STUDY NOTES · BASIC CONCEPT

Can a Married Person Enter a Live-in Relationship Without Divorce? A Look Under Hindu Law

Society & Social Justice

25 Dec 2020

What is Hindu Law on Marriage?

- Hindu law on marriage is mainly governed by the Hindu Marriage Act, 1955 (HMA), which applies to Hindus, Buddhists, Jains, and Sikhs. The law treats marriage as a serious and legally binding relationship, not just a personal arrangement. It is based on the principle of monogamy, meaning a person can have only one spouse at a time.
- Having a second spouse during the lifetime of the first amounts to bigamy, which is a criminal offence under Section 494 of the Indian Penal Code (IPC). A marriage continues to exist in the eyes of law until it is formally dissolved by a court through divorce.
- Adultery, though no longer a criminal offence after the Supreme Court's decision in Joseph Shine v. Union of India (2018), still remains a valid ground for divorce under Section 13 of the HMA. This shows that while personal morality may not attract criminal punishment, it still has civil consequences under marriage laws.

Does Hindu Marriage Act Recognise Live-in Relationships?

- The Hindu Marriage Act does not recognise live-in relationships. There is no mention of live-in arrangements in the Act, and such relationships are not treated as marriages under Hindu law. However, Indian courts have acknowledged that long-term live-in relationships between unmarried adults may deserve limited legal protection, mainly to prevent exploitation, especially of women.
- This protection comes not from the Hindu Marriage Act, but from constitutional principles and welfare laws like the Domestic Violence Act, 2005.

Do Married People Have the Right to Live-in Without Divorce?

- Under Hindu law, a married person does not have the right to enter into a live-in relationship without obtaining a divorce. Living with another person while the marriage is still legally valid is generally treated as having an adulterous character. While adultery is no longer a crime, it can still:
- Be used by the spouse as a ground for divorce,
- Lead to loss of maintenance rights under Section 125 of the Criminal Procedure Code, and
- Deny legal protection to the live-in relationship itself.
- Courts have clearly held that such relationships do not qualify as "relationships in the nature of marriage".

Key Judicial View

- In D. Velusamy v. D. Patchaiammal (2010), the Supreme Court clarified that for a live-in relationship to receive legal protection, both partners must be legally eligible to marry, meaning neither should be already married.
- Similarly, in Indra Sarma v. V.K.V. Sarma (2013), the Court refused protection to a woman who lived with a married man, holding that such a relationship cannot be equated with marriage.
- More recently, the Allahabad High Court (2025) ruled that a married person cannot claim the right to a live-in relationship without divorce, as personal liberty ends where the legal rights of the spouse begin.

Consequences of a Live-in Without Divorce

- If a married Hindu enters a live-in relationship without divorce, it can lead to:
- Easy grant of divorce to the legal spouse,
- Possible denial of maintenance,
- No legal protection for the new partner,
- Risk of bigamy charges if the relationship resembles marriage, and
- Courts refusing police or legal protection in case of disputes.
- Children born from such relationships are legitimate under Section 16 of the HMA, but the relationship itself remains legally unsupported.

BECOME IAS
UPSC Preparation by ZINKPOT

Conclusion

In simple terms, Hindu law does not allow a married person to start a live-in relationship without first ending the marriage through divorce. Courts may tolerate live-in relationships only among unmarried or legally divorced adults, and even then, protection is limited. Personal freedom under Article 21 is important, but it cannot override marriage laws and the rights of a legally wedded spouse.