



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

## ABOUT WHITE BLACK LEGAL

*White Black Legal – The Law Journal* is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

## AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

# **PROPERTY CLAIMS IN LIVE-IN RELATIONSHIPS: A FAMILY LAW GAP**

AUTHORED BY – GNANADA & PRIYANDITA SETHY

## **ABSTRACT**

The title, "**Property Claims in Live-in Relationships: A Family Law Gap**" emphasizes a serious hole in family laws. Most notably, this gap occurs in cultures which do not offer cohabiting or live-in partners, the same protections that married couples have. Live-in relationships are increasing in India due to changing social norms, increasing age at marriage, and individual autonomy. As such, there is a need to address the gap in property rights for partners of cohabiting relationships. Live-in relationships in India are due to shifting social norms, delayed marriages and individual autonomy while highlighting a critical blind spot in property rights for cohabiting partners. Unlike marriages adopted by Hindu Succession Act, Hindu Marriage Act live-in partners have no automatic rights to inherit each other's properties. Ownership depends strictly on title deeds, contributions proven through evidence, proven agreements. Live-in relationships may acquire the characteristics of marriage in certain purposes, Indian family law persists in its matrimonial paradigm, rendering asset division upon dissolution a jurisdictional void. Due to a lack of legislative coverage for cohabiting couples, there are problems like exploitation, financial instability, and disagreements being resolved in the general civil courts instead of in a family court. This creates a "**blind spot**" because of that uncertainty, there is a strong desire for reform (i.e., required cohabitation agreements and/or statutory rights) so that parties who cohabit can find clarity.

## **INTRODUCTION**

Modern Indian family set up is changing towards progressive change. The diversity of the structure of intimacy and household life has been brought about by urbanization, women taking up more roles in the workforce, delaying marriage, and the claim to personal agency. This is confirmed by empirical studies on youth attitudes that live-in relationships are gaining acceptability as companionship among grown-up educated urban inhabitants, especially in metropolitan cities. One of the studies states that around 55% of the urban respondents between 25 and 35 years old consider live in relationships as a normal aspect in society but about 75%

of the semi urban and rural respondents find it to be an anti-social concept thus creating a sharp generation and urban-rural contrast. Those trends point to the fact that the on-the-job centrality of marriage is silently challenged, although it continues to dominate over the normative and legal imagination of the Indian family.

To the end of this paper a live-in relationship shall be viewed as a relative long term arrangement where two unmarried adults stay together in a shared home in such an intimate relationship that is analogous to a marriage, but without any named ceremonies or registration. This sociological concept is similar to, but more limited than, the legal concept of a relationship in the nature of marriage in **Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 (PWDVA)**.<sup>1</sup>The Supreme Court in a case of **D. Velusamy v. D. Patchaiammal (2010)**<sup>2</sup> maintained that a woman who was in a relationship that resembled marriage was entitled to maintenance under the PWDVA as long as there were other conditions (e.g., satisfying a minimum period of cohabitation, the presence of spouses, and the legal maturity to enter into a marriage) that qualify a woman to seek maintenance. The case of **Indra v. V.K.V. Sarma (2013)** also helped to further clarify that some live-in relationships could be safeguarded as domestic relationships, providing they shared the following essential marital features: a household, financial interdependence, and social recognition.

The Indian marriage system is highly controlled by personal legislation and secular law and serves to define entitlements to maintenance, to inheritance, legitimacy of children and division of property in the event of divorce or death. Live-in relationships, on the other hand, have no explicit statutory law on property and succession. Relief is scattered: a woman can apply to the PWDVA where she can also claim maintenance under **Section 125 of the Criminal Procedure Code** in limited cases or through general rules of contract and property law, including as one of a set of co-owners or on the basis of resulting trust. These avenues are not a consistent regime of matrimonial or partnership property and most tend to place a huge burden of evidence on the less economically viable partner usually the woman.

The given gap creates a very strong discrepancy between the existent societal realities and the legal barriers enlarging them. Empirical and qualitative studies have shown that a significant percentage of couples living in a city can end up living together to share the costs, test the

---

<sup>1</sup> “Protection of Women from Domestic Violence Act, 2005” (January 1, 2005) <<https://www.indiacode.nic.in/handle/123456789/2021>> accessed April 18, 2026

<sup>2</sup> “D. Velusamy” (<https://www.casemine.com>) <<https://www.casemine.com/search/in/d%28DOT%29%20velusamy>> accessed April 26, 2026

<sup>3</sup> “Criminal Procedure (Identification) Act, 2022” (January 1, 2022) <<https://www.indiacode.nic.in/handle/123456789/19029>> accessed April 18, 2026

compatibility, or can avoid the socio-financial cost of marriage commitments. When such unions are broken up by separation or terminal loss, controversies over the assets held jointly, payments made to domestic spending, and labour terminated care are all typical, yet currently in telegraphic adjudication they are resolved solely through ad hoc doctrinal improvisation.

Based on these considerations, the study anticipates a hypothesis research question: Is it viable to resolve property claims related to live-in relationships fairly where these relationships lack statutory recognition? The investigation questions the possibility of finding reasonable solutions with the help of the current legal tools, **the Protection of Women against Domestic Violence Act (PWDVA), Section 125 of the Criminal Procedure Code (CrPC)**, and checking regulations of property and contract law, or a specially designed legislative framework is needed in a normative and pragmatic way.

The aims of the research are as follows: (i) to trace the history of the jurisprudence categories of the term “**domestic relationship**” and the “**relationship in the nature of marriage**” as practised by Indian courts; (ii) to critique these judicial instruments that are currently being used in order to adjudicate on property and financial claims; (iii) provide contextualization of these judicial developments in the broader spectrum of socio-legal changes that are taking place in the lives of Indian families; and (iv) to assessing comparative cohabitation regimes with the view to inform future legal reform. The study hypothesizes that in-residence relationships and claims of property are a conspicuous omission in family law, the disregard of which has a distributive (particularly to women) impact and thus is interlocked with the constitutional imperative of equality, dignity and non-discrimination in intimate relationships.

## LITERATURE REVIEW

Current trends in Indian society reflect a growing acceptance of live-in relationships, or cohabiting without legal marriage, as sociologically and legally transforming. These types of relationships were previously viewed as immoral due to cultural norms; however, courts have now permitted them under constitutional considerations of privacy, personal autonomy, and dignity as guaranteed by **Article 21 in the Indian Constitution**<sup>5</sup>. Analysis of scholarly writings on live-in relationships shows that contemporary legal norms are still at odds with traditional moral principles regarding property rights and that the arguments for property entitlements between live-in relationships remain largely undeveloped. This article evaluates the scholarly discourse on this subject against the backdrop of morality and property rights

---

<sup>5</sup> Indian Constitution

within informal marriages; it will analyse selected case law commentary and law commission reports; and finally, it will identify the main gaps existing in relation to property rights in live-in relationships—namely, limited structured entitlements for property distribution, and reliance upon individual facts and circumstances in order to determine home allocation by courts.<sup>6</sup>

Early conservative writers frequently classify live-in relationships as an “import from the West” and state that these relationships violate the sanctity of family, promote promiscuous behaviour, and diminish the institution of marriage. In this regard, Mohite (2025) believes that morality, ethics, and values explain the vacuum which exists because of the predominance of morality over law within the legislative system. Similar to early and conservative literature, multidisciplinary journals describe live-in relationships as a “moral and ethical dilemma” and state that rising incidences of exploitation or abandonment compound the moral and ethical dilemma of live-in relationships. While early writers see live-in relationships as “immoral,” progressive writers rely upon Ambedkar constitutionalism to challenge taboos associated with live-in relationships and to contrast their rigid culturally constructed meanings with rights-based acceptance of live-in relationships<sup>7</sup>. Furthermore, recent decisions from the courts such as **Khushboo v. Kanniammal (2010)**<sup>8</sup> demonstrate a judicial trend in recognizing rights within a moral framework, especially in regards to non-criminally or morally immoral live-in relationships; and finally, there is growing acceptance of live in relationships based on a ResearchGate Article published in 2025. The academic focus on live-in relationship property rights in India is still in its infancy, primarily because the absence of automatic property rights as spouses under **personal law (Hindu Succession Act 1956; Indian Succession Act 1925)** and marital systems.

The basis of property ownership is on deed and need proof of financial input to support a claim based on resulting trust or equity. Preethi R. (2024) point out there are no statutory rights for unmarried partners when it comes to inheritances, successions, or automatic division of property. The analysis of the literature indicates a lack of legislation in this area; for example, protections under **PWDVA (2005)** for maintenance and residence are available, but not for equitable division of asset. Case studies in Sweden on the Joint Homes of Cohabitates Act and in the UK have advocated for a legislative model as a way to provide protection or creation of

---

<sup>6</sup> “Review of Rape Laws (Report No. 172) [2000] INLC 2” <<https://www.commonlii.org/in/other/lawreform/INLC/2000/2.html>> accessed April 18, 2026

<sup>7</sup> “India: Report of the Malimath Committee on Reforms of the Criminal Justice System: Some Observations” (Amnesty International, September 18, 2003) <<https://www.amnesty.org/en/documents/asa20/025/2003/en/>> accessed April 18, 2026

<sup>8</sup> “S. Khushboo Vs. Kanniammal and Anr. (28.04.2010)” (SC) <<https://www.lawskills.in/FreeRes/judgments/MANUSC03102010.htm>> accessed April 18, 2026

a mandatory cohabitation agreement. Case law regarding the length of cohabitation as an indicator of ownership includes **Dhannulal v. Ganeshram (2015)** and **Vidyadhari v. Sukhrauna Bai**,<sup>9</sup> which cite the long-term cohabitant presumption in support of property right claims under **Section 114 of the Evidence Act**, however this line of legal reasoning rarely produces predictable or favourable results and is labour-intensive in proving the right. Evidence found in the literature strongly argues that women who do not have a source of income to support themselves (the majority of whom are either stay-at-home mothers or have spent their time contributing to household work) are almost never able to claim ownership of property unless they possess sufficient documentation.

Debates remain scattered and focused on maintenance issues. The **Malimath Committee's** recommendation to include women in long-term live-in relationships as "**wives**" under **Section 125 of the CrPC** was intended to help prevent these women from being destitute. The 172nd Law Commission (2000) called for family law reforms which would provide protections for families cohabiting together.<sup>10</sup> There have been many references (including purported 2012 comments) regarding the need for family law reforms but none have provided specific proposals for property rights schemes for unmarried cohabiting persons. No recent comprehensive report by the Law Commission looks at how to distribute assets, what the presumptions of inheritance should be when cohabiting, or whether cohabiting persons will require a contract to specify their property entitlements. In addition, recent experiments at the state level with **UCC registration (Uttarakhand)** remain limited and controversial.

Increasingly courts in India have recognized the validity of live-in relationships although property claims associated with them are limited to a narrow range of specific circumstances. The first case establishing the presumption of a legal marriage arising from long-term cohabitation was that of **Badri Prasad v. Dy. Director of Consolidation (1978)**. In **D. Velusamy v. D. Patchaiammal (2010)** and **Indra Sarma v. V.K.V. Sarma (2013)** the courts set out detailed criteria for determining whether there is a "relationship in the nature of marriage" based on factors including the length of time the couple lived together, sharing a home, public perception of the couple as being in a committed relationship, and having financial dependencies on each other.<sup>11</sup> These criteria have now become a useful basis for the granting of remedies under **the Protection of Women from Domestic Violence Act**

---

<sup>9</sup> Dhannulal v Ganeshram (2015) 12 SCC 301

<sup>10</sup> "India: Report of the Malimath Committee on Reforms of the Criminal Justice System: Some Observations" (Amnesty International, September 18, 2003) <<https://www.amnesty.org/en/documents/asa20/025/2003/en/>> accessed April 18, 2026

<sup>11</sup> Badri Prasad v Dy Director of Consolidation (1978) 3 SCC 527

("PWDVA") as well as for obtaining maintenance under **Section 125 of the Criminal Procedure Code ("CrPC") for women in live-in relationships** but have limited the applicability of these provisions to circumstances where the relationship is more formal than to those which are referred to as **"walk-in," "walk-out" relationships or bigamous relationships**.<sup>12</sup>

In relation to property matters, the courts have been reticent. In Velusamy (2010) it was held that a person could only make a property claim in respect of contributions made during the relationship if the contribution had been established by evidence. In **Dhannulal (2015)**, a long-standing female partner was entitled to inherit from her deceased partner as her relationship with him was treated as being of the nature of a marriage. However, the courts have continued to consistently reject any automatic recognition of community property or spousal succession with respect to there being property rights in benefit to either party and have instead reverted to the civil system of obtaining a declaratory judgment regarding the title to property or other equitable relief, both of which require strict evidence as to the title to property<sup>13</sup>. This creates uncertainty because there is often little or no hard evidence: the result will depend on the reliability of witness evidence as to what happened, on records of financing transactions, and the reliability of third-party witness testimony. As a result, parties who are economically dependent on the other are often placed at a significant disadvantage when making or defending against property claims.

## THEORETICAL FRAMEWORK

This chapter constructs a theoretical prism to examine property assertions based on cohabiting relationships as a legally underprivileged area of intimacy, dependency, and power. It appeals to the feminist legal thesis, a rights-based constitutional strategy, and the paradox between legal positivism and theories of social change to illustrate why the lack of statutory recognition is disproportionately detrimental to women and demeans the promise of equality and dignity.

Feminist Legal Theory<sup>14</sup>

In this perspective, the most significant issue is the economic susceptibility of women in cohabiting set up. They can move out, lose a job, or undertake household spending and

---

<sup>12</sup> "Indian Journal of Legal Review Issn 2583 2344" <<https://ijlr.iledu.in/a-critical-study-on-cohabitation-and-property-rights-with-special-reference-to-partition-between-unmarried-couple/>> accessed April 18, 2026

<sup>13</sup> "LawLens" <<https://lawlens.in/doc/33f83500-517b-40e0-bf34-a0d2bd8d2700>> accessed April 18, 2026

<sup>14</sup> "Feminist Jurisprudence and Its Impact in India. An Overview" <<https://www.legalserviceindia.com/legal/article-1859-feminist-jurisprudence-and-its-impact-in-india-an-overview.html>> accessed April 26, 2026

improvements based on a long-term relationship, but become deprived of any explicit claim once the relationship is terminated or one of the partners passes away. The formal status (marriage) required by the law to prompt the strong properties protections thus creates a set of relations that then suppresses the women living together without marriage in a systematic manner. Feminist legal theory challenges this priority by stating that the law ought to be directed by substance, shared life, interdependence, and contribution instead of form, rituals or registration only.

In this perspective, the most significant issue is the economic susceptibility of women in cohabiting set up. They can move out, lose a job, or undertake household spending and improvements based on a long-term relationship, but become deprived of any explicit claim once the relationship is terminated or one of the partners passes away. The formal status (marriage) required by the law to prompt the strong properties protections thus creates a set of relations that then suppresses the women living together without marriage in a systematic manner. Feminist legal theory challenges this priority by stating that the law ought to be directed by substance, shared life, interdependence, contribution instead of form, rituals or registration only.

The dichotomy of the public/privacy presents another problem that the family or household is not subject to scrutiny in a court of law because of this analytical framework. It assumes that the inability to regulate the economic consequences of live-in relationships is not neutral, but rather complicity in perpetrating gendered disadvantage. A feminist paradigm encourages, therefore, acknowledgment of the cohabitative contributions, both monetary and otherwise, of cohabitation, presumption of a regime of property partnership, and devising of remedies that will protect women against sudden impoverishment or homelessness after the end of the relationship.

### **Rights Based Approach**

The analysis is based on a rights-based approach that dwells on constitutional engagements to equality and dignity. Article 14 guarantee of equality before the law and of equal protection of the laws applies when discretely similarly situated partners, married or unmarried, are treated unequally in the distribution of economic rights in similar degrees of dependence, contribution, and vulnerability.<sup>15</sup> When two women, one of whom is married and the other is involved in a long-term live-in relationship, do the same care work and help acquire assets, but the married

---

<sup>15</sup> 'Article 14 of the Constitution of India'

woman is the only one entitled to the clear legal berth of maintenance and property, the disparate treatment requires constitutional explanation. A rights lens would thus ask the question on whether such distinction can be constitutionally justified, or whether it constitutes an indirect discrimination of women who either make choices or are forced to live together without being married.

The right to dignity in life and right to livelihood as understood to mean article 21 adds to the criticism. The discovery that adults possess a right to make choices based on who to partner and to live together without getting married logically creates an interest in material circumstances of making the choice. When the break-up of a cohabiting couple resettles a woman and puts her in the poverty, the street, or a dangerous reliance on birth families, a lack of any remedy to property and money actions can be seen by the State as incompatible with a full-fledged life. Accordingly, a rights based approach reconstructs property disputes from purely private contests over title to questions about whether legal order is sufficiently ensuring the ability of the persons to love with dignity and security in the inner peace.

This paradigm also dismisses moralistic argument. It proclaims that the constitutional rights have no dependency on the traditional marriage norms. When cohabitation is identified as a valid practice of individual freedom, the State cannot fail to acknowledge the foreseeable economic costs incurred by its non-regulation.

### **Legal positivism and social reality**

Finally, the dialectical opposition of legal positivism and social reality-based theories explains the ongoing state of the live-in relationships as a blind spot in the sphere of family law. Positivist view attaches rights and responsibility to conscious statutory stipulations and officially accepted statuses, including marriage.<sup>16</sup>As a result, the lack of normative legislation in relation to live-in relationships compels the courts to rely upon the doctrines concerning property and contracts existing up to date, thus leaving the substantive improvement to the legislative sphere instead of the court.

By contrast, theories that emphasize legal responsiveness to social reality assume that, as social practice changes (as social reality, in example of live-in relationships), there must also be responsive law-making, although gradual, by interpretative evolution and the formation of new law-doctrines. Within the context of this paradigm, rigid adherence to institutional categories

---

<sup>16</sup> Mahawar S, "Gender Equality and the Indian Constitution" (iPleaders, August 19, 2023) <<https://blog.ipleaders.in/gender-equality-and-the-indian-constitution/>> accessed April 26, 2026

like marriage in the face of overt cohabitation, interdependence, and mutual dependency creates injustice and defeat of legal legitimacy. It is the gap between lived experience and formal law which, in fact, is the place where economic vulnerability, especially that of women, is compounded.

This is the theoretical tension which is the core of the argument in the paper. Legal positivism helps understand why the judicial division of property rights under live-in relationships is not readily granted on the basis of a socio-cultural norm, when social reality, despite the existence of an unequal acceptance of cohabitation, offers such a social norm. In line with this, the theoretical framework has justified the assumption that the relegation of property claims in live-in relationships to ad hoc, status-relativistic adjudication is in violation of postulates of gender justice and a modern, rights-conscious vision of the family law.<sup>17</sup>

## METHODOLOGY

The methodological approach for this study is based upon doctrinal research as its primary methodology; thus, it is inherently designed to provide a 'snapshot' of the continuously evolving legal landscape surrounding live-in relationships within India focusing on property rights, maintenance and succession. As such, doctrinal research uses only primary legal sources (statutes, judicial precedents and established legal principles) to develop an integrated analytical framework that does not include the collection of empirical data. By relying solely upon primary legal sources, this approach allows for an in-depth, text-based examination of the rights and responsibilities of live-in partners with respect to the intent of the legislature and judicial interpretation affecting current family law.

A key focus of our doctrinal analysis is a thorough examination of the principal statutory provisions. We will consider the provisions contained in Section 125 of the Code of Criminal Procedure, 1973 that create an obligation to provide “maintenance” originally meant for “wives”, but whose judicial interpretation has increasingly extended to include women who live in a de facto relationship<sup>18</sup>. We will explore the way in which the terms “domestic relationships” and “live-in partnerships” are recognised under the Protection of Women from

---

<sup>17</sup> “Hart, H.L.A. (1994) the Concept of Law. 2nd Edition, Clarendon Press, Oxford. - References” (Scientific Research Publishing) <<https://www.scirp.org/reference/referencespapers?referenceid=2159003>> accessed April 26, 2026

<sup>18</sup> “Criminal Procedure (Identification) Act, 2022” (January 1, 2022) <<https://www.indiacode.nic.in/handle/123456789/19029>> accessed April 18, 2026

Domestic Violence Act, 2005,<sup>19</sup> and the consequent availability of protection orders, rights of residence and financial assistance provided by the act. We will examine the relevant succession provisions of the following laws: Hindu Succession Act, 1956<sup>20</sup> (amended in 2005), Indian Succession Act, 1925; as well as applicable laws that govern Muslims and Christians. Our objective will be to identify whether a live-in partner is an “heir” or “dependent”, as referred to within each of the respective laws, also to review the absence of automatic property rights arising on separation and/or death. For each statutory provision, we will read and analyse each of these provisions from a literal, purposive and contextual basis to determine the extent of the legislation to deal with non-marital cohabitation.

By examining relevant statute law, a thorough analysis of case law decided by the Supreme Court and High Courts is also undertaken. Major Supreme Court and High Court decisions, which have progressively recognised live-in relationships (i.e. the right to receive maintenance; the right to be considered legitimate parents; the right to share a home or household; and protection against domestic violence), are analysed in detail. These decisions are systematically analysed from an historical perspective in order to show the development of the law on live-in relationships from the courts’ original scepticism towards these types of relationships, through to their eventual conditional acceptance. The authors also highlight the increasing recognition by the courts of the validity of live-in relationships in terms of their interpretation of Articles 14, 21, and 25 of the Constitution. An analysis of the ratio decidendi and obiter dicta within the case law recognizes the extent to which the judiciary has expanded upon or restricted the ability of live-in partners to make claims to property, which serves to demonstrate that the courts have acted to fill the void created by the absence of appropriate legislative provisions concerning live-in relationships.

The analytical approach is utilized in identifying contradictions and flaws in interpretation. In contrast to this, logical analysis of contradictory or contradictory provisions within various laws, such as CrPC 125 and DV Act, between them, identifying how High Courts have interpreted these provisions differently (sometimes errantly) and identifying the absence of legislative guidance regarding issues such as non-recognition of live-in partners as Class I heirs and lack of a presumption of equal sharing will be fundamental elements of this analysis. Within each area, the analysis seeks to identify areas where Courts have interpreted laws

---

<sup>19</sup> “Protection of Women from Domestic Violence Act, 2005” (January 1, 2005) <<https://www.indiacode.nic.in/handle/123456789/2021>> accessed April 18, 2026

<sup>20</sup> “Hindu Succession Act, 1956” (January 1, 1956) <<https://www.indiacode.nic.in/handle/123456789/1713?locale=en>> accessed April 18, 2026

innovatively or outside the intent of the legislature and the areas where there are gaps in policy, which continues to create a socio-economic situation in which vulnerable individuals, in particular women, are disproportionately affected.

## FINDINGS

The analysis of the statutory laws, jurisprudence, and even the socio-legal literature reveals that the claim of property as a result of cohabiting relationship in India, is a huge gap in the field of family law. The key findings that can be distinguished are: (1) the uncoordinated nature of regulatory standards; (2) the imprecision of the application of the criterion of marriage-like; (3) the non-attention to the economic contribution of individuals and (4) the gendered and discretionary character of the mechanisms of relief, which introduce the heterogeneous results of judicial decisions.

First, the Indian law does not have a legal system that governs directly property rights of partners involved in a cohabiting relationship. Contrary to marriage, where **the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, and secular law, including Section 125 of the Criminal Procedure Code, 1973**, provide a formal framework of maintenance, inheritance and matrimonial property, the cohabiting partners can only apply to specific doctrines of general civil law. Wrangles over premises, or savings or shared resources are resolved on principles of co-ownership, resultant and constructive trusts or contractual rights, none of which is adapted to the relational reality of cohabitation. The research gathered empirically and through doctrine demonstrates that this legislative gap in the law creates cases of legal ambiguity and unpredictability, especially in the metropolis where these relationships are more common. As a result, economically disadvantaged partners, usually the women, do not have an automatic access to any property acquired in the course of the relationship even in case of long-term living.

To fill this gap, the courts have issued a test of relationships in the nature of a marriage, but it is debatable that this has been applied inconsistently and rather arbitrarily. Through the case of **D. Velusamy v. D. Patchaiammal (2010)**, the Supreme Court has established that a woman in a live-in relationship can seek remedy under the Protection of Women under Domestic Violence Act, 2005 (PWDVA) in case the relationship is characterized by aspects of a valid marriage, and the woman living in the relationship exhibits aspects of long-term cohabitation, social recognition, and legal ability to be married. In the case of **Indra Sarma v. V. K. V. Sarma (2013)**, the Court further explained the types of relationships to which PWDVA protection

applies such that only the relationships that were in nature that of marriage would be subject to protection and no other relationships which are described as adulterous or resembling concubinage. Similarly, in **Chanmuniya v. Virendra Kumar Singh Kushwaha (2011<sup>21</sup>)**, the Court proposed that females in long-term cohabiting live-in relations be legally treated as “wives” to a narrower scope of maintenance under Section 125 CrPC and sent the matter to a larger bench but, no definitive constitutional signaling as such has taken shape. The legal debate proves that High Courts differ in their approaches to these criteria, some assuming quasi marital status initially, others demanding high standards of evidence of social status, which leads to differences in accessibility of maintenance and rights of residence.

Third, the economic efforts of partners, especially the non-financial labour of women is often marginalised or neglected in the property adjudication. Though Velusamy has admitted that the woman, in principle, might even recover claims to property gained during the relationship on the basis of her contribution, subsequent case law has rarely developed a robust doctrine of partnership property for live-in couples. Courts are inclined to value formal legal title and documentary ownership to a greater extent over regard to equitable considerations of contribution or reliance. Empirical statistical summaries of case outcomes show that women in live-in relationships are frequently the contributors to rent, domestic expenses and domestic improvements, and even to property purchase price, but they do not receive a proprietary relief when relationships break up due to their inability to prove explicit agreements or documentary evidence. The literature highlights that the issue of unpaid domestic labour and childcare, which are the key considerations in the operation of the shared household, seldom finds its way into the calculations of property, despite wider feminist claims of an economic importance of such labour.

Fourth, the relief obtained is also gender, discretionary and unequal, thus promoting inconsistency as well as unpredictability. Protective measures like the PWDVA and, in a way, Section 125 CrPC are principally intended to shield females against the violence and destitution but neither do they form a systematic regime of mutual property rights among couples. Women can get residence orders, protection orders, or maintenance, but such remedies are generally personalized and not coextensive to a proprietary quotient, and highly dependent, again, on judicial discretion and the factual peculiarities of each situation. On the contrary, the men possess the practically non-existent statutory protections in case of the economic vulnerability

---

<sup>21</sup> Journal I, “Case Comment: Chanmuniya Vs. Chanmuniya Virendra Kumar Singh Kushwaha & Ors” (IJLLR Journal, November 17, 2022) <<https://www.ijllr.com/post/case-comment-chanmuniya-vs-chanmuniya-virendra-kumar-singh-kushwaha-ors>> accessed April 26, 2026

or exploitation in the live-in set-up, which is the subject of the question of equality in the conditions of Article 14 and the gendered architecture of the current protections. Comparative doctrinal surveys show that similar fact-situations, like long-term cohabitation involving shared assets, have produced mixed results in different jurisdictions: whilst some continue to hold that constructive trusts or equitable interests can by implication be found, others simply refused to accept claims just because they are not formally established.

Finally, Supreme Court rulings on similar cases show the piecemeal and child-focused nature in which property concerns are now addressed. The Court did acknowledge in **Bharatha Matha v. R. Vijaya Renganathan (2010)** that children born by a live-in relationship are legitimate under sub-clause 16 of Hindu marriage act and may inherit self-acquired property of their parents but not coparcenary property. In **Dhannulal v. Ganeshram (2015)**, the Court restated a robust presumption in marriage/legitimacy of children in which the couple resided as husband and wife in a joint family to inherit succession, thus indirectly attaining succession rights. These decisions extend essential protection to children but say nothing to the effect that the partners belong to one community-of-property.

All of these findings indicate that Indian law acknowledges live-in relationships as an outer category that is primarily intended to provide maintenance, guard against violence, and inheritance by children but stipulates little or nothing regarding the fundamental concern of inter-partner property rights.

## DISCUSSION

Due to the significant changes in both society's social evolution and old-style family law, live-in relationships in India are now legally recognized. The Indian legislature has not made much effort towards forming laws to govern cohabiting relationships. However, there have been many changes in social attitudes towards people who are not legally married but still live together; however, there is still no comprehensive legislative framework.<sup>22</sup> This absence of legislation has forced the judiciary to take on an activist role and create a body of law that is primarily derived from judicial decisions and not from legislative enactments. The purpose of this section is to explore the important issues that arise from the lack of legislation and the interplay between the creativity of judges and the silence of the legislature; whether live-in relationships can be equated to marriage; how to balance the prevention of the misuse of legal provisions and the protection of legitimate claims made by partners who live together; and the

---

<sup>22</sup> Constitution of India

urgent need for a legislative regime that applies specifically to live-in relationships.

Judicial creativity has been a double-edged sword in the area of live-in relationships. The High Court and Supreme Court have interpreted existing statutes broadly enough to provide protection to women in live-in relationships. The courts have interpreted the provisions of Section 125 of the Code of Criminal Procedure and the Protection of Women from Domestic Violence Act, 2005,<sup>23</sup> as conferring on female partners in domestic relationships the rights to maintenance and residence. Landmark court cases have progressively acknowledged the existence of live-in relationships as being equivalent to or similar to the institution of marriage. This dependence on inventiveness by courts has its own problems. The courts have had to resort to creating their own laws when there is no statute for which to interpret or apply. This situation has led to the application of different interpretations by different High Courts on some of the most critical issues, such as the property rights of persons living together as in a civil marriage or, for that matter, the succession of an estate to the surviving partner upon the death of one of the partners. The fact that there are no statutory guidelines available has forced the courts to adjudicate on the basis of the evidence presented before them and the judicial philosophy espoused by the Bench that is hearing the case<sup>24</sup>. This has resulted in patchwork adjudication and, therefore, has been the creation of considerable unpredictability for persons contemplating living together in a civil marriage and for lawyers advising clients with respect to such arrangements. Legislative silence has permitted courts the flexibility to do this but has also legitimately limited the development of a coherent, predictable legal system with respect to civil marriages.

The issue that arises is whether the law should equate a live-in relationship to a legal marriage for the purposes of affording the parties to that relationship legal rights and obligations. Proponents argue that long-term live-in relationships are no different than marriages in terms of the emotional and economic interdependence of the parties involved. The extension of "marital" rights and benefits to long-term live-in couples gives effect to the dignity of the parties and upholds the principle of equality before the law and protecting against discrimination as enshrined in articles 14 and 21 of our Constitution. Courts have used the concept of a "**relationship in the nature of marriage**" in their application to the legislation and to afford the parties to a long-term live-in couple with the same rights and benefits as are

---

<sup>23</sup> "Criminal Procedure (Identification) Act, 2022" (January 1, 2022) <<https://www.indiacode.nic.in/handle/123456789/19029>> accessed April 18, 2026

<sup>24</sup> (Delhi Law Academy) <<https://www.delhilawacademy.com/chanmuniya-v-virendra-kushwaha-sc-2010/>> accessed April 18, 2026

afforded to those who are legally married.

There is a strong argument against equating cohabitation with marriage. Marriage is recognised as a legally binding institution with specific rights and obligations as soon as a marriage ceremony occurs. Cohabitation, however, has been chosen to avoid the legal formalities, restrictions and obligations that marriage carries. Couples who have exercised their choice not to marry may not wish to be tied into legal relationships, such as those that will automatically entitle them to an inheritance, or restrict them from later entering into other relationships. If cohabitation and marriage are treated as the same thing, the sanctity of marriage may diminish, and unwelcome legal consequences may then be imposed on those who have exercised their right to choose to be married. While it is argued that some rights of protection (maintenance, residence) may be given to cohabiting couples, full equivalency in respect of property and succession matters would only be possible with express consent or registration<sup>25</sup>.

Several countries, including Australia, Canada, and parts of Europe, have successfully created cohabitation or civil partnership legislation that meets the competing demands of protection and individual choice. India has the opportunity to learn from these examples and adapt the elements that are relevant to its unique socio-cultural context. Effective, well-articulated statutory laws will lessen the amount of work the courts have to do, limit potential conflicting interpretations to statutes, and establish a fair and decent rights system for protecting the marriage and also establishing the responsibilities of the parties in relationships outside of marriage.

Therefore, while the creativity of the courts has provided a temporary solution until legislation could be passed, it cannot replace the need for a comprehensive body of law. Now is the time for Parliament to create a comprehensive body of law that will establish the legal status of marriage, cohabitation and fitness or family-like relationships in India. This stepping stone will also create consistency across jurisdictions and ensure certainty and fairness to all persons in non-marital cohabiting relationships.

## IMPLICATIONS

The implications of this legal spot work at both social and policy levels, deepening the vulnerability of partners (especially women) and complicating the work of courts and lawmakers.

---

<sup>25</sup> “Law Commission Floats Consultation Paper on Family Law Reform” (Press Information Bureau) <<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1544636&reg=3&lang=2>> accessed April 18, 2026

### **Social implications**

There is a significantly increased vulnerability due to the lack of coherent property framework that regulates live-in cohabitation and which affects women, especially those with a higher likelihood of being economically dependent, or of having to carry out unpaid caregiving duties. Empirical research of live-in couples in urban areas shows that although these relationships can expose them to more flexibility and bring happiness in the relationships, women more often express concerns about financial solvency and survival after separation, particularly where women have given up working or have moved to accommodate the union. Statistics show that roughly 40% of individuals involved in urban live-in situations claim that they are socially judged and pressured, and women have a significantly higher proportion of the total psychological and economic impact that may be directed at family rejection and fear of desertion. The lack of formal right to joint property, residency rights or reparation hence contributes to this vulnerability, effectively making multifamiliar living-in couples become so much of de facto walk-in, walk-out relationships that benefits the economic dominating partner.<sup>26</sup>

Legal uncertainty also discourages long-term devotion and rational planning of lifelong. Due to the impossibility of partners to predict how the courts will treat their investments towards rent, buying a house, or property asset, many couples avoid placing property in joint ownership or investing in financial forms thus, inherently, increasing disputes over ownership after a relationship. Socio-legal discussions show that the couples often default on the informal interpretations like who has to pay EMI, who maintains without a written agreement and they simply have to assume that the trust is enough when a relationship falls apart since the lack of legal structure gives the weaker partner little to bargain. <sup>27</sup>Such ambivalence can deter relationships that would be inhabited in some form, or can instead lock people in unequal situations because of economic destruction, subjugating the autonomy and equality cohabitation should represent.

The current legal system also encourages social stigma instead of eliminating it. According to the scholarly studies of social and cultural aspects of live-in relationships, the lack of clarity in the legislation promotes the views of these unions as morally dubious, volatile, or functioning beyond the law, and, consequently, support the perception of familial and community

---

<sup>26</sup> “Citizenship Act, 1955” (January 1, 1955) <<https://www.indiacode.nic.in/handle/123456789/1522>> accessed April 26, 2026

<sup>27</sup> “Marriage/Divorce/Maintenance” (India) <[https://lawcommissionofindia.nic.in/cat\\_marriage\\_divorce\\_maintenance/](https://lawcommissionofindia.nic.in/cat_marriage_divorce_maintenance/)> accessed April 26, 2026

ostracism. On live arrangements, women have reported high rates of shame, anxiety, and isolation, which are motivated by family rejection, housing discrimination, and violence threats and these negative conditions are exacerbated by the loss of legal rights to property or maintenance after a separation. Even though courts have always recognised the fact that live-in relationships is not illegal and comes under the umbrella of personal liberty of the Article 21, the judgements have often highlighted the supremacy of marriage and the use of language that expresses discontent with the notion of intimacy between non-marital partners. It is this ambivalent signalling constitutional protection and no substantial economic protection that allows stigma to persist, that is to say that cohabiter relations might be accepted as a freedom, but not as a lawful locus of co-owning where partaking life to which such as co-owning conditions sufficient protection.

### **Managerial / policy Implications**

At the policy level, the current situation highlights the need to create some precision in legislation to inform courts and policymakers. Even the Supreme Court has encouraged Parliament to consider new/specific legislation or perhaps add-on to the existing laws seeking to clarify the status and rights of live-in partners, specifically focusing on women and children. The foundation of this call is based on the fact that the amount of these relationships is increasing out of hand making ad hoc adjudication impossible. Various commissions and committees have likewise recommended the amendment of Section 125 of the Indian Criminal Procedure code to give the definition of a wife a broader meaning to include women who are in qualifying live-in relationships, and to bring the amendment to the maintenance and protection factors in line with the concept of a relationship in the nature of marriage under the Persons with Disabilities (Protection of Rights and Empowerment of Persons with Disabilities) Act. The lack of statutory guidelines has pushed judges to create ad hoc tests and exceptions<sup>28</sup> on a case by case basis, which, in turn, results in the inconsistency of the high court as well as the lack of predictability of the law.

## **CONCLUSION**

Relationships where couples share their lives without being married are becoming more common in modern-day India. Factors that have led to this increase include: societal changes, freedom, individual choice, urbanisation, financial independence of people, and new ways of

---

<sup>28</sup>“Archives” (India) <<https://lawcommissionofindia.nic.in/archives/>> accessed April 26, 2026<sup>28</sup>

thinking about what it means to be in an intimate relationship or have a family with someone. More adults are now choosing not to get married but live together in a relationship (particularly in urban and suburban areas). Live-in relationships have evolved beyond alternative or progressive societal groups; they have also had an impact on the way society views personal relationships and families. The courts have ruled that live-in relationships are an acceptable form of adult consensual unions and require at least some limited legal recognition. To deny this reality is not only unreasonable but out of touch with the experiences of millions.

Although there is societal acceptance of the live-in relationship, the proprietary dimensions of live-in relationships in Indian law are still disturbingly invisible. The law has been broadened to include women who were in a relationship of the nature of a marriage under the Maintenance of Wives and Children Act (s.125 CrPC).<sup>29</sup> Unfortunately, women's property rights upon separation or death from a live-in relationship will continue to be decided by a staggering amount of silence from the statutory framework. Live-in partners are not entitled to automatically inherit through the succession frameworks of the Hindu Succession Act, the Indian Succession Act and most personal laws. There is no presumption of joint ownership between live-in partners; there is no default division of property acquired during a period of cohabitation; and there is no right for a live-in partner to claim a share of the property purchased or enhanced through their joint contributions.<sup>30</sup> The lack of recognition of these proprietary rights of live-in partnerships has left the partner/investor in a live-in relationship in a very vulnerable economic position (most often to the disadvantage of the woman) after spending many years cohabiting and performing the functions of homemaking, raising children, and sacrificing their opportunities for career development. The lack of recognition of these proprietary entitlements only serves to perpetuate gender inequality and economic insecurity, and highlights the absurdity of having such a black hole in family law.

The current piecemeal approach through court decisions is very well-intended to protect people; however, it is not sustainable nor is it going to work alone. Many of the issues arise from having to deal with individual facts in each court case which creates inconsistencies, unpredictability, and too much judicial discretion. In addition, due to different interpretations by High Courts about how to prove the nature/duration of a relationship, this creates even more uncertainty. What is needed quickly is for Parliament to intervene by creating laws that will

---

<sup>29</sup>“Criminal Procedure (Identification) Act, 2022” (January 1, 2022) <<https://www.indiacode.nic.in/handle/123456789/19029>> accessed April 18, 2026

<sup>30</sup> Desk CE, “Casemine” Casemine (May 18, 2010) <[https://www.casemine.com/commentary/in/legitimacy-and-inheritance-rights-in-live-in-relationships-under-hindu-marriage-act-bharatha-matha-v.-r.-vijaya-renganathan-\(2010\)/view](https://www.casemine.com/commentary/in/legitimacy-and-inheritance-rights-in-live-in-relationships-under-hindu-marriage-act-bharatha-matha-v.-r.-vijaya-renganathan-(2010)/view)> accessed April 18, 2026

ensure coherence, certainty, and fairness in this area.

This transformation does not detract from marriage as a marital institution, nor does it devalue it. It takes into account the true (plurality) of contemporary living arrangements, and provides vulnerable partners with the ability to seek basic justice and secure an income. Establishing continuity within Family Law where there presently exists a void of Federal law is more than simply modifying the law from a contractual standpoint; it signifies moving toward constitutional principles of equality, dignity and freedom from discrimination, with respect to personal relationships. The legislature must formally enact legislation which incorporates the creativity of the courts, creating a consistent and inclusive statutory scheme that gives effect to both social evolution and the requirements of justice.

### **Citations**

“Criminal Procedure (Identification) Act, 2022” (January 1, 2022)  
<<https://www.indiacode.nic.in/handle/123456789/19029>> accessed April 18, 2026

“Hindu Succession Act, 1956” (January 1, 1956)  
<<https://www.indiacode.nic.in/handle/123456789/1713?locale=en>> accessed April 18, 2026

Desk CE, “Casemine” Casemine (May 18, 2010)  
<[https://www.casemine.com/commentary/in/legitimacy-and-inheritance-rights-in-live-in-relationships-under-hindu-marriage-act:-bharatha-matha-v.-r.-vijaya-renganathan-\(2010\)/view](https://www.casemine.com/commentary/in/legitimacy-and-inheritance-rights-in-live-in-relationships-under-hindu-marriage-act:-bharatha-matha-v.-r.-vijaya-renganathan-(2010)/view)> accessed April 18, 2026

“Dhannulal and Ors. Vs. Ganeshram and Ors. (08.04.2015 - SC)”

Constitution of India

WHITE BLACK  
LEGAL