
RECOGNITION OF LIVE-IN RELATIONSHIPS IN INDIA: JUDICIAL TRENDS AND LEGAL CHALLENGES

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ABSTRACT

Indian law has never enacted a general statute defining or governing the live-in relationship—the consensual cohabitation of two adults outside marriage. Its recognition has instead been the work of the judiciary, which, drawing on the guarantee of life and personal liberty under Article 21 of the Constitution and the fundamental right to privacy, has progressively carved out a protected space for cohabitation beyond wedlock. This paper traces that evolution and the challenges it has left unresolved. It begins with the evidentiary presumption of marriage arising from long cohabitation, recognised by the Supreme Court as early as 1978, and moves to the decisive rulings in *Lata Singh* and *S. Khushboo*, which separated the legality of live-in relationships from questions of social morality and affirmed that consensual cohabitation is neither an offence nor, in the eyes of the law, immoral. It then examines the indirect statutory recognition achieved through the Protection of Women from Domestic Violence Act, 2005, and the influential tests for a “relationship in the nature of marriage” laid down in *D. Velusamy* and refined in *Indra Sarma*, together with the maintenance and inheritance rights that have crystallised around such unions and the settled protection now extended to their children. The paper argues, however, that recognition remains uneven. The High Courts have diverged sharply in petitions by couples seeking protection from hostile families, some invoking constitutional autonomy and others the preservation of the “social fabric”, with the inconsistency compounded where relationships are inter-faith. The Uniform Civil Code of Uttarakhand Act, 2024 marks a decisive statutory turn by making the registration of live-in relationships compulsory on pain of penalty, raising fresh questions of privacy, autonomy and State surveillance. The paper concludes that, notwithstanding significant judicial advances, the field is beset by conceptual uncertainty and an unresolved tension between individual liberty and social regulation, and that a coherent, rights-respecting framework is overdue.

Keywords: Live-in Relationships; Article 21 and the Right to Privacy; Relationship in the Nature of Marriage; Protection of Women from Domestic Violence Act, 2005; Uniform Civil Code of Uttarakhand; Judicial Recognition.

I. Introduction

The live-in relationship—a consensual arrangement in which two adults cohabit and share a common domestic life without the formality of marriage—was, for most of independent India’s legal history, a social taboo unrecognised by law. Neither the personal laws that govern marriage among the various communities nor the general civil law made any provision for couples who chose to live together outside wedlock. Yet as social attitudes shifted, particularly in urban India, the courts were increasingly confronted with the consequences of such arrangements: claims to maintenance, disputes over property, questions about the status of children, and pleas for protection against hostile families. In the absence of legislation, it fell to the judiciary to fashion a body of principles recognising and regulating these relationships. This paper traces that judicial evolution, examines the rights that have crystallised around live-in relationships, analyses the sharp divergence among the High Courts, and evaluates the recent statutory turn represented by the Uniform Civil Code of Uttarakhand. It argues that although recognition has advanced considerably, the field remains beset by conceptual uncertainty, inconsistent application, and an unresolved tension between individual autonomy and social regulation.

II. Conceptual and Constitutional Foundations

Autonomy, dignity and the right to privacy

Indian law contains no statutory definition of a live-in relationship. Its recognition rests instead on constitutional foundations, chiefly the guarantee of life and personal liberty under Article 21 of the Constitution.¹ The right to life has been read to include the right to live with dignity and to make intimate personal choices, among them the choice of a partner and the manner of cohabitation. This autonomy acquired firmer footing when a nine-Judge Bench of the Supreme Court recognised privacy as a fundamental right intrinsic to Article 21, holding that decisions concerning family, marriage and procreation lie within a constitutionally protected zone of personal autonomy.² The constitutional premise is therefore that the State may not dictate whether two consenting adults live together; recognition of the live-in relationship flows from the liberty of the individual rather than from any positive conferral by statute.

¹The Constitution of India, art. 21.

²K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

At the same time, the constitutional recognition of autonomy does not, by itself, equate a live-in relationship with marriage. What the courts have protected is the freedom to enter such a relationship and to be secured against coercion on that account; the conferral of the specific legal incidents of marriage has proceeded separately, and only partially, through the statutes and doctrines examined below.

III. The Evolution of Judicial Recognition

The presumption of marriage from cohabitation

Judicial engagement with cohabitation long predates the modern discourse. As early as 1978, the Supreme Court held that where a man and a woman have cohabited for a long and continuous period, the law presumes them to be lawfully married, casting the burden of disproving the marriage on the party who denies it.³ This presumption, rooted in the law of evidence, has been reaffirmed repeatedly and applied to protect the legitimacy of children and the property claims of long-term partners.⁴ Although these decisions did not employ the vocabulary of the live-in relationship, they established the foundational proposition that prolonged cohabitation carries legal consequences that the law will not ignore.

Legality distinguished from morality

The decisive conceptual shift came when the Court separated the legality of live-in relationships from questions of morality. In *Lata Singh*, it affirmed the right of a major to marry or to live with a person of her choice and directed the authorities to protect such couples from harassment and threats.⁵ Shortly afterwards, in *S. Khushboo*, the Court quashed a battery of criminal complaints against a public figure who had spoken approvingly of pre-marital cohabitation, holding that a live-in relationship between consenting adults is neither an offence nor, in the eyes of the law, immoral, and that the choice to cohabit falls within the ambit of the right to life under Article 21.⁶ The message was unambiguous: whatever society's moral estimation, the law does not criminalise consensual cohabitation between adults.

'Relationship in the nature of marriage' under the Domestic Violence Act

³Badri Prasad v. Dy. Director of Consolidation, (1978) 3 SCC 527.

⁴Tulsa v. Durghatiya, (2008) 4 SCC 520; see also Dhannulal v. Ganeshram, (2015) 12 SCC 301.

⁵Lata Singh v. State of U.P., (2006) 5 SCC 475.

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

Statutory recognition, though indirect, arrived through the Protection of Women from Domestic Violence Act, 2005, whose definition of a “domestic relationship” expressly embraces relationships “in the nature of marriage”.⁷ Interpreting that phrase in *D. Velusamy*, the Court held that a relationship in the nature of marriage is akin to a common-law marriage and must satisfy four conditions: the couple must hold themselves out to society as being akin to spouses, must be of legal age to marry, must be otherwise qualified to enter a legal marriage (including being unmarried), and must have voluntarily cohabited for a significant period.⁸ The Court thereby extended the Act’s protections—residence, maintenance and protection orders—to qualifying live-in partners while excluding casual or fleeting arrangements. In *Indra Sarma*, the framework was refined: the Court laid down detailed guidelines and cautioned that not every live-in relationship qualifies, holding in particular that a woman who knowingly enters into a relationship with a married man cannot ordinarily claim the status of a relationship in the nature of marriage.⁹ Read together, the two decisions supply the working test that magistrates and family courts continue to apply.

IV. Maintenance, Legitimacy and Inheritance

The right to maintenance

The right to maintenance has followed a parallel course. Interpreting the maintenance provision of the criminal procedure law generously,¹⁰ the Court in *Chanmuniya* indicated that a woman in a long-term live-in relationship ought not to be denied maintenance merely because a ceremonial marriage could not be strictly proved, lest the beneficial object of the welfare provision be defeated by a technicality.¹¹ This reasoning was reinforced in *Lalita Toppo*, where the Court observed that a live-in partner may seek maintenance under the Domestic Violence Act, a remedy in some respects wider than that available under the criminal law.¹² The cumulative effect is that economic protection is now available to women in qualifying relationships, although its availability continues to depend on satisfying the marriage-like tests discussed above.

⁷The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 2(f).

⁸*D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

⁹*Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

¹⁰The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 125; the corresponding provision is now s. 144 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023 (Act 46 of 2023).

¹¹*Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141.

¹²*Lalita Toppo v. State of Jharkhand*, (2019) 13 SCC 796.

Legitimacy and inheritance of children

The most settled area concerns the children of such unions. Section 16 of the Hindu Marriage Act, 1955 confers legitimacy on children of void and voidable marriages,¹³ and the courts have extended comparable protection to children born of stable, long-term live-in relationships, holding them entitled to inherit their parents' property.¹⁴ The Supreme Court has clarified that such children are legitimate and may claim a share in their parents' property, although a Constitution Bench has confined that share, in the specific context of Mitakshara coparcenary property, to the interest that would have devolved upon the parent.¹⁵ The consistent thread is that the status and entitlements of the child cannot be prejudiced by the absence of a formal marriage between the parents.

V. Divergent High Court Approaches and the Morality Debate

While the Supreme Court's trajectory has been broadly protective, the High Courts have spoken with strikingly discordant voices, particularly in petitions by young couples seeking police protection against hostile relatives. Some benches have granted protection as a straightforward incident of the right to life and personal liberty, irrespective of the couple's marital status. Others have refused, invoking public morality: in *Ujjawal*, the Punjab and Haryana High Court declined protection on the reasoning that granting it would disturb "the entire social fabric of the society".¹⁶ The Allahabad High Court has similarly refused relief in several matters, characterising certain live-in arrangements as illicit and declining to lend them judicial sanctity, with different benches of that Court reaching opposite conclusions on materially similar facts. The divergence is sharpest where the relationship is inter-faith and intersects with State anti-conversion legislation, under which protection has repeatedly been withheld.¹⁷ This inconsistency is difficult to reconcile with the Supreme Court's consistent affirmation of autonomy and with its decriminalisation of consensual intimate relationships in

¹³The Hindu Marriage Act, 1955 (Act 25 of 1955), s. 16.

¹⁴*Bharatha Matha v. R. Vijaya Renganathan*, (2010) 11 SCC 483.

¹⁵*Revanasiddappa v. Mallikarjun*, Civil Appeal No. 2844 of 2011, decided on September 1, 2023 (SC) (Constitution Bench).

¹⁶*Ujjawal v. State of Haryana*, 2021 SCC OnLine P&H 914.

¹⁷See, e.g., *Suneeta v. State of U.P.*, Writ-C No. 2723 of 2023 (Allahabad High Court); such petitions increasingly intersect with the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (U.P. Act 3 of 2021).

Navtej Singh Johar.¹⁸ The practical result is that a couple's access to protection may depend less on principle than on the particular bench before which the petition happens to be listed.

On the other side of the divide, several High Courts have extended protection generously and to a broader range of couples. Courts have granted police protection to same-sex couples cohabiting together, reasoning from the recognition of sexual orientation as an intrinsic facet of dignity and privacy that followed the decriminalisation of consensual same-sex relations, and have reminded themselves that a protection petition is not the occasion to sit in judgment over the petitioners' private morality. This line of authority treats the threat to life and liberty, rather than the social acceptability of the relationship, as the only relevant consideration—an approach considerably more faithful to the constitutional guarantees than the “social fabric” reasoning that animates the restrictive decisions.

VI. The Statutory Turn: The Uttarakhand Uniform Civil Code

The most consequential recent development is the shift from judicial recognition to statutory regulation. The Uniform Civil Code of Uttarakhand Act, 2024—the first uniform civil code enacted by an Indian State since Independence—for the first time places live-in relationships within an express legislative framework and makes their registration compulsory.¹⁹ Under the Code and the Rules that brought it into force in January 2025, partners are required to register the relationship at its commencement and again upon its termination; a failure to register, or the furnishing of false information, attracts penal consequences including imprisonment. The Code simultaneously confers certain protections, notably a right to maintenance for a deserted female partner and a measure of legitimacy for children born of such relationships.

The registration model has provoked intense debate. Its defenders present it as a means of conferring certainty, protecting women against desertion, and bringing transparency to relationships the law had previously ignored. Its critics contend that compulsory registration, backed by criminal sanction and by provisions requiring officials to record and in some circumstances to notify the parties' families, converts a private choice into a matter of State surveillance and thereby infringes the very right to privacy and autonomy on which judicial recognition was built. The concern is especially acute for adult inter-faith couples and for women, upon whom the bureaucratic and social burden of registration falls most heavily. The

¹⁸Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

¹⁹The Uniform Civil Code of Uttarakhand Act, 2024 (Act 1 of 2024); the Uniform Civil Code Rules, Uttarakhand, 2025, brought into force with effect from January 27, 2025.

Uttarakhand experiment thus crystallises the central tension of the field: recognition purchased at the price of regulation.

Notably, the live-in provisions have themselves attracted constitutional challenge, and their validity—measured against the privacy standard laid down by the Supreme Court—is likely to be authoritatively tested in the years ahead. The outcome will bear not only on Uttarakhand but on the wider national debate over a uniform civil code, since the State’s statute is being watched closely as a possible template for other jurisdictions.

VII. Legal Challenges and the Road Ahead

Several challenges remain unresolved. First, the absence of a uniform, pan-India statutory definition leaves the field dependent on case-by-case adjudication and on the malleable “nature of marriage” test, producing uncertainty for litigants and inconsistency among courts. Second, the rights recognised so far are, for the most part, protective of women and children rather than constitutive of a distinct legal status: a live-in relationship confers none of the automatic incidents of marriage, such as mutual succession rights between the partners themselves. Third, the divergence among the High Courts on protection petitions signals a deeper unease about reconciling constitutional autonomy with prevailing social morality. Fourth, the Uttarakhand model raises the prospect that other States, or a future national uniform civil code, may adopt registration regimes whose compatibility with the right to privacy will have to be tested against the standards articulated by the Supreme Court. A principled way forward would secure the constitutional core—that consenting adults may cohabit free from criminal or social coercion—while confining regulation to the protection of the vulnerable rather than the surveillance of the autonomous.

A fifth challenge lies at the intersection of live-in relationships with anti-conversion legislation, which has introduced a fresh layer of vulnerability for inter-faith couples, for whom the exercise of intimate autonomy may now invite penal scrutiny. Any durable framework must therefore address not only the private-law incidents of cohabitation—maintenance, property and the welfare of children—but also the public-law guarantee that the choice of a partner, including across faiths, remains constitutionally shielded from both State and social coercion.

VIII. Conclusion

The recognition of live-in relationships in India is a study in judicial creativity operating within a legislative vacuum. From the evidentiary presumption of marriage, through the

decriminalising declarations of Lata Singh and S. Khushboo, to the protective architecture built around the Domestic Violence Act and the settled rights of children, the courts have progressively secured a space for cohabitation outside marriage. Yet that space remains contested. The discordant High Court jurisprudence on protection, and the arrival of compulsory registration in Uttarakhand, reveal that the law has not resolved the fundamental question of whether the live-in relationship is to be embraced as an exercise of liberty or contained as a threat to social order. Until a coherent and rights-respecting framework emerges—whether through considered legislation or authoritative pronouncement—recognition will continue to advance unevenly, its promise of autonomy shadowed by the persistence of moral and bureaucratic constraint.