

LIVE-IN RELATIONSHIP AND LEGAL RIGHTS IN INDIA

- Akanksha Gauri¹

Abstract

As society continues to evolve, new forms of relationships are emerging, one of which is the live-in relationship. Earlier, such relationships were rarely seen in India and were largely unknown or socially unacceptable. However, in recent times, especially in urban areas, live-in relationships have become more visible. Law generally develops on the basis of long-standing social practices due to which many changing social realities are often ignored or remain unregulated. Live-in relationships are one such reality that exists in society but lacks a clear and comprehensive legal framework in India.

However, the judiciary has played a crucial role in addressing this gap by acting as a guardian of constitutional values. Through various landmark judgments, courts have challenged traditional social thinking, broken orthodox beliefs, and protected the rights of consenting adults choosing to live together. The judiciary has consistently emphasized that cohabitation between adults is a matter of personal liberty, dignity, and choice, and should not be treated as a social taboo.

This article aims to explain the concept of live-in relationships. It examines the historical background of live-in relationships in India and analyses the changing judicial approach towards such relationships. The article also discusses the legal status of live-in relationships in India, including the rights of women and children, with reference to important judicial pronouncements. In the concluding part, the article highlights the existing legal gaps and suggests the need for a comprehensive law to regulate live-in relationships in India, so that the rights and responsibilities of partners are clearly defined and protected.

¹Student at Bharati Vidyapeeth New Law College Pune

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INTRODUCTION

Marriage as an institution developed mainly to regulate sexual relations and to ensure the legitimacy, proper upbringing, and psychological development of children in a stable family environment. However, with the advent of the industrial revolution and the spread of education, women gained greater access to economic independence. As a result, traditional human values, especially those relating to the relationship between husband and wife, began to change significantly.

Due to rapidly changing social morals and lifestyles, a new form of relationship has emerged in society in the form of non-marital relationships, commonly known as live-in relationships. A live-in relationship is a type of non-marital relationship where a man and a woman live together without formally getting married.

In Western countries, such relationships exist under different names such as common law marriages, informal marriages, marriage by habit, or deemed marriages. Live-in relationships represent a conscious choice to move away from traditional marriage and the stereotypes, restrictions, and inequalities that are often associated with it. In some countries, such relationships are legally recognized and granted certain rights similar to marriage, even though no formal marriage ceremony has taken place.

HISTORICAL BACKGROUND

Live-in relationships in India are often seen as a taboo; however, it is not very uncommon to find people who are staying together as husband-wife without any formal marriage. Indian courts have consistently supported the presumption of marriage when a man and a woman have lived together for a long period of time. In the early years, Indian courts relied on principles established by the Privy Council to decide cases involving long-term cohabitation.

In the case of **A. Dinohamy v. W.L. Blahamy**², the Privy Council held that when a man and woman live together as husband and wife, the law will presume that they are legally married unless clear evidence proves otherwise. This judgment treated long-term cohabitation as valid marriage rather than concubinage.

² AIR 1927 PC 185.

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In the case of **Mohabhat Ali v. Md. Ibrahim Khan**³, the Privy Council held that long-term cohabitation and acknowledgment by the father raise a strong presumption of marriage and legitimacy and courts should lean in favour of legitimacy rather than concubinage.

These early judgments highlighted the courts' understanding of relationships beyond marriage and laid the foundation for the legal acceptance of live-in relationships in India.

JUDICIAL APPROACH TOWARDS LIVE-IN RELATIONSHIPS IN INDIA

Although Indian statutes do not directly recognize live-in relationships, courts have gradually addressed their legal status and protections, particularly through provisions like the **Protection of Women from Domestic Violence Act, 2005**⁴, and **Section 114 of the Indian Evidence Act**⁵. After the early Privy Council rulings, the Supreme Court of India further developed the legal understanding of live-in relationships. The Court recognized that adults living together by choice should not face legal or social discrimination. Through its judgments, the Supreme Court has clarified the rights of women and children in such relationships and explained when a live-in relationship can be treated as a relationship in the nature of marriage.

In **Badri Prasad v. Deputy Director of Consolidation**⁶, where a couple had lived together for nearly fifty years, the Supreme Court held that a strong presumption of marriage arises in such cases and the burden lies heavily on the person denying the marriage. The Court emphasized that law favours legitimacy and discourages branding children as illegitimate.

This view was further reinforced in **Madan Mohan Singh & Ors. v. Rajni Kant & Anr**⁷, where the Court held that long-term live-in relationships cannot be treated as casual or temporary arrangements.

RIGHTS OF WOMEN IN LIVE-IN RELATIONSHIPS

³ AIR 1929 PC 135.

⁴ Protection of Women from Domestic Violence Act, 2005

⁵ S. 114, the Indian Evidence Act, 1872.

⁶MANU/SC/0004/1978

⁷ AIR 2008 SC 324.

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Once the legal concept of a live-in relationship was clarified by the courts, there emerged greater certainty regarding the rights of partners living together without marriage. This clarity became especially important for women, who often faced serious difficulties such as domestic violence, abandonment, and lack of financial support. Earlier, since there was no specific law recognising live-in relationships, women in such relationships had very limited legal remedies. To address this gap, the judiciary gradually stepped in and evolved certain protections for women in live-in relationships.

RIGHT AGAINST DOMESTIC VIOLENCE

The most important legal protection available to women in live-in relationships is under the Protection of Women from Domestic Violence Act, 2005. Although this Act was originally enacted to protect married women from domestic violence, courts have interpreted it in a wider manner. **Section 2(f)** of the Act defines a “domestic relationship” as a relationship between two persons who live or have lived together in a shared household and includes a relationship in the nature of marriage.

In **Indra Sarma v. V.K.V. Sarma**⁸, the Supreme Court held that women in live-in relationships can also seek protection under the Domestic Violence Act, provided the relationship satisfies certain conditions. The Court explained that not every live-in relationship would automatically fall under the Act, but only those relationships which resemble marriage in substance. This judgment was significant as it formally extended protection against physical, emotional, sexual, and economic abuse to women in qualifying live-in relationships.

The Court further clarified that the purpose of the Act is to protect women from violence and exploitation, and therefore it should be interpreted in a manner that advances social justice.

RIGHT TO MAINTENANCE

Another major concern for women in live-in relationships is financial security. Married women have a clear right to maintenance under **Section 125 of the Code of Criminal**

⁸ S L P (CRL.) No. 4895 of 2012

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Procedure⁹ and **Section 25 of the Hindu Marriage Act.**¹⁰ However, these provisions do not expressly mention live-in partners.

The concept similar to maintenance in live-in relationships is often referred to as “palimony”, a term first used in the US, which refers to financial support given to a partner after the end of a long-term non-marital relationship.

In India, the Supreme Court in **D. Velusamy v. D. Patchaiammal**¹¹ expanded the interpretation of the word “wife” under Section 125 CrPC to include women in certain live-in relationships. The Court laid down specific conditions to determine whether a live-in relationship can be treated as a “relationship in the nature of marriage”. These include that the couple must present themselves to society as spouses, they must be of legal age to marry, they must be unmarried and otherwise legally capable of marriage, and they must have lived together voluntarily for a significant period of time.

The Court made it clear that casual relationships, one-night stands, or relationships purely for sexual purposes would not qualify. Thus, only genuine and stable live-in relationships are entitled to legal protection.

CONSTITUTIONAL PROTECTION TO LIVE-IN RELATIONSHIPS

Live-in relationships also receive protection under Article 21 of the Constitution of India, which guarantees the right to life and personal liberty, including the right to privacy, dignity, and personal autonomy.

In **Payal Sharma v. Superintendent, Nari Niketan Kalindri Vihar**¹², the Allahabad High Court held that a major woman has the right to live with anyone of her choice, even without marriage. The Court observed that such a relationship may be considered immoral by society, but it is not illegal.

⁹ S. 125, Code of Criminal Procedure, 1973.

¹⁰Section 25, Hindu Marriage Act, 1955

¹¹ MANU/SC/0872/2010

¹²MANU/UP/0288/2001

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Similarly, in **Lata Singh v. State of Uttar Pradesh and Ors.**¹³, the Supreme Court held that a live-in relationship between two consenting adults does not amount to any offence. The Court emphasised the distinction between law and morality and stated that adults are free to make personal choices regarding their relationships.

In **S. Khushboo v. Kanniammal and Anr.**¹⁴, the Supreme Court further strengthened this view by observing that consensual sexual relationships between adults outside marriage are not criminal offences. Though this observation was obiter dictum, it played an important role in normalising live-in relationships in Indian legal discourse.

LEGITIMACY AND RIGHTS OF CHILDREN BORN FROM LIVE-IN RELATIONSHIPS

Children born out of live-in relationships were earlier viewed with social and legal uncertainty. However, Indian courts have gradually evolved the law to protect the rights of such children, especially with respect to legitimacy, property, maintenance, and custody.

The most important right of a child born from a live-in relationship is the **Right to legitimacy**, as it forms the basis for all other rights. In **S.P.S. Balasubramanyam v. Suruttayanalias Andali Padayachi and Ors.**¹⁵, the Supreme Court held that when a man and a woman live together under the same roof and cohabit for a long period, a presumption of marriage arises under **Section 114 of the Indian Evidence Act, 1872**¹⁶, and children born from such a relationship cannot be treated as illegitimate. The Court clarified that such relationships must be stable and continuous and not casual or “walk-in, walk-out” arrangements. Similarly, under **Section 16 of the Hindu Marriage Act, 1955**¹⁷ and **Section 26 of the Special Marriage Act, 1954**¹⁸, children born from void or voidable marriages are treated as legitimate, though their inheritance rights are limited.

With respect to **Property rights**, courts have recognized that children born out of live-in relationships are entitled to inherit the self-acquired property of their parents. In **Bharatha**

¹³ MANU/SC/2960/2006

¹⁴ MANU/SC/0310/2010

¹⁵ MANU/SC/0042/1994

¹⁶ Section 114, Indian Evidence Act, 1872.

¹⁷ Section 16, Hindu Marriage Act, 1955.

¹⁸ Section 26, Special Marriage Act, 1954.

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Matha & Anr. v. R. Vijaya Renganathan & Ors., the Supreme Court ruled that such children cannot be considered illegitimate if the relationship between the parents was long-term and marriage-like. However, these children do not have rights over ancestral or joint Hindu family property. This approach is consistent with **Article 39(f) of the Constitution**, which mandates protection of children's welfare and dignity.

Regarding **Maintenance**, Indian law ensures protection irrespective of legitimacy. Under **Section 125 of the Code of Criminal Procedure, 1973**, children who are minors or unable to maintain themselves are entitled to maintenance from their parents. In **Dimple Gupta v. Rajiv Gupta**¹⁹, the Court clearly held that legitimacy is not a bar to claiming maintenance. Further, in **P.V. Susheela v. Komalavally**²⁰, denial of maintenance to children born out of live-in relationships was held to violate their fundamental right to life under Article 21 of the Constitution, which can be enforced through Article 32.

In matters of **Custody and guardianship**, there is no specific law governing children born from live-in relationships, leading courts to apply general principles under personal laws while prioritizing the best interests of the child. Under **Section 6 of the Hindu Minority and Guardianship Act, 1956**²¹ and as interpreted in **Gita Hariharan and Ors. v. Reserve Bank of India and Ors.**²², the father is generally the natural guardian, but the mother may act as guardian when the father is absent or unfit.

Importantly, **Section 6(b)** of the Act grants custodial rights to the mother in cases of children born out of illegitimate relationships, thereby indirectly safeguarding children born from live-in relationships.

CONCLUSION

Live-in relationships are increasingly common in India, but the law has not kept pace with this social change. In the absence of specific legislation, courts have stepped in to protect the interests of women and children through judicial decisions and constitutional rights. While this approach has provided relief in many cases, it lacks certainty and uniformity.

¹⁹2007 Supreme (SC) 1378

²⁰1999 Supreme (Ker) 648

²¹ Section 6, Hindu Minority and Guardianship Act, 1956.

²² MANU/SC/0117/1999

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To avoid confusion and unequal application of law, there is a need for a clear legal framework governing live-in relationships. Such a law should clearly define rights relating to maintenance, property, custody, and protection from abuse, while respecting individual choice and personal liberty. This would ensure fairness, legal clarity, and social justice.



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