
FROM SOCIAL STIGMA TO LEGAL RECOGNITION: JUDICIAL TRENDS IN LIVE-IN RELATIONSHIPS IN INDIA

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ABSTRACT

The concept of live-in relationships has gained increasing social and legal recognition in India, reflecting changing societal attitudes towards personal relationships and individual autonomy. Although live-in relationships are not expressly governed by any specific legislation, the Indian judiciary has played a significant role in defining their legal status and safeguarding the rights of individuals involved in such relationships. Through a series of landmark judgments, courts have recognized live-in relationships as falling within the ambit of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India.

This article examines the evolving judicial approach towards live-in relationships in India and analyzes the legal protections available to partners, particularly women and children born from such unions. It explores key decisions of the Supreme Court and various High Courts that have addressed issues relating to maintenance, domestic violence, inheritance, legitimacy of children, and societal acceptance. The study further evaluates the extent to which judicial activism has filled legislative gaps in regulating non-marital relationships.

The article argues that while judicial pronouncements have contributed significantly to the protection of rights arising from live-in relationships, the absence of a comprehensive statutory framework continues to create legal uncertainty. It concludes by emphasizing the need for clear legislative guidelines that balance individual freedom with social and legal responsibilities, ensuring greater clarity and protection for persons choosing to live outside the institution of marriage.

Keywords: Article 21, Live-in Relationship, Cohabitation, Judiciary, Legal Recognition.

1. Introduction

Since ancient times, human relations have been governed by social norms. Today, evolutionary changes in human society are creating a need to emphasize social interactions that exist outside traditional forms of companionship. A live-in, or cohabitation, relationship implies marriage or a similar arrangement contracted for a certain period, after which the parties are free to separate without committing an offence. Various definitions may not share the same criteria, but the essence of a live-in relationship remains unchanged: it does not prescribe an obligation on the part of either party or exert a moral or social pressure that can result in the perpetuation of a socially undesirable marriage. The phenomena of live-in relationships and live-in-relationships are closely linked yet conceptually distinct; the former refers to social habits and the latter to legal concepts. An individual's travel, residence, abode, or domestic affections and arrangements concern personal dispositions and fall within the meaning of relationships that persons of the same sex and opposite sex are free to form.

2. Conceptual Framework: Live-in Relationships in Social and Legal Context

Live-in relationships are socio-legal constructs that stem from an individual's intent to live with a person of common interest within the guise of marriage. Live-in relationships are common in many societies worldwide. Unlike formal marriages, live-in relationships are often not recognized on par with marriage. The progressive modern society has made cohabitation in a live-in relationship a preferred way of living together. In many cases, it is considered a more rational practice than the formal institution of marriage. The existence of a live-in relationship is still a taboo in many parts of the world. Court settlements, family courts, and even a statutory recognition of the same are still strongly contested.

Co-habiting is now a growing practice that falls under live-in relationships. While issues related to a live-in relationship, such as domestic violence and cohabitation, are common in family courts and women's commissions, they are not integrated into the doctrines of either personal law or family law and thus continue to remain non-justiciable in a court of law.¹ Specific questions regarding live-in relationships, such as the validity of their existence, restrictions to enter into such relationships, and the attempt to equate these relationships with that of marriage,

¹ S. Scott, E. and E. Scott, R. "From Contract to Status: Collaboration and the Evolution of Novel Family Relationships." 2015

still form the core subject of discussion on live-in relationships.

3. Historical Trajectory: Social Attitudes and Legal Milestones

The pre-legal landscape regarding live-in relationships reveals widespread disapproval; dominant norms emphasize marriage, sex only within marriage, and children strictly within wedlock. Historical scholarship indicates an earlier tolerance for pre-marital unions that coexisted with formal marriage.² Modernization challenged prevailing norms but the rise of satellite television and computer technology extended the fluid preferences of the rich and the secularized to the masses, with caste and communal barriers compelled to yield. Some advocate cohabitation as an alternative to marriage. Efforts by organizations like the Kamla Bhasin movement to alter societal attitudes remain essential but narrow, demanding a concerted strategy to revive community participation combined with regulatory pressure on media to counter demeaning depictions. The live-in relationship occupies a distinct yet concurrent domain marked by a specific privacy debate.

Attack on a ruling preserving the Court's jurisdiction over personal liberty on the grounds that contemporary media have altered perspectives on casual relationships, underpins the assertion that invasions of personal liberty become immune to legal scrutiny after they attain wide public acceptance. This misconstrual of the social dimension wherein extensive visibility, yet substantial disapproval persists mandates comprehensive examination. Regular usage of the phrase in public discourse designates greater access to information than in earlier epochs yet cannot be conflated with social acceptance.

4. Judicial Reasoning and Jurisprudence

Pre-independence judgements perceived live-in relationships as illegitimate and unenforceable, reflecting social stigma. In 2006, a High Court ruled that freedom to cohabit does not entail any protection of rights, reiterating that live-in relationships are not recognised and only "reputed" marriages receive validation.³ In 2008, a High Court acknowledged live-in relationships as valid but limited protection to "relationship of place and time," highlighting expectations of societal normalcy. Subsequently, several rulings accepted live-in relationships as part of constitutional freedom, securing the right to choose one's partner but stopping short

² Kakoti Borah, P. "Engaging with the Law: Decriminalisation of Homosexuality and the Johar Judgement, 2018."

³ Ibid.

of recognition and validation, which remained unmet. Eventually, a Supreme Court decision acknowledged live-in partnerships as equivalent to marriage within the meaning of family under constitutional provisions, establishing legal legitimacy and enforceable rights for partners and children.

5. Legal Recognition: Rights, Obligations, and Protections

Until relatively recently, live-in relationships in India remained subject to significant social stigma and legal uncertainty. Historically viewed as mere extramarital affairs, consensual cohabitation first began attracting attention as a lifestyle choice in the 1990s, prompting academic discourse and media coverage. The early years of the twenty-first century witnessed multiple landmark Supreme Court decisions affirming the legitimacy of such associations. By 2021, a complex corpus of pro- and contra-recognition judgments across High Courts and subordinate courts indicated heightened judicial engagement with live-in relationships. Alongside recognition debates, several courts addressing related welfare issues—such as custody, maintenance, and succession—constructed nuanced examinations of these unions, balancing substantive interpretations of consent, modernity, and dignity against the institution of civil marriage. Progress on this front signalled growing jurisprudential alignment with prevailing societal views.⁴ Despite widespread societal acceptance and extensive doctrine on welfare-related considerations, however, primary questions of rights, obligations, and protections remained largely unexplored. High Courts and subordinate courts declined to apply expansive Supreme Court constructions of privacy, autonomy, recognition, or substantive equality to pre-emptively confer rights upon cohabitants. The absence of even minimal statutory recognition coupled with persisting orientations towards withholding or restricting welfare-related rights further underscored the need for greater clarity in both live-in relationship and adult partnership litigation to ensure equitable treatment across companionate unions Cohabitation without marriage may impact property, alimony, and bequest claims differently than traditional relationships. Spouses generally retain continued title to premarital assets acquired independently, and dowry laws acknowledge pre-marriage transfers as well. Maintenance entitlements exist whether claims arise from sharable joint finances or exclusive individual means. By contrast, courts demonstrating unwillingness to consider lives lived in, or relationships acknowledged as, “marriage” restrict attention to arrangements devoid of rights

⁴ K. Baker, K. “Marriage and Parenthood as Status and Rights: The Growing, Problematic and Possibly Constitutional Trend to Disaggregate Family Status from Family Rights.” 2010.

that otherwise protect children and support family units situated outside.

Understanding the workings of live-in relationships in India requires specific conceptual underpinnings. Contemporary adult partnerships undifferentiated by sex, association, or length pose fewer doctrinal complexities than their preceding matriarchal, parental, child-living distinctions. Legal status, human condition, and relationality remain inconsistent descriptors for existing, non-marital partnerships. Modelling post-marital cohabitation as directly linked to divorce remains similarly troublesome: divorce pre-conditions termination of marriage formation, so any retrieval within a hierarchy of legal certitude remains, at least trivially, contingent upon a former institution. Well-established family law doctrines governing custody, inheritance, and visitation consequently function without amendment upon remarrying. Exploring cohabitation post-divorce reveals remote, contractual, or experimental considerations assigned significant relevance.

6. Constitutional Dimensions of Live-in Relationships

The recognition of live-in relationships in India is closely linked to constitutional principles of liberty, dignity, privacy, and autonomy. Article 21 of the Constitution guarantees the right to life and personal liberty, which has been interpreted expansively by the judiciary to include the freedom to make intimate personal choices. The Supreme Court has repeatedly emphasized that the choice of an adult to reside with another adult falls within the sphere of individual autonomy and cannot be interfered with merely because it deviates from traditional social norms.

The constitutional protection afforded to live-in relationships gained momentum through judicial recognition of privacy as a fundamental right. The right to privacy encompasses decisional autonomy, bodily integrity, and the freedom to establish personal relationships. Consequently, adults choosing to cohabit without marriage are entitled to constitutional protection against arbitrary state interference.

Further, Article 14 guarantees equality before the law, while Article 19 protects personal freedoms. Together, these provisions support the argument that individuals should not be discriminated against merely because they choose a form of companionship different from marriage. The constitutional framework thus serves as the foundation upon which judicial recognition of live-in relationships has evolved.

7. Landmark Judicial Decisions

The Indian judiciary has played a significant role in shaping the legal status of live-in relationships.

In *Lata Singh v. State of Uttar Pradesh* (2006),⁵ the Supreme Court observed that a major woman is free to marry or live with anyone of her choice. This decision emphasized personal liberty and freedom of choice.

In *S. Khushboo v. Kanniammal* (2010)⁶, the Court held that live-in relationships between consenting adults are not illegal and fall within the ambit of the right to life under Article 21. The judgment recognized changing social realities and rejected attempts to criminalize such relationships.

In *D. Velusamy v. D. Patchaiammal* (2010)⁷, the Supreme Court laid down certain conditions under which a live-in relationship may be considered “in the nature of marriage.” These criteria became important for determining eligibility under welfare legislation.

In *Indra Sarma v. V.K.V. Sarma* (2013)⁸, the Court extensively discussed the concept of live-in relationships and clarified the circumstances under which women in such relationships may seek protection under the Protection of Women from Domestic Violence Act, 2005.

These judgments collectively demonstrate the gradual transition from social disapproval to legal recognition.

8. Rights of Women and Children in Live-in Relationships

One of the most significant developments in this area concerns the protection of women and children. Historically, women in live-in relationships faced legal uncertainty regarding maintenance, residence, and protection from abuse. Judicial interpretation of welfare legislation has gradually filled this gap.

The Protection of Women from Domestic Violence Act, 2005⁹ extends protection to women in

⁵ *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475.

⁶ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

⁷ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁸ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

⁹ Protection of Women from Domestic Violence Act, 2005.

relationships “in the nature of marriage.” This provision enables women to seek protection orders, residence orders, and monetary relief even in the absence of a formal marriage.

The judiciary has also recognized the legitimacy of children born from long-term live-in relationships. Courts have consistently emphasized that children should not suffer because of the marital status of their parents. Such recognition advances the principles of dignity, equality, and social justice.

Despite these developments, challenges remain regarding inheritance rights, succession claims, and financial security. The absence of comprehensive legislation continues to create uncertainty for many individuals involved in such relationships.

9. Challenges and Criticisms

Although live-in relationships have received increasing judicial recognition, they remain controversial within Indian society. Cultural and religious traditions continue to view marriage as the preferred and legitimate form of companionship. Consequently, couples in live-in relationships often face social stigma, family opposition, and discrimination.

Another challenge arises from the absence of a comprehensive legal framework. Courts have developed principles on a case-by-case basis, resulting in inconsistent interpretations. Questions regarding property rights, succession, maintenance, and dissolution remain inadequately addressed.

Critics argue that granting legal recognition to live-in relationships may weaken the institution of marriage. Others contend that legal protection does not undermine marriage but rather safeguards individuals who choose alternative forms of companionship. The debate reflects the tension between traditional values and evolving social realities.

The lack of statutory clarity also places a significant burden on the judiciary. Courts are often required to determine whether a relationship qualifies as being “in the nature of marriage,” leading to uncertainty and prolonged litigation.

10. Comparative Perspective

Several countries have developed legal frameworks recognizing cohabitation outside marriage.

In the United Kingdom, cohabiting couples enjoy certain legal protections, although they do not possess all rights available to married spouses. Courts often consider factors such as duration of cohabitation and financial interdependence.

In the United States, recognition varies across states. Some jurisdictions recognize common-law marriages, while others provide limited protections to cohabiting partners.

Countries such as Canada and Australia have adopted more progressive approaches by extending various legal rights to de facto relationships. These frameworks demonstrate that legal recognition of non-marital partnerships can coexist with the institution of marriage.

India may draw valuable lessons from these jurisdictions while formulating a legal framework that accommodates both constitutional values and social realities.

11. Conclusion and Suggestions

The evolution of judicial attitudes toward live-in relationships reflects the changing nature of Indian society. Courts have gradually moved from treating such relationships as socially unacceptable arrangements to recognizing them as expressions of personal liberty and constitutional autonomy. Through various landmark decisions, the judiciary has provided protection to women and children and acknowledged the legitimacy of long-term cohabitation.

Despite these advancements, significant legal ambiguities remain. The absence of a dedicated statutory framework continues to create uncertainty regarding maintenance, inheritance, property rights, and the legal consequences of separation. Judicial intervention alone cannot provide a comprehensive solution to these complex issues.

Therefore, there is a pressing need for legislative reform. A clear legal framework should define the rights and obligations of partners in live-in relationships while ensuring adequate protection for vulnerable individuals. Such legislation must strike a balance between respecting traditional family structures and recognizing the realities of contemporary social life.

Ultimately, the recognition of live-in relationships should be viewed not as a challenge to marriage but as an affirmation of individual freedom, dignity, and equality in a democratic society governed by constitutional values.