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Legal Defense And Rights Of Women In Marriage And Live-In Relationship : A Socio-Legal Analysis

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Received-07.07.2026,

Revised-15.07.2026,

Accepted-21.07.2026,

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Abstract: *The rise of live-in Relationship as a major socio-legal development in contemporary India may be attributed to factors such as: (1) Rapid Urbanization; (2) Changing Social Values; (3) Increased Educational Opportunities for Both Men and Women; (4) Economic Independence of Women; and (5) Changes in Perceptions of Personal Autonomy. There are no specific laws regulating live-in Relationship, the Judiciary has recognized and validated these through judicial pronouncements its Constitutional Validity of Consensual Cohabitation based on Article 14, 19 and 21 of the Constitution of India. Through a Socio-Legal Perspective this research Paper will examine Statutory Provisions, Judicial Pronouncements, Constitutional Principles etc., which afford Legal Protections and Rights to Women living in Live-In Relationship. Additionally, this Paper shall explore the Historical Evolution of Live-In Relationship, Religious Perspectives, Sociological Implications, Distinction between Marriage and Live-In Relationship(s), Legal Safeguards afforded to women living in Live-In Relationship pursuant to the Protection of Women from Domestic Violence Act, 2005, Landmark Supreme Court Judgments which have Expanded Women's Rights Relating to Maintenance, Residence, Protection from Domestic Violence and Legitimacy of Children born out of Live-In Relationship. Lastly, the Study shall Critically Analyze whether or not the expansion of Legal Protection for Women Living in Live-In Relationship via Judicial Activism is sufficient to Provide Gender Justice and Balance Individual Autonomy with the Preservation of Institution of Marriage.*

Key words: *Live-in Relationship, Women's Rights, Cohabitation, Marriage, Domestic Violence Act, Maintenance.*

Introduction- Marriage has been viewed as one of the most ancient, prestigious, and enduring social institutions in India. Through the regulation of family life; the succession and inheritance of property; and the upbringing of children, marriage provides a range of social, religious, economic, and legal services. In nearly all the Personal Laws applicable in India, a marriage is considered to be an official, legally enforceable partnership of individuals who have entered into an agreement of marriage with each other. As such, it creates mutual rights and obligations on both partners.¹

During the past few decades, however, Indian society has experienced significant changes. These include rapid industrial development; mass migrations toward urban centers (specifically toward large metropolitan areas); a shift in gender roles; the growing involvement of women in post-secondary education and paid work; delays in the age at which people marry; and increased exposure to cultural ideas emanating from the West. All these factors have created new attitudes about intimacy. Among the emergent phenomena resulting from this attitudinal shift is the live-in relationship. A live-in relationship involves two adults who elect to live together but do not enter into a formally recognized marriage. Initially viewed as socially unacceptable and contrary to traditional Indian cultural values, live-in Relationship have gradually begun to receive judicial approval since they represent an exercise of personal freedom and the ability to select one's own sexual partner as outlined in Article 21 of the Constitution. The Supreme Court has continually ruled that voluntary cohabitation between two adult parties does not constitute either an unlawful or a criminal act.² However, lack of specific legislation governing issues related to support/maintenance; succession/inheritance; property rights; and social security continue to provide considerable ambiguity for women involved in live-in Relationship.

Similar vulnerabilities exist for many women living in live-in Relationship compared to women within formally recognized marital arrangements. These include domestic violence, financial dependency upon the male partner; emotional abuse; abandonment; and societal ostracism. Because of this reality, Indian Courts have provided broad interpretations to the Protection of Women from Domestic Violence Act, 2005, to enable women in de facto arrangements similar to those found in formal marriages to obtain protection orders, residential rights, maintenance monies and other forms of redress.³ However, such remedies can only be obtained if evidence demonstrating a long-term de facto arrangement similar to that of a formal marriage is demonstrated.

Increasing numbers of judgments from Indian courts demonstrate that Indian constitutional law is evolving from a single-mindedly marriage-centric viewpoint to one emphasizing individual dignity, equality, privacy and autonomy. Nonetheless, several critical legal issues associated with live-in Relationship remain unaddressed, specifically with respect to: entitlements to inherit property jointly acquired; succession rights;



equitable division of assets owned by partners in common during their time together; registration of live-in Relationship; and what constitutes reasonable financial support for partners in such Relationship. As such, there remains an urgent need for an equitable legislative framework capable of providing adequate protection for vulnerable female members of couples residing together while still maintaining the sanctity of marriage.

This research paper will examine live-in Relationship in India through a comparative sociological/legal lens focusing on their history; their current status as a matter of law; religious views on them; how courts currently interpret their existence; and the rights available to women living in them.

What is Live-In Relationship?- A live-in relationship can be defined as where two unmarried adults choose to live with one another for a long period of time in a domestic setting, but this does not imply they are married. While there is no statute that provides a definitive description of live-in Relationship; courts have continuously referred to them as "marriage like" arrangements.⁴

Unlike a marriage, a live-in relationship does not imply legal marital status and is instead established through mutual agreement, commonality, emotional connection, and joint responsibility for a common home. Both parties in a live-in relationship can also agree to live together on the basis of companionship, economic benefit, emotional connection, etc., and as a way to test whether or not they will get married.

Black's Law Dictionary defines cohabitation as when two people who are not formally married live together as if they were married. Sociologists describe live-in Relationship similarly as domestic Relationship that include a high level of emotional closeness, a residential environment, and an absence of formal legal status. As stated previously the Supreme Court has continually reaffirmed that the decision to live together is an individual right afforded to all adult citizens in India and therefore a violation of their rights pursuant to Article 21 of the Constitution. In *S. Khushboo v. Kanniammal*, the Supreme Court indicated that while choosing to live together with someone you love is a right granted to each citizen, the act itself should not be viewed as unlawful or unethical simply due to the fact that it is contrary to what society deems acceptable.⁵

However, every live-in relationship will not receive equal protections under law. In *D. Velusamy v. D. Patchaiammal*, the Supreme Court determined that only live-in Relationship that contain attributes similar to those found within marriages-long term cohabitation, shared residence, both parties are at least of the legal age for marriage, and both parties are publicly represented as spouses-can be described as "like marriages." By establishing this distinction the court is able to ensure that informal and/or solely physical/sexual Relationship do not have access to the same laws that apply to formalized marriages.⁶

Therefore, a live-in relationship falls somewhere in between marriage and mere friendship/sexually based association in terms of its standing in law. While a live-in relationship does not possess many of the same qualities as a formal marriage, judges have started to extend limited types of legal protection to these Relationship so as to protect women and children from abuse and deprivation.

Review of Literature- Shamna S. Prakash (2023) "examined the legal status of live-in Relationship in India and argued that although Indian law does not expressly recognize such unions, judicial interpretation has gradually extended constitutional and statutory protection to women and children. The author highlighted that legislative intervention is essential to remove inconsistencies arising from case law."⁷

Gurdeep Kaur (2025) analysed "leading judicial decisions governing live-in Relationship and observed that Indian courts have progressively recognized cohabitation under Article 21 while distinguishing genuine domestic partnerships from casual Relationship. The study recommended comprehensive legislation to provide certainty regarding maintenance, inheritance, and succession."⁸

Naveen Talawar (2025) discussed "the constitutional foundations of live-in Relationship and emphasized the tension between personal liberty and traditional marriage laws. The author concluded that judicial protection has significantly advanced women's rights but legislative ambiguity continues to produce inconsistent outcomes across different High Courts."⁹

Recent legal analyses published during 2026 have further emphasized that women in qualifying live-in Relationship may seek maintenance, residence orders, protection against domestic violence, and monetary relief under the Protection of Women from Domestic Violence Act, 2005. However, courts continue to distinguish stable domestic partnerships from Relationship involving adultery, fraud, or temporary arrangements.

History of Live-In Relationship in India- Although many view live-in Relationship as an innovation of the West and therefore "modern", there are examples in both literature, history and myth of unions similar to today's live-in relationship. During the Vedic period, marriage was seen as a sacred act

(sacrament) but there were other types of unions, those formed voluntarily, that did not require either elaborate ritualistic ceremonies or parental permission. The ancient Hindu texts refer to a type of union known as Gandharva Vivaha which consisted of a voluntary union between two people who mutually agreed to be together. Although Gandharva Vivaha was later defined as one of the six forms of marriage in Hindu law, it still represented a commitment to companionship through mutual agreement. Historical accounts also show that many royal families were living with partners outside of formal marriage, typically through concubinage. However, this usually resulted in lower social status for the partner(s) and limited or no inheritance rights for their children.

The introduction of codified marriage laws during the colonial period created further support for formal marriage and discouraged informal Relationship. Live-in Relationship continued to be viewed negatively and treated as illegal until after the passage of the Constitution of India in 1950. Constitutional values such as freedom/liberty, equality, and individualism began to influence how judges thought about cases related to marriage and cohabitation. In the case of *Badri Prasad v. Deputy Director of Consolidation* (1978), the court presumed a marriage existed when couples lived together for a number of years. Subsequent rulings, including *Lata Singh*, *S. Khushboo*, *D. Velusamy*, and *Indra Sarma* increasingly established the validity of consensual adult cohabitation. In addition, these decisions extended protections available under domestic violence legislation to women in these types of Relationship.¹⁰

Recent years have seen multiple high courts rule that live-in Relationship between consenting adults receive constitutional protections regarding life and liberty; however, these courts have consistently differentiated live-in Relationship from legally binding marriages. Additionally, several state governments have been exploring or introducing regulations regarding the registration of live-in Relationship.¹¹

Religion and Live-In Relationship- Religion has played a significant role in shaping family structure and marital patterns throughout history in India. The Indian legal system identifies and recognizes separate personal laws for the purposes of marriage, divorce, succession, and inheritance that are applicable to individuals according to their religious affiliations. While none of these laws recognize live-in Relationship as being similar to marriage (although they do provide protection for consensual adult Relationship regardless of an individual's religious beliefs)¹²; the jurisprudence established by the courts under the Constitution of India have evolved to increasingly provide greater protection for adult consensual Relationship.

Live-In Relationship and Hinduism- Hinduism views marriage (Vivaha Sanskara) as a sacrament (one of the six Sanskaras) for humans which is considered by many Hindus to be an ongoing spiritual commitment that transcends just this one lifetime. While classical Hindu literature (Manusmriti, Dharmashastras, etc.) prescribes ceremonial procedures to formalize a Hindu marriage, such as the seven sacred steps called Saptapadi, cohabiting without first entering into a formally solemnized marriage was historically discouraged within traditional orthodoxy.¹³

However, the Hindu scriptures also show that there were other ways to enter into a marital union. Of the eight types of marriages described in the Manusmriti (ancient Indian scripture) there was one type called Gandharva Vivaha where two people could agree to marry each other on their own without either requiring the consent of parents nor performing elaborate wedding rituals. Even though Gandharva Vivaha was considered a legal form of marriage it demonstrated that even in ancient times some people had lived together voluntarily with the agreement of both parties involved.¹⁴

In modern times, however, most people who follow the Hindu religion view family honor and social standing as being associated with the formalization of marriage. Therefore, live-in Relationship are criticized by those who oppose them as damaging to families and undermining the sanctity of marriage. On the other hand, when live-in couples seek relief through the courts regarding issues such as domestic violence, the courts have continually ruled that morality should not prevail over the rights of consenting adults to choose their own partner(s) and how they will conduct their lives. As a result, although live-in Relationship do not qualify as marriages according to Hindu personal laws, women who reside in a live-in relationship that meets certain judicial standards can gain statutory protections under The Protection of Women from Domestic Violence Act, 2005.¹⁵

Live-In Relationship and Islam- The Quran and hadiths emphasize the importance of marriage (nikah) both as a means for Muslims to fulfill one of their five obligatory acts of worship and as an important aspect of social order. Sharia law is clear regarding the obligations and rights of each spouse in a nikah; however, this will not occur until after a nikah contract has been executed by two consenting adults. The nikah contract will obligate each party with respect to all aspects of a marriage including the provision



of support (nafqah), the division of property at death (inheritance), child legitimacy, and the responsibility to provide conjugal duties.¹⁶

In contrast to many Western countries where common-law marriages are recognized as de facto marriages, Islamic law does not consider living together without entering into a valid nikah as a legitimate family arrangement. In fact, the mere act of living together as husband and wife in a manner consistent with community expectations could be considered contrary to Islamic law due to the absence of a valid nikah which would create marital rights.

Similarly, Indian Muslim personal law also provides for the rights of spouses in regard to nafqah, inheritance, mahr (dowry) and legitimacy of children through a legally sanctioned nikah. Live-in Relationship are therefore typically unrecognized by Muslim personal law.¹⁷

Live-In Relationship and Christianity- Christianity views marriage as an enduring covenant made by God between one man and one woman. The Holy Bible emphasizes that the couple's commitments should include lifelong devotion, fidelity to each other, and the indissolubility of their relationship. Most churches view marriage as both a legal agreement and a spiritual commitment designed to foster stability to families and society.¹⁸

Live-in Relationship are excluded from the provisions of the Indian Christian Marriage Act, 1872. Therefore, live-in Relationship cannot be formally recognized under Christian personal law.

Many Christian religions frown upon cohabiting with your partner prior to being married due to its conflict with the biblical standards of sexual purity and marital responsibility. However, many modern Christian faiths recognize changes in societal values and many of them choose to counsel couples rather than ostracize them.

Constitutionally, however, courts continue to uphold the right of adult partners who agree to share living space regardless of whether or not they may object based on religion. Courts uphold this right through constitutional rights and therefore women in live-in Relationship can obtain relief under non-personal laws (such as the Domestic Violence Act)¹⁹ as a result of their constitutional rights.

Live-In Relationship and Marriage- While both marriages and live-in Relationship are characterized by companionship and common living arrangements, these two types of unions have very different social status; statutory entitlements; and legal implications for each partner.

Marriage is a formally acknowledged union governed by various laws including civil marriage laws (the Special Marriage Act, 1954) and personal laws (the Hindu Marriage Act, 1955). Both parties gain the right to seek a range of statutory remedies including support; inheritance; succession; legitimation of offspring; marital separation/divorce; child custody/guardianship; joint tax liability; insurance; and pension entitlements.²⁰

In contrast, the primary basis of a live-in relationship is agreement on an informal basis without any form of legal commitment. As a result of this informal nature, either party can end the relationship at anytime without having to comply with the provisions of divorce statute unless the court has made some additional provision as a consequence of its interpretation of the legislation.

While the Supreme Court has consistently held that a live-in relationship does not have the same legal consequences as a marriage, when a couple have lived together for an extended period and publicly identified themselves as man/woman/husband/wife the court may infer a presumption of marriage or provide limited statutory protections if it would otherwise cause injustice, especially to women and/or children.²¹

There is also a significant difference between the way in which married couples inherit property compared to how live-in partners inherit property. In general, married couples automatically inherit property as per their respective applicable personal law. Live-in partners on the other hand typically do not have any automatic succession rights to their partner's estate unless there is a Will or other legal document providing such entitlement. The property regimes governing married couples' property also usually do not apply to live-in partners.

However, the distinctions have been narrowing somewhat in terms of protection against domestic violence and financial support. Judicial interpretations of the Protection of Women from Domestic Violence Act, 2005, mean that women in qualifying live-in Relationship can now obtain similar remedies to those available to married women including residence orders; protection orders; compensation; and monetary awards.²²

Therefore, while marriage continues to have a high degree of statutory recognition, live-in Relationship continue to develop limited legal protection based on principles of constitutional dignity; equality; and social justice.

The Concept of Live-In Relationship- Modern Relationship where people live together are based on adults who freely cohabit and choose to live together sharing a domestic life. Unlike marriage which



derives legitimacy from statutory recognition and religious ceremonies, Relationship live on constitutional principles protecting liberty and autonomy of individuals.²³ Sociologists generally describe such Relationship as transitional family structures reflecting changes in norms associated with modernization, urbanization, equality between genders and increasing individualism. Emphasis is placed more on compatibility emotionally than on legal obligations. Indian courts consistently use a functional approach to determine whether a relationship merits statutory protection. In *Velusamy vs Patchamma*, the Supreme Court identified several characteristics of Relationship "akin to marriage," including: voluntary cohabitation; age eligibility for both partners; capacity to marry; length of relationship; shared household; social recognition as spouses; and mutual financial and emotional responsibilities.²⁴

Later in *Indra Sarma vs V K V Sarma* the Court also clarified that live in Relationship do not receive full legal protection under the law. Casual Relationship, affairs, exploitation for commercial sex, or temporary arrangements generally fall outside of statutory protection.²⁵ So then under Indian law a live in relationship is neither identical to marriage nor completely devoid of legal consequences. Instead it represents a developing legal category that tries to balance personal freedom with social responsibility.

Sociological Impact of Live-In Relationship- The growing number of people in live-in Relationship have raised questions about how families will be structured, what impact it will have on gender dynamics, culture, and overall societal stability.

Proponents of live-in Relationship say that these Relationship give individuals (adults) the ability to make choices regarding with whom they want to live with without having to consider outside pressures. Live-in arrangements also provide an opportunity for equality among genders as responsibility for household duties is typically determined by choice (not obligation) as opposed to the traditional relationship where the woman was expected to take care of all household duties.

Another benefit of live-in Relationship is the possibility that they can eliminate or at least limit forced marriages. Couples will now have the time and freedom to determine if the person they are considering spending the rest of their life with is compatible. Ultimately, this could lead to healthier and more stable marriages since both parties will know exactly who they are committing themselves too.

Legally recognizing live-in Relationship has helped protect women from being left vulnerable to abandonment when she is no longer needed (as well as from potential abuse and/or financial exploitation). As such, women have more options available to them legally should her partner decide he wants out.²⁶

On the other hand, opponents of live-in Relationship claim that live-in Relationship destroy the sanctity of marriage, disrupt family structure and ultimately erode our cultural traditions. Another issue is that there is little to no established law outlining how assets will be divided upon separation or death, which may leave economically dependent women with limited or unstable financial futures.

Analysis of Landmark Judgments on Live-in Relationship and the Rights of Women-Beginning with no law on live in relationships in India; the courts were required to develop a legal framework for live-in relationships. This was done through an array of important judgments where the Supreme Court of India ruled that live-in Relationship, as well as all other Relationship that were not marriage based were afforded protection under Article 14 (Equality), Article 19 (Right to Life) and Article 21 (Right to Life & Liberty) of the Constitution of India. The court's decision has also provided greater legal protections to women and children who were born from these types of Relationship. The following important judgments represent the development of Indian jurisprudence as it relates to live in Relationship.²⁷

"In *Badri Prasad v. Deputy Director of Consolidation* (1978) 3 SCC 5²⁸, the court ruled that when a man and a woman have been living together for nearly fifty years, there exists a strong presumption that they are legally married, unless other evidence shows that they are not. In addition, the court noted that law generally favors legitimate marriages over illegitimate ones and will protect long-lasting domestic Relationship from unwarranted legal intervention.

Justice Krishna Iyer stated in *Badri Prasad v. Deputy Director of Consolidation* (1978) 3 SCC 527 that, when a man and a woman have cohabited as spouses for a reasonable period of time, society and courts should assume that they are married and not engage in treating them as adulterers.

Although *Lata Singh v. State of U.P.* (2006) 5 SCC 475²⁹ was essentially an intercaste marriage case, the Supreme Court made significant comments about the right of consenting adults to select whomsoever they wish as their life partner. The petitioner was being threatened and subjected to criminal charges instituted by her family members due to her having chosen her spouse. Protecting her freedom, the Supreme Court commented on the ability of a full-grown adult woman to choose any individual she wishes to marry or live with. Furthermore, the Court unequivocally stated that no offense occurs when consenting

adults reside together, and any interference by family members constitutes a deprivation of constitutional liberties.

In *S. Khushboo v. Kanniammal* (2010) 5 SCC 600,³⁰ the Supreme Court dismissed multiple criminal charges filed against actress Khushboo arising out of her publicly proclaiming support for both premarital sex and live-in Relationship during an interview. The Supreme Court quashed all the criminal charges filed against Khushboo and found that mere public endorsement of live-in Relationship did not commit any crime. The Supreme Court also stated that changes in societal attitudes cannot be restricted simply because they vary from accepted norms of traditional morality. Therefore, it is constitutional morality rather than popular morality which must govern judicial interpretations. Moreover, the Supreme Court held that the constitutionally protected rights of individuals who elect to reside together as consenting adults cannot be deemed illegal simply because society disapproves of the same.

In *D. Velusamy v. D. Patchaiammal* (2011) 10 SCC 469,³¹ the Supreme Court rendered what arguably is the most critical decision regarding women's rights in live-in Relationship. The main controversy in the case concerned a woman seeking maintenance pursuant to the Protection of Women from Domestic Violence Act of 2005. The central question at hand before the Court was whether each and every type of domestic arrangement would qualify as a relationship "in the nature of marriage" so as to obtain statutorily mandated protections. Justice Markandey Katju held that not all types of domestic arrangements qualify for statutorily mandated protections; instead he established conditions which must exist prior to a relationship qualifying as being "in the nature of marriage". Specifically, Justice Katju held that only domestic arrangements that meet certain criteria would qualify for statutorily mandated protections. Those criteria include domestic arrangements that are characterized by mutuality; domestic arrangements that involve shared responsibilities; domestic arrangements that exhibit commitment towards one another; and domestic arrangements that lack coercion or fraud. He specifically emphasized that casual sexual encounters, one night stands and sexual liaisons devoid of any form of responsibility do not qualify for protections afforded by the Domestic Violence Act.

In *Chanmuniya v. Virendra Kumar Singh Kushwaha* (2011) 1 SCC 14,³² the Supreme Court reviewed a case in which a woman claimed entitlement to maintenance based upon Section 125 of the Code of Criminal Procedure. The Supreme Court observed that Maintenance Laws are social welfare legislation designed to avoid women becoming destitute and thus, these laws are entitled to liberal interpretation. The Court suggested that Parliament contemplate amending the Maintenance Laws to provide statutorily mandated protections to women who have resided in Relationship similar to a marriage but whose Relationship fail to satisfy the technical requirements of establishing a valid marriage. The Court observed that social justice demands statutorily mandated protections for economically vulnerable women regardless of technical deficiencies in the establishment of a valid marriage. Although the Court requested a larger bench address this issue, its comments significantly impacted subsequent judicial interpretation related to maintenance rights available to women residing in live-in Relationship.

In *Indra Sarma v. V.K.V. Sarma* (2013) 15 SCC 75,³³ the Supreme Court conducted an extensive review of live-in Relationship. The parties had cohabited for many years while the male party was still legally married to someone else. Following termination of their relationship, the female party sought protective relief under the Domestic Violence Act. In this case, the Supreme Court provided an expansive analysis of live-in Relationship noting that contemporary Indian Society increasingly accepts domestic arrangements consisting of unmarried adults living together. Nonetheless, the Court clarified that not each and every live-in relationship meets statutory requirements needed for statutorily mandated protections. Justice K.S. Radhakrishnan described six forms of live-in Relationship:

- Domestic Relationship between unmarried adults;
- Relationship between married individuals;
- Relationship commenced notwithstanding awareness of an existing marriage;
- Long term domestic partnerships;
- Casual or temporary Relationship;
- Relationship involving exploitation.

The Court explained that only those domestic Relationship meeting statutory requirements may receive statutorily mandated protections pursuant to Section 2(f) of the Domestic Violence Act. Additionally, the Court emphasized that Parliament should create comprehensive legislation addressing live-in Relationship since judicial interpretation alone cannot adequately resolve each legal issue.



In *Lalita Toppo v. State of Jharkhand* (2019) 13 SCC 79,³⁴ the primary issue addressed by the Supreme Court was whether a woman in a live-in relationship is entitled to seek maintenance even though she may not be eligible to receive relief under Section 125 CrPC. The Court held that women in Relationship comparable to marriage may seek remedy under the Domestic Violence Act including maintenance, monetary awards and residence orders. The Court clarified that protection afforded by the Domestic Violence Act provides broader relief than traditional maintenance statutes and may be awarded independent of maintenance statute provisions where applicable statutory criteria are met. This decision greatly expanded economic protections afforded women abandoned following lengthy periods of cohabiting in live-in Relationship.

In Recent Judicial Developments (2024-2026), numerous recent decisions by state high courts consistently reiterated that consensual live-in Relationship among adults are protected by Article 21 of the Indian Constitution. Notwithstanding this affirmation, courts have continually issued directives granting protection from harm to consenting adult couples facing threats from family members or community groups. At the same time, courts have consistently warned that constitutional protection cannot be employed as justification for legitimizing Relationship marked by coercion; fraud; human trafficking; underage marriage; or violations of statutory conditions pertinent to existing valid marriages.

Recent judicial developments also reflect increasing attention toward maintaining balance between constitutional freedoms of consenting adults and protection of women from exploitation. Moreover, ongoing debates regarding potential adoption of a Uniform Civil Code in some states include proposed regulations concerning registration of live-in Relationship; financial obligations attendant thereto; and rights of children born resulting from such unions. Such developments illustrate continued legislative evolution in this field.

As indicated above, there has been a dramatic increase in recognition by judges throughout India regarding the need for increased statutory protections for individuals entering into live-in Relationship.”

Judicial Trends Emerging from the Above Decisions- A close examination of the preceding judgments yields numerous key maxims which have been adjudicated as established and authoritative principles of law:

1. A live-in relationship between two adult individuals is neither illegal nor criminal.³⁶
2. The right to marry and how to live one's life under Article 21 of the Constitution affords an individual with the freedom to select whom they will marry and how they wish to live their lives.³⁷
3. If an adult couple resides together for a prolonged period, it creates a rebuttable presumption of marriage.³⁸
4. An unmarried woman residing in a long term co-habiting relationship (in the nature of marriage) is afforded protections under The Protection of Women from Domestic Violence Act, 2005.³⁹
5. Births of children conceived through long term co-habiting couples who remain in a committed relationship, cannot be classified as bastardy simply due to the fact that the parents were not formally married.⁴⁰
6. Temporary, casual, and/or adultery-based unions typically do not provide a basis for legislative protection.⁴¹
7. The Supreme Court of India has continually urged Parliament to enact broad based legislation relating to co-habiting adults to resolve some of the current ambiguities surrounding such unions.⁴²

These decisions illustrate how the development of the Indian Constitutional Jurisprudence moved incrementally away from a legally defined marriage-centric legal model, recognizing an increasingly important role for the values of dignity, autonomy, gender equality, and social welfare; however, these changes were made while still maintaining the value of matrimony.

Rights of Cohabiting Women- One of the biggest advances within Indian family law is the increasing acceptance of the legal entitlements of women who reside with their partners in a relationship similar to that of marriage. While live-in Relationship are not granted the same status by statute as married couples, through constitutional provisions, judicial interpretations, and welfare legislation, the legal position of women residing in such Relationship has significantly improved.⁴³ The courts have consistently held that simply because a woman chose to reside with her partner without a formally recognized marriage ceremony does not mean she will remain remediless.

Right to Protection Against Domestic Violence- The most important statutory safeguard available to women in live-in Relationship is contained in the Protection of Women from Domestic Violence Act, 2005 (PWDVA). Section 2(f) of the Act extends protection to women living in a "relationship in the nature of marriage."⁴⁴

A woman satisfying the judicially evolved criteria laid down in *D. Velusamy v. D. Patchaiammal* and *Indra Sarma v. V.K.V. Sarma* may seek the following remedies:



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|----------------------|-----------------------|--------------------|
| • Protection Orders; | • Residence Orders; | • Monetary Relief; |
| • Compensation; | • Custody Orders; and | • Interim Relief. |

This provision reflects the welfare-oriented objective of the legislation by ensuring that women are protected against physical, emotional, verbal, sexual, and economic abuse regardless of the formal status of their relationship.

Right to Maintenance- Maintenance is considered a significant economic protection for women who are in live-in Relationship. The legal system has traditionally only allowed married couples to receive maintenance (or alimony) through court orders; however, there have been several court decisions which have broadened the definition of when an individual could receive maintenance or support based on welfare statutes. In Chanmuniya and then in Lalita Toppo, the Supreme Court ruled that although a woman living with her partner in what appears to be a marital relationship cannot claim the same rights as formally married partners, she should never suffer from poverty due to lack of a ceremonial marriage.⁴⁵ Therefore, if all other requirements set out by the Courts have been met, the woman can pursue financial support (maintenance) from her partner under the Domestic Violence Act.

Right to Residence- Section 17 of the Protection of Women from Domestic Violence Act gives a woman who is suffering domestic violence the right to live in the shared home.⁴⁶ In some cases, courts can issue residence orders when the female has no legal rights to be in that property. Residence orders will keep the male from removing her without her consent. This section minimizes the amount of time it takes for a woman to become homeless after she is abandoned.

Right to Protection of Dignity and Privacy- Article 21 of the Constitution of India gives each citizen the right to a life free from interference by government or society and to be protected in his/her personal liberties including the rights to dignity, privacy, autonomy and freedom of decision-making.⁴⁷ Since the Supreme Court has repeatedly held that consenting adult persons have the constitutional right to select whom they will marry without interference from either the state or society; therefore, live-in Relationship are encompassed under this same constitutional protection of an individual's choice of his/her own decisions about her/his own affairs.

Rights of Children Born from Live-In Relationship- Judicial interpretations have also reinforced the legal position of a child whose parents were in an ongoing live-in relationship. *Tulsa v. Durghatiya* was a case in which the Supreme Court ruled that a child is not considered illegitimate simply due to the fact that his/her parents had been in a long-term cohabiting relationship without formally marrying.⁴⁸ The court further found that, children of this type have inherited rights to inheritable property owned by each parent. The status of coparcenary rights of such children under Hindu Law remain unclear and will likely need continued judicial clarification.

Property Rights- Live-in partners usually do not have automatically granted inheritance or succession rights for their own property like spouses who are legally married. Unless a couple owns joint property, transfers that property by gift or through a will, then the cohabiting partner typically has no legal right to own any part of that property based solely upon having lived together. Thus, many experts advocate for legislation to provide economically vulnerable partners with some form of financial protection during the dissolution of lengthy cohabitations.

Right to Constitutional Protection- A number of Constitutional Rights available to Women living with their partners (in a Live In Relationship) can be stated as follows: The Right to Equality (Article 14); The Right to Non-Discrimination (Article 15); The Right to Freedom (Article 19); The Right to Life, Privacy and Dignity (Article 21).⁴⁹ It is on these Constitutional Rights that Judicial Protection of Live In Relationship has been built.

Criticisms of Live-In Relationship- Although there has been an increase in the number of cases where courts have recognized Live-In Relationship, Live-In Relationship still receive criticisms from Legal Scholars, Religious Organizations, Policymakers and Social Organizations.

Impact on the Institution of Marriage- The main criticism made by scholars, policymakers and many others is that, if Courts start to recognize Live-In Relationship, it will lead to a weakening of the Institution of Marriage. It was once considered the core of Family life in India. Marriage establishes obligations that are legally enforceable for Maintenance, Inheritance, Legitimacy, Succession and Stability of the Family which do not exist or are limited in most Live-In Arrangements.

Social Stigma- Although many people residing in Metropolitan Cities are now increasingly accepting Live-In Relationship; however, in Rural India, there remains significant social disapproval of such Relationship. In addition to facing this social stigma, Women also experience additional stigma than Men;



which impacts their ability to obtain employment, affects their Relationship within their families, limits their options for obtaining housing and reduces social acceptance.

Lack of Legal Certainty- Even though India is beginning to provide greater legal certainty regarding live-in Relationship, there continues to be no comprehensive legislation addressing issues related to live-in Relationship. Therefore, some important legal issues remain undecided, including: property distribution; inheritance between partners; succession rights; financial obligations after separation; registration procedures and pension and insurance benefits. This uncertainty frequently results in inconsistent judicial outcomes.

Possibility of Exploitation- Another issue is whether poor, dependent women can be taken advantage of by other men in short term or deceitful Relationship. In some cases a man will intentionally avoid legally binding himself (marriage) so he can still continue to reside with his partner as an unmarried couple for many years. The judiciary has sought to counteract this potential deception by limiting recognition to those couples who are "similarly situated" i.e. "in the nature of marriage."

Effect on Children- Even though courts have recognized the legitimate birth status of children of long standing live-in Relationship; there remains considerable practical challenge related to: social acceptance; documentation; succession disputes; guardianship issues and parental responsibilities.

Conflicts With Personal Laws- Personal laws regarding marriage in India, for the most part, are based upon religion. Thus when it comes to live-in Relationship, which do not fit within those statutory regimes; many conflicts emerge over issues of inheritance, maintenance, legitimacy, and succession. Further complications occur due to the lack of harmony among legislative enactments as well.

Conclusion- As indicated by the prior discussion, the development of Indian jurisprudence related to live-in Relationship has been influenced by an interplay between (a) Constitutional values, (b) Changes occurring in societal realities, and (c) The traditional institutions of the family. Despite the fact that marriage still occupies a central place in Indian society, the growing trend toward live-in Relationship indicates that both individual autonomy and personal preference have also evolved into similarly significant Constitutional concerns.⁵⁰ The Supreme Court has continuously ruled that cohabiting with another adult is neither unlawful or immoral. In addition, through its series of landmark decisions including *Badri Prasad, S. Khushboo, D. Velusamy, Chanmuniya, Indra Sarma, and Lalita Toppo*; the judiciary has continued to expand legal protections available to women and has distinguished legitimate domestic partnerships from mere casual Relationship.

The Protection of Women from Domestic Violence Act, 2005 has developed as the primary statutory mechanism providing protections to women who reside in Relationship similar to those found in marriage. Through their interpretations of this statute, women have been able to establish rights to residency, maintenance, damages and protection against domestic violence. However, there remain a number of very significant questions unanswered by law concerning areas of inheritance and succession; ownership of marital assets; entitlements to pensions; and, responsibilities for monetary support during or following separation. As each case is decided individually through court decisions, and given that no comprehensive statutes exist; it often leads to inconsistent and uncertain application of the law. Socially and legally speaking; live-in Relationship will either be used to reinforce or supplant existing marriages. They provide one example of the developing options for individuals forming domestic unions but require suitable regulation through legislation which respects all constitutional values of dignity, equality, freedom and social justice. Accordingly, India needs legislation that balances the preservation of the sanctity of marriage with the protection of women and children involved in long term live-in Relationship against being exploited, abandoned or placed in economic jeopardy.

Suggestions- The following strategies can be employed to enhance the level of legal protections afforded to women within live-in-Relationship.

Comprehensive Central Legislation (Parliamentary): Central legislation, which is inclusive of all types of live-in-relationship definitions, as well as the rights and responsibilities of partners.

1. **Uniform Legal Standards (Statutory):** In order to assist in differentiating between 'genuine' and 'casual/temporary' Relationship, it would be beneficial if there were clear uniform statutory standards that could be applied by courts.
2. **Registration Option:** An optional registration mechanism could potentially allow couples who have been living together for an extended period of time, to establish evidence of their relationship duration, without the obligation to register.



3. **Maintenance Entitlements (Statute):** Statutory entitlements of maintenance to economically dependent partners in cases where they have lived together for an extended period of time.
4. **Property Division (Legislative Reform):** Equitable division of jointly acquired property upon the breakdown of a relationship through legislative reform.
5. **Inheritance and Succession Rights (Statutory Provision):** Clearly defined statutory provision, which regulates the succession rights of partners, as well as those of children born into such a relationship.
6. **Protection against Exploitation (Strong Safeguards):** Strong safeguards need to be implemented to prevent the misuse of live-in-Relationship for purposes of financial exploitation, human trafficking, and/or evasion of legally enforceable obligations.
7. **Raising Legal Awareness:** The government, legal aid organizations, and education institutions should develop programs to raise awareness about the legal rights available to women in live-in-Relationship.
8. **Gender-Sensitive Welfare Jurisprudence:** Courts should continue to interpret welfare statutes in accordance with the constitutional principles of equality and social justice.
9. **Balancing Constitutional Liberties with Societal Interests in Family Stability:** Any future reforms to laws regulating live-in-Relationship should seek to balance individual liberties to make choices, with society's legitimate interests in ensuring that families remain stable.

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