



SOCIO-LEGAL ANALYSIS OF LIVE-IN RELATIONSHIPS IN INDIA: PROTECTION OF WOMEN AND CHILDREN

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ABSTRACT

Marriage has always considered as important part of personal life and family structure in India. But in city, there has been a clear shift in how people view relationships. Most of the individuals are now choosing to live together without getting married. These arrangements, known as live-in relationships, are becoming more common, even though the law has not fully kept up with this change.

In India, there is no specific law that directly deals with live-in relationships. Most of the legal recognition and protection available today come from decisions made by the courts. Judges have relied on constitutional principles and existing laws, such as the Protection of Women from Domestic Violence Act, 2005 to extend some level of protection to people in such relationships.

This paper examines at the legal position of live-in relationships in India by considering both society and legal developments. It focuses on mainly whether the current system is sufficient to Protect Women and Children, who are often more vulnerable when these relationships end. The study refers to supreme court judgments, constitutional importance on citizen life and also compares the situation in countries like United Kingdom, the United States and France to understand how other legal systems deal with similar issues.

Even though the judiciary has played an active role in recognizing live-in relationships, the overall legal framework in India is still not strong enough. There is a lack of clear and detailed legislation, some legal terms remain unclear, and women often face challenges in proving their rights. Moreover, while the law has started to acknowledge such relationships, social acceptance is still limited, which adds to the difficulties faced by individuals.

The paper concludes by offering practical suggestions for legal reforms and policy changes to make the system more clear, fair, and effective.

Keywords: Live-in Relationships, Domestic Violence Act 2005, Women's Rights, Children's Rights, Judicial Interpretation, Constitutional Law, Cohabitation, Legal Reform, Right to Privacy, Maintenance

INTRODUCTION

In India, marriage has always been seen as a important part of life which deeply connected with traditions, religion, and family expectations. But over time, especially in city, people thinking about relationships has started to change. Many individuals now choose to live together without getting married. These are called live-in relationships, where two adults stay together and live like a couple without any formal marriage ceremony or legal process. Such relationships depend only on mutual consent and personal choice.

The Indian legal system has not completely adjusted to this changing reality. There is no specific law that directly deals with live-in relationships. Most of the legal support available today has come from court judgments. The courts have interpreted Article 21 of the constitution, which guarantees the Right to Life and Personal Liberty, to include the freedom to choose a partner and live together without marriage. Apart from this, the Protection of Women from Domestic Violence Act, 2005 gives some protection to women in relationships that are similar to marriage. However, the law does not clearly define what these relationships include, which often leads to confusion.

This unclear legal situation creates many difficulties, mostly for women and children. A woman who has spent several years in a live-in relationship, sometimes depending financially on her partner, may face problems in claiming maintenance or a place to live after the relationship ends. Children born out of such relationships may also face uncertainty regarding their legal status and inheritance rights, as the law is not very clear on these issues. In addition to legal problems, social acceptance is still a major challenge. In many parts of India, live-in relationships are not widely accepted, and people in such relationships may face criticism from society, pressure from family, and sometimes even interference from authorities, even though the supreme court has made it clear that such relationships are not illegal.

This paper looks into these issues by examining the gap between the changing social reality and the existing legal framework. It focuses on how the law has developed through court decisions and where it still needs improvement. The discussion is divided into four parts: First, it explains the constitutional and legal background; Second, it discusses the main challenges in the current system; Third, it highlights the role played by the judiciary; and finally, it compares India's position with countries like United Kingdom, the United States, and France. The paper finally concludes with suggestions for better and more effective legal reforms.

CONSTITUTIONAL AND STATUTORY FRAMEWORK

A. The Constitutional Foundation

In India, there is no single law that directly talks about live-in relationships. Instead, whatever recognition they have mostly comes from the Constitution and how courts have interpreted it over time. Article 21, which talks about the right to life and personal liberty, has been understood in a much broader way today. It is not just about living, but about living with dignity, having privacy, and making personal choices. This includes the freedom to choose a partner and live with them, even without marriage.

Article 14, which guarantees equality before the law, also supports this idea. It means that people should not be treated unfairly just because they are not married. This is especially important in India because marriage laws are different for different religions. In such a situation, the Constitution acts as a common base that applies equally to everyone, including those in live-in relationships.

B. The Domestic Violence Act, 2005

One important law that gives some protection in this area is the Protection of Women from Domestic Violence Act, 2005. This law does not only apply to married couples. It also includes relationships that are similar to marriage. Because of this, women in live-in relationships can approach the court for protection, the right to stay in the shared house, and financial support.

But this protection is not automatic. The courts have said that certain conditions must be satisfied. In the 2010 case of *D. Velusamy v. D. Patchaiammal*, the Supreme Court explained that the couple should behave like husband and wife, they should be legally capable of marrying, and they should have lived together for some time in the same house. Casual or short-term relationships are not included.¹

Later, in 2013 case *Indra Sarma v. V.K.V. Sarma*, the Court pointed out that live-in relationships are not always the same and can exist in different forms. Because of this, it is not easy to put them into a strict definition, and this creates confusion in many cases.²

C. Maintenance and the Presumption of Marriage

When it comes to maintenance, the law under Section 125 of the Code of Criminal Procedure (now replaced by Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) was originally meant for married women. But courts have tried to take a broader view and allow women in live-in relationships to claim maintenance, especially when the relationship is similar to marriage.

Another helpful point comes from the Indian Evidence Act, 1872. Under Section 114, if a man and woman have been living together for a long time, the court can assume that they are married. This becomes very useful in real cases because many live-in relationships are not officially recorded. It helps women claim maintenance and also protects children, even when there is no proper proof of marriage.

ISSUES AND CHALLENGES IN THE CURRENT REGIME

A. Lack of a Proper Law

The biggest issue in this area is that there is no clear law that directly talks about live-in relationships. When it comes to marriage, everything is well-defined but there is a rule like how it happens, how it is registered, how it can end, and what rights both partners have. But for live-in relationships, there is nothing like that. Most of what we know comes from court decisions. Because of this, similar cases can end up with different results depending on how a judge looks at the situation. This makes the whole system confusing and not very consistent.

¹ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469. The Supreme Court held that a “relationship in the nature of marriage” under the Protection of Women from Domestic Violence Act, 2005 requires the parties to cohabit, be of marriageable age and capacity, and present themselves publicly as akin to spouses.

² *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755. The Supreme Court identified five categories of live-in relationships and emphasised that the nature, duration, and circumstances of cohabitation must be assessed individually to determine whether the protection of the Domestic Violence Act applies.

B. No Clear Definition and Proof Problems

Another problem is that the law uses the term “relationship similar to marriage,” but it does not clearly explain what that actually means. Courts have tried to give some idea by looking at things like how long the couple lived together, whether they shared a home, and how they were seen by others. But these are not fixed rules, so they can be understood differently in each case.

In real life, this creates difficulties, especially for women. If a woman goes to court, she has to prove that her relationship fits into these unclear conditions. But many live-in relationships are private and not officially recorded, so there may not be enough proof. This makes things harder for her, especially when she is already dealing with emotional and financial problems.

C. Social Pressure and Difficulty in Getting Justice

Even though the law gives some protection, society does not always support live-in relationships. In many places, people still look at them negatively. Women in such relationships may face criticism from society, pressure from family, and sometimes even unnecessary interference from others.

Because of this, many women hesitate to go to court. Taking legal action means openly talking about their relationship, which may create more personal problems. So even if the law is there, people may not feel comfortable using it. This gap between what the law says and what society accepts makes things more difficult.

D. Situation of Children

The position of children born from live-in relationships has improved compared to the past, but it is still not fully clear. In the case of *Tulsa v. Durghatiya* (2008), the Supreme Court said that children from long-term live-in relationships should be treated as legitimate. The Court also made it clear that a child should not be blamed or suffer because of the parents' relationship.³

Also, under Section 16 of the Hindu Marriage Act, children from certain invalid marriages are given legal recognition, and courts have used similar thinking for live-in relationships. However, just being called “legitimate” does not mean the child gets all rights equally. There is still confusion when it comes to inheritance, especially in family or ancestral property. Different courts have taken different views on this.

So, even though things have improved, children in such situations still do not have completely clear or equal rights in every matter.

THE JUDICIARY'S TRANSFORMATIVE ROLE

Since, there is no clear law made by Parliament on live-in relationships, the Supreme Court has taken the lead in dealing with these issues. Through different judgments over the years, the Court has slowly shaped the legal position in this area. Its approach has mostly been supportive of individual freedom, while also trying to handle practical difficulties that arise in such cases.

In 2006 case of *Lata Singh v. State of Uttar Pradesh*, the Court stated that an adult woman is free to choose her life partner, and this choice is protected under her right to personal liberty. This was an important step in recognising individual choice in relationships. In 2010 case of *S. Khushboo v. Kanniammal*, the Court further clarified that

³ *Tulsa & Ors. v. Durghatiya & Ors.*, (2008) 4 SCC 520. The Supreme Court held that children born of a live-in relationship of a long duration must be treated as legitimate, and the presumption of marriage under Section 114 of the Indian Evidence Act, 1872 may be applied.

relationships between consenting adults, even without marriage, are not against the law. It also explained that what society may consider morally wrong does not automatically become illegal.⁴⁵

Later, in 2010 *D. Velusamy v. D. Patchaiammal* and in 2013 case *Indra Sarma v. V.K.V. Sarma*, the Court tried to explain how to identify live-in relationships that are similar to marriage. These decisions gave some guidance, but they did not create strict rules. Earlier judgments like in 1978 *Badri Prasad v. Deputy Director of Consolidation and S.P.S. Balasubramanyam v. Suruttayan* case in 1992 had already helped by stating that if a couple lives together for a long time, the law may treat them as married. This idea has been very helpful in protecting women and children, especially in cases where there is no formal proof of marriage.

A major development came with *K.S. Puttaswamy v. Union of India* in 2017 case, where the Court recognised the right to privacy as a fundamental right. This strengthened the idea that personal decisions, including choices about relationships, should be respected. The Court also made it clear that any restriction on such choices must be reasonable and justified.⁶

Taken together, these judgments have made a significant difference. They have helped in recognising live-in relationships under the law, given some protection to women, and ensured that children born from such relationships are not treated unfairly.

At the same time, there are limits to what the judiciary can do. Courts can interpret existing laws and give decisions in specific cases, but they cannot create a complete and detailed legal system on their own. For proper clarity and uniformity, a clear law from Parliament is still necessary.

COMPARATIVE PERSPECTIVES

If we look at how other countries deal with live-in relationships, we can see that India is not the only country facing this issue. But at the same time, some countries have handled it in a more clear and practical way.

United Kingdom

In the United Kingdom, people who live together without getting married do not get the same legal rights as married couples. When problems come up, especially about property, the courts usually look at who has spent money or contributed financially. This can be unfair in real life, because one partner may have contributed by taking care of the home instead of earning. At the same time, laws related to domestic violence protect people whether they are married or not. For children, the law focuses more on their welfare and not on whether the parents are married. There have been discussions about making a proper law for live-in couples, but nothing has been done yet. So, in some ways, it is similar to India.

United States

In the United States, the law is different in each state. In some states, if a couple lives together and behaves like a married couple, they may be treated as legally married. In many places, couples can also make agreements between themselves to decide things like money, property, and responsibilities. Courts usually respect these agreements. Also,

4 *Lata Singh v. State of Uttar Pradesh & Anr.*, (2006) 5 SCC 475. The Supreme Court affirmed that a major woman has the right to choose her life partner under Article 21 of the Constitution of India, 1950, and that such a choice cannot be criminalised by the State or private individuals.

5 *S. Khushboo v. Kanniammal & Anr.*, (2010) 5 SCC 600. The Supreme Court held that consensual cohabitation between adults does not constitute any criminal offence, and moral disapproval by society cannot be equated with illegality.

6 *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.*, (2017) 10 SCC 1. A nine-judge bench of the Supreme Court unanimously recognised the right to privacy as a fundamental right under Article 21, encompassing decisional autonomy in personal and intimate matters including choice of partner.

protection from domestic violence is available to everyone, not just married people. This system gives more clarity and choice to people compared to India.

France

This country has taken a different approach. It allows couples to officially register their relationship without getting married. This gives them some legal rights like financial support, tax benefits, and limited inheritance rights. It is also easier to end this kind of relationship compared to divorce. Another important point is that children born in such relationships are treated equally under the law. This system is quite common in France and shows that such a model can work in practice.

What India Can Learn

From these examples, a few things become clear. First, other countries have shown that it is possible to make proper rules for live-in relationships. Second, different methods can be used like agreements between partners or a registration system. Third, it is very important to clearly protect the rights of children, no matter what kind of relationship their parents have.

Overall, India can take ideas from these systems and develop a clearer and more practical legal framework for live-in relationships.

CONCLUSION AND RECOMMENDATIONS

From the overall discussion, one thing becomes clear, the courts in India have tried to deal with live-in relationships in a positive way, but the law itself is still not fully developed. The Supreme Court has given some protection through its judgments, but there is still no proper law made by Parliament. Because of this, many issues are still not clearly solved. Women may face difficulty in getting protection in some cases, children may not always have clear inheritance rights, and even though the law accepts such relationships, society still does not fully support them. This gap between law and reality creates problems in practice.

To improve the situation, some changes are needed:

1. Need for a proper law

India should have a separate law for live-in relationships. Right now, everything depends on court decisions, which is not enough. A proper law can clearly explain what counts as a live-in relationship and what rights and responsibilities both partners have.

2. Clear meaning of “relationship like marriage”

This term is used in the law, but it is not clearly defined. Because of this, different courts may understand it differently. It would be better if the law itself clearly explains it, instead of leaving everything to interpretation.

3. Support for women (maintenance)

Women in such relationships often struggle to claim maintenance. The law should make this process easier and clearer, so they do not have to prove too many things in court.

4. Equal rights for children

Children should not suffer because their parents are not married. The law should clearly say that they have equal rights, especially when it comes to property and inheritance.

5. Allow agreements between partners

Couples should be allowed to make written agreements about money, property, and responsibilities. This can help avoid disputes later, and courts should recognise such agreements.

6. Awareness and legal help

Many people are still not aware of their rights. There should be better awareness and legal support, especially for women, so that they can approach the courts without fear.

In today's time, live-in relationships are slowly becoming more common, especially among younger people. The law cannot ignore this change. It does not need to promote or oppose such relationships, but it should at least make sure that the people involved are protected. Right now, that protection is not complete. So, making proper laws in this area is not just important, it is necessary.

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