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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **LIVE-IN RELATIONSHIPS AS AN EMERGING SOCIAL INSTITUTION: RIGHTS, OBLIGATIONS, AND JUDICIAL RESPONSE IN INDIA**

AUTHORED BY - SAMRA HASHIM & HUNAIN KHALID

## **Abstract**

The phenomenon of live-in relationships has generated considerable academic and judicial debate, particularly within the Indian socio-legal framework. This paper traces the historical development of cohabitation, from its presence in early human societies and ancient civilizations to its contested status in modern times. While informal unions once emerged from necessity and survival, contemporary live-in relationships are often understood as deliberate exercises of autonomy, offering partners a means to assess compatibility before entering into marriage. In the Indian context, however, such relationships remain socially stigmatized, reflecting the persistent influence of religious, cultural, and familial norms that privilege marriage as the sole legitimate foundation of family life. Despite the absence of a comprehensive statutory framework, Indian courts have progressively extended legal recognition to live-in arrangements, especially to safeguard the rights of women and children. Judicial interpretations of the Protection of Women from Domestic Violence Act, 2005, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872 have broadened protections relating to maintenance, legitimacy, and protection from abuse. Furthermore, constitutional principles enshrined in Articles 14, 15, 19, and 21 have been invoked to situate live-in relationships within the ambit of personal liberty, equality, and dignity. This jurisprudential trend underscores the centrality of constitutional morality over societal morality, affirming that individual choice must prevail over social disapproval. The paper argues that live-in relationships in India symbolize both the challenges of cultural resistance and the possibilities of progressive legal reform. They neither erode the institution of marriage nor undermine social order but instead reflect a transitional stage in reconciling traditional values with contemporary aspirations for autonomy and equality. Ultimately, their recognition represents a constitutional commitment to dignity, liberty, and the evolving dynamics of intimate relationships in modern democratic society.

**Keywords:** Marriage; Cohabitation; Maintenance; Legitimacy, stigma

## **Introduction**

*A known devil is better than an unknown friend.*

Man is a social animal who is by nature imperfect, possessing both virtues and shortcomings. Marriage, traditionally regarded as a sacramental social contract between two individuals, has long been considered the foundation of family and society. Its success, however, depends largely on compatibility and mutual understanding. In modern times, the forces of globalization, modernization, and exposure to Western culture have significantly altered traditional social structures. Where once parents arranged marriages that children were expected to accept, contemporary couples often find themselves struggling with incompatibility shortly after marriage, leading to conflict, domestic violence, and separation. To avoid such consequences, many prefer to first live with a partner they already know and understand. This makes live-in relationships a matter of personal choice between two consenting adults, though Indian society still struggles to accept them fully.

With the advent of improved education, economic independence, and changing gender roles, especially among women, individuals today are less bound by rigid familial and societal expectations. Women, in particular, now exercise greater autonomy, not only financially but also socially, mentally, and physically, allowing them to walk away from relationships that fail to provide respect, dignity, or compatibility. In this context, live-in relationships offer couples the opportunity to better understand one another before making a lifelong commitment.

At the same time, live-in relationships remain a subject of intense debate. For many, they symbolize freedom of choice, personal autonomy, and an alternative to rigid marital frameworks. For others, they are viewed as socially unacceptable, representing a departure from cultural traditions. This reflects the ongoing clash between *societal morality*, rooted in convention and collective expectations, and *constitutional morality*, which upholds dignity, liberty, and equality. From a psychological perspective, it is often healthier to be engaged in a compatible relationship than to live in isolation. Yet, live-in arrangements are not without disadvantages: partners face social stigma, legal ambiguities, and practical challenges in day-to-day life. While India lacks a specific legal framework governing such unions, judicial pronouncements have gradually extended protections to individuals in live-in relationships, particularly to safeguard women and children from exploitation.

Thus, live-in relationships in India represent both a progressive exercise of autonomy and a contested social phenomenon. They embody the shift from collective control to individual freedom, while also highlighting the tension between modern aspirations and traditional values. This study seeks to explore these complexities by examining the historical evolution, conceptual foundations, legal recognition, and constitutional underpinnings of live-in relationships, ultimately assessing whether they are a disgrace in the eyes of society or an affirmation of freedom of choice.

### **Live-in-Relationship: Meaning & Concept**

Live-in-relationship is an arrangement where two individual, irrespective of gender, decides to live together in a committed relationship without any formal marriage ceremony. It may refer to be a settlement created by the parties with consent to live together along the four walls without marital tie for measuring the compatibility between them before they are lawfully married to each other. The duration of staying together is at the desire of the parties for how long they wanted to live together. In India there is no law to legalize such relationships, but due to the changing norms and juristic approaches people are widening their mind to let in such new domain.

With the advent of westernization, it has become more popular as a viable alternative to regular marital tie. It gives you time to understand and know your partner before entering into an irrevocable marriage. The couple shares a common household and responsibilities without legal obligation of marriage and involved in making decisions together to test the compatibility of each other.

### **History & Origin**

The concept of live-in-relationship is centuries old. In **early human history**, relationships were informal and driven primarily by survival, reproduction, and communal living. Tribes or groups operated without formal institutions like marriage. Partnerships were fluid, and cohabitation was natural, as humans lived in closely-knit groups where exclusive partnerships were less emphasized. Over time, as societies evolved, the concept of marriage began to take shape, largely to establish familial and property rights.<sup>1</sup>

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<sup>1</sup> Coontz Stephanie, *Marriage, a History: How Love Conquered Marriage* (Penguin Books, 2006).

Ancient civilizations, **Mesopotamian and Egyptian cultures**, began formalizing relationships for social, economic, and political stability. While marriage was common among the upper classes to secure alliances or inheritances, informal relationships and cohabitation existed among common people who could not afford elaborate marriage rituals or dowries.<sup>2</sup>

In **ancient Rome**, live-in relationships were not uncommon, particularly among slaves and lower-class citizens who lacked the legal right to marry (*ius conubii*). These informal unions, referred to as *contubernium*, were recognized as partnerships for practical purposes. Among the elite, extramarital affairs and cohabitation were sometimes socially accepted, though legal marriage was still the norm.

**Greek society**, though emphasizing formal marriage for inheritance and lineage, also tolerated concubinage and informal partnerships. Philosophers like Plato and Aristotle discussed relationships in broader terms, often highlighting emotional and practical bonds over legal contracts.

During the medieval era, the institutionalization of marriage became central to societal order, largely due to the influence of the Church. Marriage was declared a sacrament by the Catholic Church, solidifying its role as the foundation of family and community. Non-marital cohabitation was often frowned upon, seen as sinful, and could result in social ostracism or legal consequences.<sup>3</sup> However, among the lower classes, where formal marriage ceremonies were inaccessible, *de facto* relationships (living together without marriage) persisted, albeit discreetly.

With the **Renaissance and Enlightenment periods**, new ideas about individual freedom and human rights began to challenge traditional norms. While formal marriage remained dominant, instances of cohabitation outside wedlock became more visible, particularly in cities where social surveillance was less stringent.<sup>4</sup>

In colonial societies, such as those in the Americas, informal partnerships often arose due to the lack of clergy or legal systems to formalize unions. Frontier life often necessitated practical

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<sup>2</sup> Patterson B. Cynthia, *The Family in Greek History* (Harvard University Press, Cambridge, 1998).

<sup>3</sup> Georges Duby, *Love and Marriage in the Middle Ages* (University of Chicago Press, Chicago, 1994).

<sup>4</sup> Macfarlane Alan, *Marriage and Love in England: Modes of Reproduction, 1300–1840* (Blackwell, Oxford, 1986).

arrangements over ceremonial traditions.<sup>5</sup>

The **Industrial Revolution (late 18th century)** marked a turning point in social structures. Urbanization and economic shifts brought people into closer contact, often away from traditional family supervision.<sup>6</sup> Living arrangements adapted to new realities, and informal cohabitation became more common, especially among the working classes. Marriage began to lose its purely economic and social connotations, and personal choice in relationships gained importance.

The **sexual revolution of the 1960s and 1970s**, driven by feminist movements, civil rights activism, and broader societal liberalization, played a pivotal role in normalizing live-in relationships.<sup>7</sup> People began to question traditional institutions, including marriage, viewing them as restrictive. Cohabitation became a way to explore compatibility and independence without the constraints of legal or religious frameworks.

Many Western countries started recognizing live-in relationships through civil unions or cohabitation laws. Countries like Sweden, Norway, and the Netherlands led the way in granting cohabiting partners rights similar to those of married couples, especially regarding property, inheritance, and child custody.

In regions with deep-rooted traditional values, live-in relationships remained controversial. However, globalization, urbanization, and exposure to Western media began influencing younger generations, particularly in urban centers. By the late 20th century, live-in relationships started gaining social acceptance, albeit slowly.

### **India and Live-in-Relationships**

In traditional Indian society, marriage has been viewed as a sacred bond, heavily influenced by religious, cultural, and societal norms. Live-in relationships were largely taboo and considered contrary to familial and social values.<sup>8</sup> Increasing gender equality, delayed marriages due to career aspirations, and increased exposure to global culture, attitudes toward live-in

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<sup>5</sup> Hendrik Hartog, *Man and Wife in America: A History* (Harvard University Press, Cambridge, 2002).

<sup>6</sup> Shorter Edward, *The Making of the Modern Family* (Basic Books, New York, 1975).

<sup>7</sup> Giddens Anthony, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Polity Press, Cambridge, 1992).

<sup>8</sup> Agnes Flavia, *Family Law and Constitutional Claims* (Oxford University Press, New Delhi, 2011).

relationships began shifting in the late 20th and early 21st centuries. Modern couples value independence and often prefer to evaluate compatibility before committing to marriage. Sharing living expenses without the financial burden of marriage ceremonies is practical, especially for young professionals. Younger generations in metropolitan cities like Mumbai, Delhi, and Bengaluru began embracing cohabitation as a practical choice before marriage.<sup>9</sup>

The biggest advantage of live-in relationship is its very disadvantage that is lack of commitment. The parties are not legally bound; they can walk out of the relationship if the things are not working well. To maintain compatibility and better understanding and also to avoid the pressure and responsibilities that come up with marriage, couples prefer to live together without sacramental or contractual commitment. Despite different perceptions it can be concluded that besides positives there are negatives too.

It gives a testing period in which couples can understand the best and worst of each other far better by knowing their regular habits, the things get real. This gives an idea to the couple to evaluate the arena where they need to work on for the better life ahead.

Since the couples are already living together and cohabited, it gives less opportunity to impress each other after marriage. In Indian context, the “*log kya kahenge*” narrative comes into picture. Besides pros and cons to this, it depends upon the parties whether to happily transit from living in to being married or to end up the relationship.

### **Rights and Obligations of Live-in Partners in India**

Live-in relationships in India represent a social reality that is gradually being accommodated within the legal framework. Although the legislature has not enacted a comprehensive statute governing such arrangements, judicial interpretation of constitutional rights and statutory provisions has created a set of rights and obligations for live-in partners. These rights are primarily aimed at preventing exploitation and protecting vulnerable individuals, particularly women and children, while obligations are imposed to ensure fairness and accountability within such unions.

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<sup>9</sup> Singh Kirti, *Separation and Domestic Violence: A Study of the Indian Legal System* (Routledge, 2021) 77.

### 1. Right to Cohabit and Privacy

The foremost right enjoyed by live-in partners is the freedom to cohabit without fear of criminalisation or state interference. The Supreme Court in *Lata Singh v. State of Uttar Pradesh*<sup>10</sup> recognised that adults have the autonomy to live together outside marriage as an exercise of personal liberty under Article 21. Similarly, in *S. Khushboo v. Kanniammal*<sup>11</sup>, the Court underscored that live-in relationships, though unconventional, cannot be deemed illegal. This jurisprudence safeguards the privacy and dignity of partners, protecting them from moral policing and arbitrary social or legal restrictions.

### 2. Right to Protection from Violence

One of the most important statutory protections arises under the **Protection of Women from Domestic Violence Act, 2005 (PWDVA)**. Section 2(f) of the Act defines “domestic relationship” broadly to include relationships “in the nature of marriage”. As interpreted in *Indra Sarma v. V.K.V. Sarma*<sup>12</sup>, this entitles women in live-in relationships to remedies such as protection orders, residence rights, monetary relief, and compensation in cases of abuse. By extending the shield of the PWDVA, the law ensures that women in such unions are not left without recourse against violence and exploitation.

### 3. Right to Maintenance

Maintenance is another critical right for women in live-in relationships, though its application is not automatic. Section 125 of the **Code of Criminal Procedure, 1973**, which provides for maintenance of wives, has been purposively interpreted in some instances to include women cohabiting in relationships akin to marriage. In *Chanmuniya v. Virendra Kumar Singh Kushwaha*<sup>13</sup>, the Supreme Court highlighted that a narrow definition of “wife” would defeat the welfare-oriented purpose of Section 125 and recommended a broader interpretation to protect women from destitution.

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<sup>10</sup> (2006) 5 SCC 475.

<sup>11</sup> (2010) 5 SCC 600.

<sup>12</sup> (2013) 15 SCC 755.

<sup>13</sup> (2011) 1 SCC 141.

#### 4. Right to Legitimacy of Children

Children born from live-in relationships are protected by judicial interpretation to avoid the stigma of illegitimacy. In *Tulsa v. Durghatiya*<sup>14</sup>, the Supreme Court ruled that long-term cohabitation gives rise to a presumption of marriage, thereby legitimising children born out of such unions. Further, in *Bharatha Matha v. R. Vijaya Renganathan*<sup>15</sup>, the Court affirmed that such children are entitled to inherit their parents' self-acquired property, though they are excluded from coparcenary rights in Hindu joint family property. This demonstrates a protective approach towards children, even if full parity with children of wedlock is not granted.

#### 5. Obligations of Live-in Partners

Live-in partners are subject to certain obligations, primarily directed at ensuring fairness and preventing exploitation. Male partners in relationships “*in the nature of marriage*” may be required to provide financial support to female partners under *Section 125 CrPC* and the PWDVA. Both partners are also obligated to maintain and care for children born of the relationship, consistent with constitutional guarantees of equality and dignity. Additionally, they are bound by the obligation to abstain from physical, emotional, or economic abuse, with violations inviting civil and, in some cases, criminal consequences.

However, unlike marriage, live-in relationships do not automatically create obligations of succession, inheritance, or conjugal rights. Partners are not entitled to spousal benefits such as pension, insurance, or tax concessions. This asymmetry reflects the cautious approach of Indian law, which seeks to balance protection with the preservation of marriage as a legally distinct institution.

The rights and obligations of live-in partners in India are the product of judicial innovation and purposive statutory interpretation rather than comprehensive legislative design. Partners enjoy rights to cohabit, protection from violence, maintenance in certain circumstances, and legitimacy of children, while bearing obligations of financial support, care for children, and non-violence. Yet, these rights remain limited when compared to those arising out of marriage. The framework thus reflects a **protective**

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<sup>14</sup> (2008) 4 SCC 520.

<sup>15</sup> (2010) 11 SCC 483.

**but non-institutional recognition**, acknowledging live-in relationships as part of India's evolving social fabric without equating them fully to marriage.

### **Statutory Provisions on Live-in Relationships in India**

Live-in relationships have not been codified in Indian statutory law, yet several legislative instruments have been interpreted by the judiciary to extend protection and recognition to such unions. These provisions, though not designed with live-in arrangements in mind, have been creatively employed to address issues of maintenance, domestic violence, and legitimacy of children, thereby filling the normative gap left by legislative silence.

#### 1. Protection of Women from Domestic Violence Act, 2005

The **Protection of Women from Domestic Violence Act, 2005 (PWDVA)** is the most significant statute in this context. **Section 2(f)** defines a “*domestic relationship*” as including not only marital bonds but also “*a relationship in the nature of marriage*”. This phrasing creates statutory space for recognising live-in relationships. Under this provision, women cohabiting outside marriage may seek protection orders, residence rights, maintenance, and compensation in cases of abuse.

The Supreme Court in *Indra Sarma v. V.K.V. Sarma*<sup>16</sup> clarified the contours of such recognition. It laid down indicators to distinguish genuine cohabitation from casual liaisons, including duration of the relationship, existence of a shared household, pooling of financial and emotional resources, presence of children, and social perception. Importantly, the Court excluded adulterous and transient relationships from protection, thereby preserving the integrity of the legislative intent while still safeguarding women from exploitation.

Thus, the PWDVA offers women in live-in relationships a measure of substantive legal protection that parallels, though does not fully equate to, that of married women.

#### 2. Code of Criminal Procedure, 1973

The **Code of Criminal Procedure (CrPC)**, under **Section 125**, provides for maintenance to wives, children, and parents. Although the provision explicitly refers to “wives”, judicial interpretation has, in certain cases, sought to include women in long-term live-in relationships within its scope. In *Chanmuniya v. Virendra Kumar Singh*

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<sup>16</sup> Supra note 12.

*Kushwaha*<sup>17</sup>, the Supreme Court emphasised that a restrictive interpretation of “wife” would defeat the purpose of Section 125, which is to prevent destitution. It recommended that women who have lived in relationships resembling marriage should not be denied maintenance merely due to the absence of formal ceremonies. While a final authoritative pronouncement on this issue was referred to a larger bench, the judgment reflects judicial recognition that the protective purpose of Section 125 must extend beyond formal marriage.

### 3. Indian Evidence Act, 1872

The **Indian Evidence Act, 1872** indirectly acknowledges live-in relationships through **Section 114**, which allows the court to presume the existence of certain facts. The courts have repeatedly held that long-term cohabitation gives rise to a presumption of marriage. In *Madan Mohan Singh v. Rajni Kant*<sup>18</sup>, the Court reiterated that prolonged cohabitation cannot be dismissed as a casual arrangement and must be presumed to constitute a valid marital tie unless rebutted. This evidentiary presumption is crucial in safeguarding the dignity of women and the legitimacy of children arising from such relationships.

### 4. Hindu Marriage Act, 1955

Although the **Hindu Marriage Act, 1955 (HMA)** does not expressly recognise live-in relationships, **Section 16** confers legitimacy upon children born from void and voidable marriages. The judiciary has extended this reasoning to children born out of live-in relationships. Such children are deemed legitimate and entitled to inherit their parents' property.

However, the protection remains limited. In *Bharatha Matha v. R. Vijaya Renganathan*<sup>19</sup>, the Supreme Court clarified that while such children may inherit the self-acquired property of their parents, they are not entitled to coparcenary rights in Hindu joint family property. Thus, while the HMA provides indirect protection to children, it stops short of conferring full inheritance rights equivalent to those enjoyed by children born within marriage.

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<sup>17</sup> Supra note 13.

<sup>18</sup> (2010) 9 SCC 209.

<sup>19</sup> Supra note 15.

## **Constitutional Basis of Live-in Relationships in India**

The Indian Constitution, while not explicitly recognizing live-in relationships, provides a protective framework through its fundamental rights jurisprudence. Over the years, constitutional courts have expanded the ambit of personal liberty, privacy, and equality, thereby bringing live-in relationships within the fold of constitutionally protected conduct.

### 1. Article 21: Right to Life and Personal Liberty

Article 21 guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law.” Judicial interpretation has extended this provision to encompass the right to live with dignity, autonomy in personal choices, and the freedom to shape one’s intimate relationships. In *Lata Singh v. State of Uttar Pradesh*<sup>20</sup>, the Supreme Court categorically held that two consenting adults have the liberty to live together outside marriage and that such an arrangement cannot be construed as unlawful. The court declared that live-in relationship between two consenting adults of opposite sex, though perceived as immoral, does not amount to any offence under the law. Similarly, in *S. Khushboo v. Kanniammal*<sup>21</sup>, the Court acknowledged that cohabitation without wedlock, although contrary to certain social conventions, constitutes a legitimate exercise of the right to privacy under Article 21. The principle of sexual autonomy, reinforced in *Joseph Shine v. Union of India*<sup>22</sup> while decriminalizing adultery, further strengthens the constitutional legitimacy of consensual live-in arrangements.

### 2. Article 19: Freedom of Expression and Movement

Articles 19(1) (a) and 19(1) (d) guarantee, respectively, the freedom of expression and the right to move freely throughout the territory of India. These freedoms extend to the domain of personal association, including the choice to cohabit with a partner outside the institution of marriage. Denial of such freedom on grounds of societal morality would amount to an unconstitutional curtailment of liberty.

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<sup>20</sup> Supra note 10.

<sup>21</sup> Supra note 11.

<sup>22</sup> (2019) 3 SCC 39.

3. Article 14: Equality Before Law

Article 14 ensures equality before the law and equal protection of laws. Judicial recognition has emphasized that women in live-in relationships must not be denied maintenance or protection solely on the basis of their marital status. In *Chanmuniya v. Virendra Kumar Singh Kushwaha*<sup>23</sup>, the Supreme Court urged a liberal interpretation of “wife” under Section 125 of the Criminal Procedure Code to prevent the exploitation of women cohabiting in relationships akin to marriage. Denying them equal protection would perpetuate gender-based disadvantage, contrary to the constitutional promise of equality.

4. Article 15: Non-Discrimination

Article 15 prohibits discrimination on the grounds of sex, among others. Excluding women in live-in relationships from legal remedies available to married women would amount to gender-based discrimination. Courts have, therefore, endeavoured to extend statutory protection to such women, thereby aligning statutory interpretation with the constitutional prohibition against discrimination.

Although the Constitution of India does not explicitly address live-in relationships, the interpretative expansion of Articles 21, 19, 14, and 15 has effectively constitutionalised the right of consenting adults to cohabit outside marriage. By situating live-in relationships within the framework of privacy, autonomy, equality, and dignity, the judiciary has ensured that individual choice prevails over restrictive social norms, thereby consolidating the constitutional legitimacy of such relationships.

Constitutional Morality vs. Societal Morality

The tension between **constitutional morality** and **societal morality** is particularly visible in the discourse surrounding live-in relationships. While societal morality reflects the dominant cultural, religious, and traditional views of a community, constitutional morality is rooted in the principles enshrined in the Constitution, justice, liberty, equality, and dignity.

Indian courts have repeatedly clarified that when individual autonomy clashes with collective notions of morality, it is constitutional morality that must prevail. In *Navtej Singh Johar v.*

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<sup>23</sup> Supra note 13.

*Union of India*<sup>24</sup>, the Supreme Court observed that constitutional morality requires adherence to the values of the Constitution rather than to fluctuating and sometimes oppressive societal norms. Similarly, in *Shafin Jahan v. Asokan K.M.*<sup>25</sup>, the Court underscored that the right to choose a partner is a facet of liberty under Article 21, and societal disapproval cannot override this fundamental right.

Applied to live-in relationships, this principle ensures that consensual cohabitation between adults cannot be criminalised or delegitimised merely because certain sections of society consider it immoral. Constitutional morality safeguards the dignity and privacy of individuals in such arrangements, thereby insulating them from social prejudice and harassment. Thus, live-in relationships are legitimised not by popular acceptance but by the constitutional guarantee of personal liberty, equality, and non-discrimination.

### **Judicial Recognition of Live-in Relationships in India**

The Indian judiciary has played a pivotal role in shaping the legal understanding of live-in relationships. In the absence of specific statutory provisions, courts have relied on constitutional principles, equitable doctrines, and interpretative strategies to extend protection to individuals in such relationships. Judicial pronouncements have not only validated the legality of live-in relationships but have also elaborated on their implications for maintenance, legitimacy of children, and protection from abuse.

Although, in India no statute exists to recognize such kinds of relationships of living together without marriage, but there are various judicial pronouncements which recognized it as lawful, legitimate, and licit to have the choice of living together before marriage. In several landmark cases, judiciary has apparently recognized the rights of live-in partners and child begotten thereof.

The Indian precedents legalized live-in relationships. In *Badri Prasad v. Deputy Director Consolidation*<sup>26</sup>, court observed that live-in relationship between two willing adults is not regarded illegal and if the couple present themselves to the society as husband and wife and live together for a required period of time, the relationship is considered to be a relationship

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<sup>24</sup> (2018) 10 SCC 1.

<sup>25</sup> (2018) 16 SCC 368.

<sup>26</sup> AIR 1978 SC 1557.

“in the nature of marriage”.

In *Nandakumar & Another v. The State of Kerala*<sup>27</sup>, the court explained the significance of freedom of Choice and Right to liberty, each being an essential fundamental right. *A.K. Sikri* and *Ashok Bhushan J.J.* have observed that live-in relationship has been recognized in the statute itself and found under the provisions for the **Protection of Women from Domestic Violence Act, 2005**. The apex court observed that a long period live-in relationship cannot be considered as a “walk-in walk-out” relationship and may induce a presumption of marriage. Under the proviso to **section 2(q)** of the Act, a female living in a relationship in the nature of marriage may also file a complaint against male partner and his relatives for the alimony.

It is termed to be unconstitutional, irrational, indefensible and arbitrary, and being violation of **Articles 14, 15, 19, and 21 of the Constitution**<sup>28</sup> of not giving the right to live with dignity and liberty. Every citizen has right to live with liberty. Every person who has attained the age of majority is legally permitted to live his life by his own choice without the confirmation or sanction of their guardian.

#### Legality of Live-in Relationships

The Supreme Court has consistently affirmed that live-in relationships between consenting adults are not unlawful. In *S. Khushboo v. Kanniammal*<sup>29</sup>, while quashing criminal proceedings against an actress for publicly endorsing pre-marital cohabitation, the Court held that a live-in relationship, though unconventional, is not illegal. The judgment emphasised that morality, unless codified into law, cannot serve as a basis to penalise individual choices.

#### Presumption of Marriage

A recurring issue before courts has been whether long-term cohabitation may give rise to a presumption of marriage. This presumption is particularly significant in safeguarding the legitimacy of children born out of such unions. In *S.P.S. Balasubramanyam v. Suruttayan*<sup>30</sup>, the Supreme Court held that if a man and woman live together for a number of years without a valid marriage, the law will presume, in the absence of contrary evidence, that they were living

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<sup>27</sup> (2018) 16 SCC 602.

<sup>28</sup> The Constitution of India, 1950

<sup>29</sup> Supra note 11.

<sup>30</sup> (1992) 1 SCC 304.

as husband and wife in a legally recognized relationship. Likewise, in *Tulsa v. Durghatiya*<sup>31</sup>, the Supreme Court held that prolonged cohabitation could raise a presumption of a valid marriage under Section 114 of the Indian Evidence Act, 1872. These decisions illustrate the judiciary's effort to prevent exploitation and to protect the social and legal status of women and children.

#### Relationship “in the Nature of Marriage”

The most comprehensive judicial treatment of live-in relationships was delivered in *Indra Sarma v. V.K.V. Sarma*<sup>32</sup>. Interpreting Section 2(f) of the Protection of Women from Domestic Violence Act, 2005, the Court elaborated the criteria for determining whether a live-in relationship qualifies as a “*relationship in the nature of marriage*”. Factors such as the duration of cohabitation, shared household, pooling of financial resources, existence of children, and social recognition were identified as relevant indicators. The Court clarified, however, that transient or casual relationships, adulterous arrangements, and “keep” relationships motivated solely by financial considerations do not fall within the protective ambit of the Act.

#### Maintenance and Protection of Women

Judicial recognition of maintenance rights has been crucial in extending substantive protection to women in live-in relationships. In *Chanmuniya v. Virendra Kumar Singh Kushwaha*<sup>33</sup>, the Supreme Court recommended a broader interpretation of the term “*wife*” under Section 125 of the Criminal Procedure Code, 1973, so that women in live-in relationships are not left destitute. Although the matter was later referred to a larger bench, the judgment reflects the Court's inclination towards a purposive interpretation that prevents exploitation.

#### Legitimacy of Children

The judiciary has also been sensitive to the rights of children born out of live-in relationships. In *Tulsa v. Durghatiya*<sup>34</sup>, the Court recognised that such children should be deemed legitimate if the parents had lived together for a significant period, thereby entitling them to inheritance rights from their parents. This approach harmonises the protective purpose of Section 16 of the

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<sup>31</sup> Supra note 14.

<sup>32</sup> Supra note 12.

<sup>33</sup> Supra note 13.

<sup>34</sup> Supra note 14.

Hindu Marriage Act, 1955, with the constitutional mandate of ensuring equality and dignity for all children irrespective of the circumstances of birth.

Judicial recognition has thus conferred a degree of legal validity and protection to live-in relationships in India. Through decisions ranging from recognising their legality to extending maintenance rights and safeguarding the legitimacy of children, courts have sought to strike a balance between individual autonomy and social order. The jurisprudence reflects a gradual but decisive move towards acknowledging live-in relationships as part of the evolving social fabric, guided by constitutional values of dignity, equality, and liberty.

### **Conclusion**

Knowing the spouse before marriage is as significant as knowing the college before taking admission. Prior communication and understanding are essential to avoid suspicion, mistrust, and unnecessary conflicts that often arise from lack of dialogue. Small unresolved issues can escalate into larger problems, undermining the stability of a marital relationship. Living with a known person before marriage may therefore enhance understanding, tolerance, and mutual adjustment, contributing to a more secure and harmonious future. In India, however, live-in relationships remain outside the purview of specific legislation. Despite this, changing social norms and progressive judicial interpretations have gradually opened the door to recognizing such unions. Courts have extended protections under existing laws to safeguard women and children from exploitation, thereby affirming the constitutional values of dignity, equality, and liberty. While society may still view cohabitation with skepticism, the evolving legal framework emphasizes individual choice over rigid traditions.

Thus, live-in relationships should not be seen as a threat to the institution of marriage but rather as an expression of personal autonomy and a practical step toward assessing compatibility before commitment. They embody the balance between freedom and responsibility, reflecting the tension between *societal morality* and *constitutional morality*. Ultimately, the right of two consenting adults to live together cannot be denied, for it represents a legitimate exercise of liberty in a democratic society.

In conclusion, live-in relationships in India symbolize both the promise of personal freedom and the challenges of social acceptance. Their gradual recognition reflects an ongoing

transformation in Indian society, one that seeks to reconcile its traditional values with the aspirations of a modern, rights-based constitutional framework.

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