



JOURNAL OF THE ROYAL LAUREATES ACADEMY

[www.rlaindia.org](http://www.rlaindia.org)

## LIVE-IN RELATIONSHIPS IN INDIA: AN ANALYSIS

**Ashish Mohan**

Ph.D. Research Scholar Law, School of Legal Studies  
Jigyasa University formerly Himgiri Zee University, Dehradun

**Dr. Bhupnesh Kumar**

Associate Professor, School of Legal Studies  
Jigyasa University formerly Himgiri Zee University, Dehradun

### ABSTRACT

In India, live-in relationships are increasingly seen as an uncomplicated alternative to marriage. This type of relationship involves an unmarried couple living together. At first glance, it appears to be a carefree companionship without any legal obligations; however, there are numerous complexities, responsibilities, and legal implications involved. Recent efforts have been made to regulate it under certain laws. This arrangement is no longer prohibited in India, and several decisions by the Supreme Court have clarified rules regarding child support, property, and legal recognition.

Nonetheless, this issue remains contentious in India. There are many unresolved areas, such as official documentation, cultural challenges, property rights, rights related to wills and gifts, religious implications, the LGBT community, and more, that need careful consideration. The primary aim of this article is to utilize secondary sources to help readers grasp the concept of live-in relationships. Subsequently, an attempt was made to explore the challenges and issues faced by couples through a descriptive and analytical approach. Ultimately, the paper argues that if couples choose to cohabit, there should be a separate, secular law crafted that considers gender equality.

**Key words:** Live-in Relationship, cohabitation, Domestic violence, Couples, Gender

## **INTRODUCTION**

A live-in relationship refers to a partnership in which two individuals live together without being married. This idea is now recognized and legally accepted in numerous countries globally. According to the Supreme Court, when a man and a woman in love choose to cohabit, it falls under the ‘right to life’; consequently, living together in a live-in relationship is no longer considered a crime. The Malimath Committee’s recommendations in 2003 were significant in advancing this cause.

It is important to note that it primarily highlights the term ‘wife’ and equates a woman in a live-in arrangement to a wife. Subsequently, the Protection of Women from Domestic Violence Act (PWDVA) 2005 emerged as the first legislation that recognized relationships outside of marriage by encompassing them under the definition of relations ‘in the nature of marriage’ (Anuja Agrawal, 2012). Numerous efforts have been made to include such relationships within various laws, such as those pertaining to domestic violence, maintenance, property rights, and the legal status of a child, in order to manage the nuances of this evolving social structure. Nevertheless, it remains a contentious issue on moral and societal grounds and continues to be viewed as a taboo in India.

Marriage has been regarded as a sacred bond in Indian culture since Vedic times. The concept of marriage has continually evolved over the years. As society and human psychology have progressed, the understanding of marriage and relationships has changed as well. The current generation is more accepting and open-minded regarding cohabitation. While it may appear to be a peaceful, comfortable, and relaxed relationship without any legal commitments, it actually comes with numerous complications, responsibilities, and legal obligations.

### **Legal Status of Live-in Relationships in India**

Cohabiting without marriage is increasingly prevalent in India. This part discusses the legal standpoint on these relationships in India, the judiciary’s view on cohabitation, and the implications of legal recognition for partners who choose to live together without marriage.

In India, cohabitation without marriage is permissible for consenting adults. The Supreme Court has acknowledged that extended cohabitation can be regarded as “a relationship in the nature of marriage,” although it does not provide all the rights associated with marriage.

## RESEARCH METHODOLOGY

In this article, the research approach is doctrinal in character. The main aim is to understand the concept, relevant laws, Acts, literature, news, and legal cases related to live-in relationships in India, as well as to analyze the dynamics of this evolving social phenomenon. Subsequently, the paper examines the issues and challenges encountered by couples using descriptive and analytical methods. Finally, in light of the difficulties faced by those choosing to adopt this emerging trend of cohabitation, the article argues for the necessity of establishing a distinct, secular, and gender-sensitive law for couples engaged in live-in relationships.

## Marriage and Live In

In India, marriage has been regarded as a sacred union since ancient Vedic times. Marriages occur either according to the personal laws of the respective religions of the individuals involved or under the stipulations of the Special Marriage Act. Legally, marriage is viewed as a contract between a man and a woman, wherein both parties agree to coexist and support one another.

The concept of marriage has evolved over the years. Today, marriage is commonly recognized as a fundamental civil right following the formal ceremony. It holds legal importance and entails various obligations and responsibilities regarding property inheritance, succession, and related matters. Consequently, marriage encompasses legal requirements such as traditions, exposure, choice, and all the legal consequences that arise from the relationship.

In India, live-in relationships are still not widely accepted socially, in contrast to many other nations. However, due to ongoing social progress and the increasing complexities surrounding marriage, individuals are increasingly seeking alternative arrangements like live-in relationships to create enduring partnerships, which resemble marriage albeit outside of the traditional framework.

## Live-in Relationship Is Not an Offence

The Supreme Court has indicated through various rulings that when a man and a woman cohabit as if they are married for an extended period and may have children together, the judiciary will regard them as married, applying the same legal principles to their partnership. The concept of live-in relationships was acknowledged in the case of *Payal Sharma v. Nari Niketan* by the Allahabad High Court, where the Bench, comprising Justice M. Katsu and Justice R.B. Mishra,

stated, “We believe that a man and a woman, even without formal marriage, may choose to live together. While society may view this as immoral, it is not against the law. There is a distinction between legality and morality.”

Subsequently, in the *S. Khushboo v. Kanniammal & Anr* case, the Supreme Court noted that a live-in relationship between two consenting adults lacking a formal marriage cannot be deemed a criminal act. Moreover, it was emphasized that there is no legislation that forbids live-in relationships or premarital sexual relations. Article 21 of the Constitution of India upholds the right to life and personal liberty as a fundamental right. In *Ramdev Food Products (P) Ltd. v. Arvind Bhai Rambha Patel*, the Court clarified that individuals in a live-in relationship without being formally married do not qualify as criminals. Therefore, live-in relationships are permitted under Indian law.

### **Protection of Women from Domestic Violence Act 2005**

The Protection of Women from Domestic Violence Act (hereafter referred to as PWDVA) 2005 was likely the first legislation to recognize live-in relationships by granting rights and protections to women who, while not legally married, are cohabiting with a male partner in a relationship resembling marriage but not formally recognized as such, and similar to that of a wife, though not legally regarded as one (Auroshree, 2019).

### **Section 2(f) of the Domestic Violence Act, 2005**

Section 2(f) of the Domestic Violence Act, 2005 describes: A domestic relationship refers to the connection between two individuals who currently live together or have at any time lived together in a shared household, if they are related by blood, marriage, or through a relationship that resembles marriage, adoption, or are family members living together as part of a joint family.

#### **Family games**

While the Act does not provide a specific definition of a live-in relationship, it is left for the courts to interpret. The court clarifies the term ‘relationship in the nature of marriage’ based on the provision mentioned above. Currently, the PWDVA’s provisions acknowledge individuals in live-in relationships and offer essential rights to women, protecting them from the exploitation of fake marriages, bigamous relationships, and similar situations.

### Essential Factors to Mark Live-in Relationship Legal

A relationship akin to marriage under the 2005 Act must meet certain essential criteria as outlined by the Supreme Court in the cases of *D Patchaiammal v. D Velusamy* and *Indra Sharma v. V.K.V. Sharma*. Women in such arrangements must satisfy specific conditions to gain benefits under the PWDA, including:

- 1. Age:** The prospective partners must be of legal marriageable age, meaning they should be adults as per Indian law. The Allahabad High Court stated in *Payal Katara v. Superintendent Nari Niketan Kandri Bihar Agra and Oars* that “a woman of approximately 21 years of age, being an adult, has the right to go anywhere, and that any man and woman can cohabit without being married if they choose.” However, in *Nandakumar v. The State of Kerala*, the Kerala High Court determined that an adult couple could engage in a live-in relationship even if the man’s age is below 21 years, the legal minimum for marriage.
- 2. A Significant Period:** The term ‘at any point of time’ used in Section 2(f) of the PWDA refers to a meaningful or reasonable duration necessary to establish and sustain a relationship. This can differ from case to case depending on circumstances (*RajGopal, Krishnadas, 2010*). A fleeting encounter cannot be classified as a domestic relationship. In *Madan Mohan Singh v. Rajni Kant*, the Court emphasized that long-term cohabiting relationships should be presumed as marriage. Earlier, in *Badri Prasad v. Dy. Director of Consolidation*, the Supreme Court affirmed a couple’s fifty-year cohabitation as legally valid, with Justice Krishna Iyer noting a strong assumption in favour of marriage.
- 3. Voluntary Cohabitation:** A mutual decision by the couple to live together, with a shared intention for cohabitation, is crucial. This includes supporting each other, sharing responsibilities, financial arrangements, and public socialization (*Auroshree, 2019*). If a man maintains a woman only for sexual purposes or as a servant, this does not qualify as a marriage-like relationship.

### Rights Under Live-in Relationships in India

A live-in relationship lacks a specific definition in India. It describes an arrangement where two people cohabit with mutual consent. This provides an opportunity for individuals to make a well-informed choice regarding marriage. Some key rights include:

- 1. Right to Maintenance:** Comparable to Section 125 (1)(a) of the Criminal Procedure Code, 1973, which mandates financial support to a wife, child, or parents.
- 2. Right of Inheritance of Property for Children:** As per Section 16 of the Hindu Marriage Act, children of couples in prolonged live-in relationships are entitled to their parents' self-acquired property. Children also have rights under Section 125 (1)(a) of the CrPC, and former partners remain obligated to care for them.
- 3. Children's Custody Rights:** Courts treat custody disputes of children from live-in relationships similarly to those from marriages, with the welfare of the child as the primary concern.

In 2010, live-in relationships received formal legal acknowledgment, ensuring women in such relationships are safeguarded under domestic violence law.

### **Article 21 of the Indian Constitution**

Article 21 safeguards the right to life and personal liberty. In *S. Khushboo v. Kanniammal and Anr (2010)*, the Supreme Court held that the right to life and liberty includes the right to live together without inheritance restrictions.

### **Latest High Court Judgments**

- **Gulza Kumari v. State of Punjab (2021):** Justice H.S. Madaan rejected a petition, stating non-marital relationships are not ethically or culturally acceptable. This contradicted earlier Supreme Court precedents.
- **Pushpa Devi v. State of Punjab (2021):** A 21-year-old woman and 19-year-old man sought protection from their families. The Court granted them the right to life and liberty, emphasizing adulthood and choice.
- **Abhishek Chauhan v. State of Madhya Pradesh (2022):** The High Court noted live-in relationships encourage sexual activity but upheld them as protected under Article 21. The Court, however, highlighted conservative cultural norms.

### **Societal Attitudes**

Customs and traditions form the foundation of Indian society. Live-in relationships often face resistance, especially from conservative groups. Couples frequently face disapproval, discrimination, and social exclusion. However, with modernization and global influence, India has an opportunity to align with global practices by legalizing live-in relationships.

Family games.

### **Difficulties Faced by Couples in Live-in Relationships**

Couples often face challenges in securing housing, healthcare, and education, in addition to societal disapproval and insufficient legal safeguards. Proving the legitimacy of their relationship can be difficult, and in times of conflict, partners may lack adequate legal remedies.

### **CONCLUSION**

The legality of live-in relationships in India remains debated. While not explicitly prohibited, they lack the full protections of marriage. Courts, however, have extended protections through the Domestic Violence Act and other laws. The Supreme Court has affirmed that live-in relationships between consenting adults are lawful and may qualify for maintenance rights.

With societal acceptance growing, India urgently needs specific legislation clarifying the rights and status of live-in partners. Until then, courts will continue to interpret existing laws to extend protection and fairness to individuals in such relationships.

### **REFERENCES**

1. **The Constitution of India, 1950** (specifically Article 21 regarding the Right to Life and Personal Liberty).
2. **The Protection of Women from Domestic Violence Act, 2005** (specifically Section 2(f) defining "domestic relationship").
3. **The Code of Criminal Procedure, 1973** (Section 125 pertaining to Maintenance; now replaced by the *Bharatiya Nagarik Suraksha Sanhita, 2023*).
4. **The Hindu Marriage Act, 1955** (Section 16 regarding the legitimacy of children).
5. **The Special Marriage Act, 1954.**

6. **Badri Prasad v. Dy. Director of Consolidation**, AIR 1978 SC 1557 (Established the presumption of marriage due to long-term cohabitation).
7. **Payal Sharma v. Nari Niketan**, AIR 2001 All 254 (Distinguished between legality and morality).
8. **S. Khushboo v. Kanniammal & Anr**, (2010) 5 SCC 600 (Affirmed that live-in relationships are not an offense under Article 21).
9. **D. Velusamy v. D. Patchaiammal**, (2010) 10 SCC 469 (Laid down the "essential ingredients" for a relationship in the nature of marriage).
10. **Madan Mohan Singh v. Rajni Kant**, (2010) 9 SCC 209 (Strengthened the presumption of marriage for long-term partners).
11. **Indra Sarma v. V.K.V. Sarma**, (2013) 15 SCC 755 (Detailed the tests for "relationship in the nature of marriage" vs. "walk-in-walk-out" relationships).
12. **Nandakumar v. State of Kerala**, (2018) SCC OnLine SC 492 (Clarified that couples can live together even if the man is below 21 but above 18).
13. **Abhishek Chauhan v. State of Madhya Pradesh**, (2022) (Reflected modern judicial views on Article 21 and cultural norms).
14. **Agrawal, Anuja** (2012). *Law and 'Live-in' Relationships in India*. Economic and Political Weekly, Vol. 47, No. 39.
15. **Auroshree** (2019). *Legal Status of Live-In Relationships in India*. International Journal of Law Management & Humanities.
16. **Malimath Committee Report** (2003). *Committee on Reforms of Criminal Justice System*. Ministry of Home Affairs, Government of India.
17. **RajGopal, Krishnadas** (2010). *Live-in relationships: Supreme Court sets out conditions for maintenance*. The Hindu.
18. **Law Commission of India** (Various Reports on the Reform of Family Law and Domestic Violence).

- 19. United Nations Development Programme (UNDP)** Reports on Gender Equality and Family Law in South Asia.
- 20. Halsbury's Laws of India** (Volumes on Family Law and Constitutional Law).
- 21. Agrawal, A.** (2012). "Law and 'Live-in' Relationships in India." *Economic and Political Weekly*, 47(39), 24–26.
- 22. S. Khushboo v. Kanniammal**, (2010) 5 SCC 600.
- 23. Protection of Women from Domestic Violence Act**, No. 43 of 2005, India Code.