-in relationship in any way, leaving it up to the courts to decide what constitutes one. Due to the aforementioned clause, the Court reads the phrase "relationship in the character of marriage." It is now up to the requirements of the PWDVA to ensure that those in live-in relationships are protected from the exploitation of false marriages, bigamous unions and so on.

MAINTENANCE

There were various suggestions for 'offences against women' in 2003's Malimath Committee report, which was presented by the committee, which was established in November 2000. Section 125 of the Criminal Procedure Code (hereafter CrPC), which deals with the support rights of the 'neglected and dependent wife, children, and parents (Anuja Agrawal 2012), was one of the most important proposals offered. As a result, the committee also sought to broaden the definition of "wife" under the CrPC to include a woman who has been living in the same home as the male for a significant amount of time. To be eligible for PWDVA, a woman must meet the aforementioned conditions, which include being of legal age, having permission from both parties, having lived in the country for a long amount of time, and having a high social level.

One-night stands, long-term commitments, and other types of relationships based only on sexual desire are all forms of insincerity that should be avoided at all costs. 14 The Supreme Court overturned the High Court's decision that the appellant's wife was not entitled to maintenance under Section 125 CrPC because only legally married women are entitled to claim maintenance under that section, and awarded the appellant (the wife) maintenance, stating that the provisions of Section 125 CrPC must be considered in light of Section 26 of the PWDVA, 2005, as well as other relevant provisions. All of the rights and reliefs available to a lawfully married wife are accessible to women in live-in partnerships, according to the Supreme Court. Supreme Court ruled in *AbhijitBhikasethAuti v. State of Maharashtra and Others* that a woman in a live-in relationship may also claim support under Section 125 CrPC, it is not required to rigorously prove the marriage to claim maintenance under Section 125 CrPC.

In any event, the Supreme Court found that denying victims any of the protections listed in PWDVA, 2005 was unfair to them in the same instance. Section 2(f) of PWDVA, 2005, which deals with "domestic relations," should be expanded to include those who are "dependent," "poor," "illiterate," and their children, according to the Supreme Court.

CONCLUSION

There are several unanswered issues in India's live-in relationship legislation. The rights of any children born as a result of these types of partnerships should be protected. A precise definition of what constitutes a live-in relationship and the rights and responsibilities of its participants is urgently needed. This law should be passed as soon as possible. It's common for cohabitation or living together to be seen as a human rights and individualistic attitude. In spite of its widespread use in most Western nations, India's social fabric is much different from that of the West in this respect. This may be seen in the fact that in India, marriage is still preferable over any other type of partnership. However, this does not imply that mature unmarried couples who choose to live together under the same roof should be forbidden or frowned upon for any reason whatsoever.

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