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## Live in Relationships, Legal Recognition and Its Challenges in India: A Critical Study

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KEYWORDS	ABSTRACT
Live-in Relationship, Legal Recognition, Indian Judiciary, Cohabitation, Domestic Partnership, Maintenance Rights, Societal Challenges, Legitimacy of Children, Personal Laws, Constitutional Morality	This research critically explores the socio-legal evolution, judicial recognition, and emerging challenges surrounding live-in relationships in India. While such relationships have gained visibility due to changing societal norms and increased individual autonomy, their legal recognition remains limited, ambiguous, and often inconsistent. This study examines judicial pronouncements, legislative lacunae, societal attitudes, and comparative international models to offer a holistic analysis of the current legal framework. It also investigates the implications of such relationships on rights related to maintenance, inheritance, domestic violence, and legitimacy of children. The research concludes with suggestions to formulate a more inclusive and consistent policy.

### Introduction

Live-in relationships, though socially contentious, have gradually emerged as a form of companionship outside the institution of marriage. The transformation in urban lifestyles, exposure to global cultures, and assertion of individual autonomy have normalized such arrangements, especially among youth. However, the Indian legal framework has not evolved proportionately, leading to conflicting judicial interpretations and societal resistance. This study aims to critically examine the legal stance on live-in relationships in India, the role of courts in shaping their recognition, and the practical challenges faced by individuals involved in such partnerships. Live-in relationships where two individuals choose to cohabit and share a domestic life similar to

marriage without formally entering into wedlock are increasingly becoming a visible and complex social reality in modern India. This form of partnership challenges traditional notions of marriage, family, and morality, which are deeply rooted in Indian society. With the rise of individual autonomy, urbanization, and evolving social values, especially among the youth, such relationships have emerged as alternatives to conventional marriage. However, this shift in societal norms has not been matched by corresponding legal reforms. In India, there is no codified law that explicitly governs live-in relationships. While courts have recognized such relationships in certain contexts such as under the DV act the legal status of live-in partners remains largely uncertain and inconsistent. Key issues such

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as maintenance rights, inheritance, legitimacy of children, and protection from abuse continue to be governed by fragmented judicial pronouncements, often varying case by case. Additionally, societal attitudes towards live-in couples remain conservative, leading to stigma, moral policing, and denial of legal entitlements, particularly for women. This study critically examines the evolving legal recognition of live-in relationships in India, the role of the Indian judiciary in shaping the discourse, and the challenges that continue to hinder the full realization of rights for individuals in such relationships. It also draws comparative insights from international legal systems that have developed structured frameworks for recognizing cohabiting couples. In doing so, the research underscores the urgent need for comprehensive legal reform that aligns with constitutional principles of personal liberty, equality, and dignity.

### **Research Methodology**

This study adopts a qualitative doctrinal research methodology, relying on primary sources like statutes, case laws, and constitutional provisions, along with secondary sources such as journal articles, law commission reports, and academic commentary. Comparative legal analysis is employed to study how other jurisdictions regulate cohabitation.

### **Research Approach**

The research follows a critical analytical approach to evaluate the gaps in the legal system and judicial responses to live-in relationships. It also adopts a socio-legal perspective to understand how law interacts with societal values, culture, and morality in this domain.

### **Statement of the Problem**

Despite judicial attempts to accord some recognition to live-in relationships, the absence of a codified law creates uncertainty regarding rights related to maintenance, inheritance, property, and domestic violence. This legal vacuum often leads to inconsistent rulings, social discrimination, and denial of justice to cohabiting partners, especially women and children born out of such relationships.

### **Purpose of the Study**

The study aims to explore the existing legal position of live-in relationships in India, identify challenges and inconsistencies, examine judicial trends, and propose viable solutions for comprehensive legal recognition and protection of rights of cohabiting partners.

### **Literature Review**

Several scholars have examined live-in relationships from different perspectives. While authors like Flavia Agnes and Indira Jaising have emphasized gender justice and protection of women's rights, others like Upendra Baxi focus on the intersection of law and morality. Various journal articles in *JILI*, *SCC Online*, and *Indian Bar Review* highlight the evolving jurisprudence on this subject, especially post-2005 with the Domestic Violence Act. However, most literature is either case-specific or lacks a holistic critique of the fragmented legal landscape. The concept of live-in relationships in India has drawn considerable academic attention in recent years, largely due to its increasing prevalence and the legal vacuum surrounding it. Scholars have approached the topic from diverse perspectives gender justice, constitutional morality, family law,

and human rights highlighting both the progressive judicial interpretations and the persistent societal and legal challenges. Flavia Agnes (2019), a prominent feminist legal scholar, has discussed the socio-legal consequences of live-in relationships in India, particularly for women. She argues that while the judiciary has taken steps to recognize the rights of women in non-marital relationships, these protections are often limited to cases under the DV act and lack consistency across different legal domains such as inheritance or child custody (Agnes, 2019). Indira Jaising (2020) has explored how women in live-in relationships face social vulnerability and are often denied equal legal status compared to married women. Her work emphasizes the need for a codified law to ensure clarity, especially in cases of maintenance and protection from domestic abuse (Jaising, 2020). Upendra Baxi (2008) discusses the broader implications of personal liberty and constitutional morality, particularly in contexts where traditional morality is used to regulate individual choices. He cautions against the judicial tendency to moralize live-in relationships while simultaneously failing to address the structural inequalities that make women in such arrangements more vulnerable (Baxi, 2008). The Law Commission of India in its 2018 Report No. 277 acknowledged the growing relevance of live-in relationships and recommended that cohabitation should not be presumed as marriage unless the couple explicitly states so. However, the report stopped short of recommending a standalone legal framework, reflecting the state's cautious approach (Law Commission of India, 2018). Judicial developments

have played a significant role in shaping the recognition of live-in relationships. In *Indra Sarma v. V.K.V. Sarma* (2013), the Supreme Court outlined criteria to determine whether a live-in relationship qualifies as “relationship in the nature of marriage” under the Domestic Violence Act. However, as Singh (2021) notes, courts continue to adopt divergent views depending on the facts of each case, resulting in uncertainty and lack of legal uniformity (Singh, 2021). Comparative studies have also enriched the discourse. Sharma (2022) explores legal recognition of cohabitation in jurisdictions like the UK, USA, and France. Her analysis suggests that while India relies heavily on judicial interpretations, other countries have codified rights and duties of cohabiting partners through legislative frameworks such as France’s *Pacte Civil de Solidarité* (PACS) or common law marriage in some U.S. states (Sharma, 2022). Mishra (2023) draws attention to the children born out of live-in relationships and their right to legitimacy, inheritance, and identity. She argues that while courts have occasionally ruled in favor of such children, these judgments are not backed by statutory law, creating further ambiguity (Mishra, 2023). Despite these contributions, there is a noticeable gap in literature that holistically examines the combined legal, societal, and international dimensions of live-in relationships. Most works focus either on judicial rulings or on gender rights with limited exploration of how international models could inform Indian legal reforms.

### **Research Gap**

There is a lack of comprehensive research that

critically examines the combined legal, societal, and international dimensions of live-in relationships in India. Further, insufficient attention has been paid to the comparative legal models that can inform Indian lawmaking.

### **Research Objectives**

1. To analyze the legal recognition of live-in relationships under Indian law.
2. To examine judicial trends and their impact on cohabiting partners.
3. To evaluate the challenges faced by individuals in such relationships.
4. To compare international legal frameworks on cohabitation.
5. To suggest reforms for inclusive legal recognition of live-in relationships in India.

### **Hypothesis**

The current legal framework in India inadequately recognizes and protects the rights of individuals in live-in relationships, resulting in legal uncertainty and social vulnerability, particularly for women and children.

### **Research Questions**

1. What is the legal status of live-in relationships in India?
2. How have Indian courts interpreted and responded to such relationships?
3. What legal challenges arise in relation to maintenance, inheritance, and domestic violence?
4. How do international jurisdictions recognize and regulate cohabitation?
5. What legal reforms are necessary to ensure justice and clarity in this domain?

### **Scope, Significance and Relevance of the Study**

The study focuses on India but includes international perspectives for comparison. It is relevant to legislators, judiciary, social workers, and legal scholars, as it seeks to bridge the gap between societal reality and legal frameworks. It contributes to debates on personal liberty, gender rights and social justice, and proposes a roadmap for reforming India's approach to live-in relationships.

### **International Perspectives**

Countries like France (PACS), the USA (Common Law Marriage), and the UK (Cohabitation Rights Bill) have recognized live-in arrangements, either through statutes or judicial pronouncements. These models provide varying degrees of legal protection related to property, inheritance, and domestic abuse. India can learn from these experiences to develop a context-specific legal framework while preserving constitutional values. Across the globe, live-in or cohabitation relationships have gained legal recognition in varying degrees depending on cultural, social, and legal contexts. Countries such as France, the United Kingdom, the United States, Canada, and Australia have developed legislative or judicial frameworks that address the rights and responsibilities of partners in non-marital relationships. These international models provide useful insights into how India can shape its own policies while respecting its constitutional principles and societal sensitivities.

**In France**, the introduction of the Pacte Civil de Solidarité (PACS) in 1999 marked a significant development in recognizing civil unions between two adults, including same-sex couples. PACS grants legal status to live-in partners regarding

property, taxation, and social benefits, without equating them entirely with marriage (Borrillo, 2010). This model offers a flexible, middle-ground alternative between marriage and informal cohabitation.

**The United Kingdom** has seen increasing debate over the Cohabitation Rights Bill, aimed at protecting long-term cohabiting couples who live together without marriage. Although the bill is yet to become law, it proposes giving rights similar to marriage in cases of relationship breakdown or death (House of Commons, 2021). Despite the progressive nature of British family law, current protections for cohabiting couples remain limited and largely dependent on contractual agreements.

In several **U.S. states**, especially Colorado, Texas, and Utah, common-law marriage is recognized, where couples gain legal status without formal registration, provided they live together for a specific period and hold themselves out as married (American Bar Association, 2021). However, recognition varies by state and poses challenges in determining when such a relationship qualifies legally, especially in inter-state disputes.

**Canada and Australia** have relatively advanced cohabitation laws. In **Canada**, common-law partners are legally recognized after living together for a certain period (typically one to three years), and they enjoy rights related to spousal support, property, and even child custody (Cossman, 2014). **Australia's Family Law Act, 1975**, recognizes "de facto relationships," which grants partners almost identical rights as married couples, particularly in property disputes and parenting matters (Fehlberg et al., 2021).

These international models indicate a general trend towards legal formalization of cohabitation, either through statutory recognition or judicial decisions. However, the recognition is typically contingent on the duration of cohabitation, mutual commitment, or joint financial arrangements.

In contrast, **India lacks a codified framework**. Judicial interpretation under acts like the DV act provides partial protection to women, but other aspects such as inheritance, child legitimacy, and property disputes remain largely unresolved. While the Supreme Court of India has occasionally drawn on international human rights principles and comparative constitutional law, a more structured adoption of global best practices is yet to be seen.

Hence, international perspectives highlight the importance of a clear, inclusive, and non-moralistic legal framework that India can adapt while preserving its constitutional ethos. These models offer a reference for how law can evolve to balance social change with individual rights especially in pluralistic and democratic societies.

### **Live-in Relationships and Its Impact on Society**

Live-in relationships, often defined as arrangements where two individuals choose to cohabit without getting legally married, have increasingly become part of the evolving fabric of Indian society. While such relationships reflect changing social norms, individual autonomy, and liberal attitudes, their emergence also exposes deep-seated tensions between modernity and tradition, constitutional morality and social morality, and legal recognition and societal acceptance.

### **Legal Recognition and Associated Challenges**

Although the Indian judiciary particularly the Supreme Court has extended certain protections to live-in partners, the absence of comprehensive legislation continues to pose significant challenges. Indian courts have recognized such relationships under the DV act, and have upheld them under Article 21 of the Constitution, protecting the right to life and personal liberty (Khushboo v. Kanniammal, 2010; Indra Sarma v. V.K.V. Sarma, 2013). However, judicial pronouncements remain inconsistent, and protections do not extend to all aspects of family life such as property rights, inheritance, and legitimacy of children.

### **Impact on Indian Society**

#### **Changing Perceptions of Marriage and Family**

Live-in relationships challenge the traditional Indian view of marriage as a sacrament and institution rooted in religious, social, and cultural obligations. They reflect individualistic and contract-based understandings of relationships, creating discomfort in traditional communities. In urban and semi-urban settings, especially among the younger population, live-in relationships are increasingly seen as valid forms of companionship. In contrast, rural and conservative segments continue to view such arrangements as immoral or socially unacceptable, often resulting in social stigma, ostracism, and even violence.

### **Empowerment vs. Vulnerability of Women**

Live-in relationships can empower women by giving them greater freedom of choice and independence from patriarchal family structures. However, in the absence of clear legal backing, women in such relationships are often left legally and socially vulnerable, particularly in cases of

abandonment, abuse, or death of the partner (Agnes, 2019). Women may face difficulty in claiming maintenance, accessing inheritance, or proving domestic violence, especially when the relationship isn't deemed "in the nature of marriage" by the courts. This legal ambiguity has resulted in injustice and exploitation, despite the court's intent to protect individual rights.

### **Stigma, Honour, and Social Ostracism**

Indian society places high value on familial honor and social conformity. Couples in live-in relationships are often targets of moral policing, harassment by neighbors, and familial rejection. Several high-profile incidents have highlighted the risk of honor crimes and public shaming, especially when such relationships cross caste or religious lines.

### **Impact on Children Born out of Live-in Relationships**

The legal status and rights of children born out of such relationships remain complex. While courts have occasionally granted legitimacy to such children for limited purposes (e.g., inheritance from parents), the lack of statutory clarity creates long-term issues for the child's social and legal identity (Mishra, 2023).

### **Catalyst for Legal Reform and Constitutional Discourse**

Despite opposition, live-in relationships have led to progressive legal discourse in India. Courts have begun to distinguish between social morality and constitutional morality, with judgments upholding personal freedom and dignity (Navtej Singh Johar v. Union of India, (2018)). These cases are now shaping public policy and could lead to future legal



codification.

The emergence of live-in relationships in India is not merely a legal or moral debate but a profound social transformation. It signifies a shift towards individual autonomy, freedom of choice, and constitutional values. However, the absence of comprehensive legislation, inconsistent judicial responses, and societal resistance continue to impede the full realization of rights for individuals in such relationships. To bridge the gap between changing societal realities and rigid legal structures, India needs a balanced approach one that draws from international best practices, aligns with constitutional principles, and respects cultural sensitivities. Without this, live-in partners especially women and children will remain invisible in law and vulnerable in society.

### **Role of Indian Judiciary**

The Indian judiciary has played a pivotal role in shaping the discourse around live-in relationships, especially in the absence of any explicit statutory framework. Through various landmark judgments, the courts have gradually extended limited legal recognition to such relationships, particularly under the ambit of protection laws and constitutional rights. However, the judiciary's approach has been evolving and sometimes inconsistent, reflecting the tension between progressive constitutional values and prevailing social morality. The Supreme Court of India, in *S. Khushboo v. Kanniammal* (2010), held that live-in relationships, though unconventional, do not amount to any offence under law and are protected under the right to life and personal liberty guaranteed by Article 21 of the Constitution. The Court emphasized that adults

have the freedom to live together without formal marriage, reinforcing individual autonomy (*Khushboo v. Kanniammal*, 2010). In *D. Velusamy v. D. Patchaiammal* (2010), the Court attempted to define the phrase "relationship in the nature of marriage" under the DV act, laying down certain criteria such as long-term cohabitation, mutual dependency, and public perception of marriage-like bonding. However, the Court also excluded casual or "keep-like" relationships, thereby introducing moral undertones and creating ambiguity in interpretation (*Velusamy v. Patchaiammal*, 2010). *Indra Sarma v. V.K.V. Sarma* (2013) further clarified these criteria, where the Supreme Court laid down five tests to determine whether a live-in relationship falls within the scope of domestic relationships. The judgment recognized the vulnerability of women in such arrangements and the need to protect them from abuse. However, it also distinguished between legitimate and illegitimate cohabitation based on societal acceptance, which raised concerns about judicial moralism (*Indra Sarma v. V.K.V. Sarma*, 2013). High Courts have also contributed to this jurisprudence. The Allahabad High Court in *Payal Sharma v. Nari Niketan* (2001) upheld the right of an adult woman to live with a man of her choice without marriage. Similarly, the Punjab and Haryana High Court and Rajasthan High Court have repeatedly affirmed the fundamental right of cohabiting adults to live together without state interference (Jain, 2021). Yet, despite this recognition, courts have refrained from granting live-in relationships the full legal status of marriage. For example, rights related to

inheritance, property division, and joint custody remain largely unresolved or are decided on a case-by-case basis. Moreover, the lack of uniform criteria has led to judicial uncertainty and conflicting decisions, especially in lower courts. Critics argue that while courts have shown constitutional sensitivity in protecting individual liberties, their judgments often reflect cultural biases and moral apprehensions, limiting the progressive potential of such recognition (Agnes, 2019). The absence of statutory backing forces the judiciary to act within a narrow interpretive space, leaving many issues unaddressed. Thus, while the Indian judiciary has been instrumental in initiating recognition of live-in relationships, its efforts highlight the urgent need for legislative clarity. Judicial interpretations, though progressive in spirit, cannot substitute for a comprehensive legal framework that clearly defines rights and obligations of individuals in live-in relationships.

### **Analysis, Discussion and Results**

The judicial trend indicates cautious recognition, mostly limited to protection under the DV act. However, in matters of inheritance, maintenance beyond protection under DV Act, and guardianship, the law remains silent. The analysis shows a growing need for codification. Public opinion is still largely conservative, leading to societal stigma. Children born out of such relationships often face discrimination. Comparative analysis shows the need for a statutory mechanism, such as registration or declaration of cohabitation.

### **Findings, Conclusion and Suggestions**

There is no specific statute governing live-in

relationships in India. Judicial pronouncements have been progressive but inconsistent. Social stigma and moral policing are prevalent. Women and children suffer due to lack of clear legal remedies. Live-in relationships are a contemporary reality. The legal framework must adapt to ensure protection of fundamental rights and prevent exploitation. Recognition should be based on constitutional morality and not on religious or social biases. Enact a comprehensive cohabitation law to define rights and obligations. Amend family laws to include rights of cohabiting partners regarding maintenance and inheritance. Increase awareness about legal rights and protections under existing laws. Encourage judicial training for consistent interpretation of live-in relationships. Take inspiration from international models while framing culturally sensitive policies. The role of the Indian judiciary in recognizing and regulating live-in relationships has been both progressive and cautious. In the absence of a specific statute, courts have shouldered the responsibility of interpreting the rights of individuals in such relationships using existing constitutional and statutory provisions. This section presents a critical analysis of judicial trends, identifies doctrinal inconsistencies, and discusses the practical implications of the courts' approach. Judicial Recognition Through Constitutional Principles-the judiciary has anchored its recognition of live-in relationships primarily in Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. In *Khushboo v. Kanniammal* (2010), the court observed that adults have the right to make life choices, including cohabiting without marriage,



and that such relationships are not per se illegal (Khushboo v. Kanniammal, 2010). This judgment was significant in establishing that social morality cannot override constitutional morality (Baxi, 2008). Definitional Challenges and Judicial Tests- Despite initial recognition, the judiciary has struggled to clearly define what qualifies as a live-in relationship deserving of legal protection. In *D. Velusamy v. D. Patchaiammal* (2010), the court provided the first legal criteria for what constitutes a "relationship in the nature of marriage." These included factors such as shared household, duration, and public acknowledgment of the relationship. However, the Court controversially excluded casual or "keep-like" relationships, reflecting moral undertones (Velusamy v. Patchaiammal, 2010). This was further clarified in *Indra Sarma v. V.K.V. Sarma* (2013), where five tests were laid down, including shared living arrangements and mutual dependency, to determine the legitimacy of a live-in relationship under the DV act. The Court also recognized that the woman in such a relationship may be vulnerable and deserves protection. Yet, it also cautioned that all live-in relationships cannot be equated with marriages (Indra Sarma v. V.K.V. Sarma, 2013). These tests, while useful, have led to subjective interpretations, where similar facts have resulted in divergent outcomes in different courts (Jain, 2021). The lack of a clear legislative standard has thus led to inconsistencies and judicial discretion influenced by perceived social morality. Protection under domestic violence law -one of the judiciary's notable contributions is the extension of protection under the Protection of Women from DV act to

women in live-in relationships. Courts have interpreted Section 2(f) to include "relationships in the nature of marriage." However, such protection is conditional upon the relationship satisfying the court-mandated criteria (Agnes, 2019). This has created a legal barrier for many women who may not be able to prove the cohabitation or financial dependency necessary for such recognition. Societal and Procedural Challenges-Indian courts have also had to deal with societal stigma and opposition from families in cases where couples seek legal protection or police support. In several High Court cases particularly from conservative states protection petitions filed by live-in couples were initially dismissed or refused, citing social norms or potential "misuse" of freedom (Rao, 2021). Only after the Court reiterated the precedence of constitutional values did many High Courts begin issuing protection orders. Need for Legislative Backing- the analysis reveals a judicial willingness to protect rights but constrained by the absence of a statutory framework. The courts are frequently compelled to deliver judgments on a case-by-case basis, leading to a lack of predictability in the law (Singh, 2021). Moreover, legal ambiguities remain concerning inheritance rights guardianship of children, and property division, which are not addressed by the judiciary due to legislative silence. Results-Indian courts have played a progressive role in providing limited legal recognition to live-in relationships through constitutional interpretation and statutory expansion especially DV Act. However, judicial inconsistency, moral bias, and lack of uniform legal standards continue to limit the protection

available to individuals in such relationships. The court's progressive judgments have not always been mirrored by lower courts, particularly in socially conservative regions. The absence of a codified law has prevented the judiciary from resolving key issues such as inheritance, property rights and legitimacy of children in a uniform manner.

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