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RECOGNITION OF LIVE-IN RELATIONSHIPS AND RIGHTS OF WOMEN AND CHILDREN

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ABSTRACT

Live-in relationships, though not expressly recognized by Indian statutes, have gained judicial legitimacy by interpreting the Constitution broadly. The Indian Supreme Court has consistently held that cohabitation between consenting adults is included in the right to life and liberty enshrined in Article 21 of the Constitution.³ This reflects the developing understanding of social relationships in modern Indian society.

The lack of a specific legislative regime for live-in relationships has prompted the judiciary to step in and extend the applicability of existing laws. Notably, the Protection of Women from Domestic Violence Act, 2005 refers to “any relationship in the nature of marriage.” This has helped to protect women in live-in relationships from abuse and economic exploitation.⁴ Secondly, judicial decisions have helped women in live-in relationships claim maintenance under Section 125 of the Code of Criminal Procedure. This protects women in live-in relationships from destitution.⁵

The rights of children born out of live-in relationships have also gained significant importance. The judiciary has recognized the legitimacy of children born out of live-in relationships and has protected their rights to claim maintenance and inheritance. Notably, this has been done by interpreting Section 16 of the Hindu Marriage Act, 1955 broadly.⁶

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³ S. Khushboo v. Kanniammal, (2010) 5 S.C.C. 600, 615.

⁴ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(f), INDIA CODE (2005).

⁵ Code of Criminal Procedure, No. 2 of 1974, § 125, INDIA CODE (1974).

⁶ Hindu Marriage Act, No. 25 of 1955, § 16, INDIA CODE (1955).

LIST OF ABBREVIATIONS

1. **AIR** – All India Reporter
2. **Art.** – Article
3. **CrPC** – Code of Criminal Procedure
4. **DV Act / PWDVA** – Protection of Women from Domestic Violence Act, 2005
5. **HMA** – Hindu Marriage Act, 1955
6. **Id.** – *Idem* (the same source as immediately preceding citation)
7. **No.** – Number
8. **SCC** – Supreme Court Cases
9. **SC** – Supreme Court
10. **§** – Section
11. **UCC** – Uniform Civil Code
12. **v.** – Versus
13. **Vol.** – Volume

1. INTRODUCTION

The institution of marriage has traditionally been viewed as the cornerstone of Indian society. However, with the change in values and the growing focus on urbanization and personal freedom, new forms of domestic arrangements have emerged. Among these new forms of domestic arrangements, live-in relationships have gained prominence.

Live-in relationships are those where two adults live together but are not married.⁷ Unlike Western nations, where live-in relationships are legally acknowledged by the government through civil unions and domestic partnerships, India has no legal provisions for live-in relationships. However, these are acknowledged by courts, mainly under Article 21 of the Constitution, which provides for the right to life and liberty.⁸

The judicial recognition is especially important for women and children, as they are vulnerable in such relationships. For example, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) includes women in "relationships in the nature of marriage," and they can seek redress for being abused.⁹ Moreover, judicial interpretations of Section 125 CrPC have been

⁷ *S. Khushboo v. Kanniammal*, (2010) 5 S.C.C. 600, 615.

⁸ *Id.*

⁹ *Id.*

liberal in granting maintenance to women, thus protecting them from economic destitution.¹⁰

The rights of children born out of such relationships have also been established through judicial pronouncements. Children born out of such relationships will now be legitimate if they have lived together for a long time and they will have inheritance and maintenance rights.¹¹

Recent developments, such as the Gujarat Uniform Civil Code Bill, 2026, suggest that formal recognition and regulation of live-in relationships may not be far off in India.¹²

2. LEGAL STATUS OF LIVE-IN RELATIONSHIPS

2.1 Judicial Recognition

The Supreme Court has also clarified that live-in relationships are neither illegal nor immoral. The courts have treated live-in relationships as an exercise of personal liberty, but at the same time, have ensured that there was no interference in private matters.

- *Badri Prasad v. Dy. Director of Consolidation* (1978): Long-term cohabitation was treated as equivalent to marriage.¹³
- *S. Khushboo v. Kanniammal* (2010): The Supreme Court has held that live-in relationships are included under Article 21.¹⁴
- *Indra Sarma v. V.K.V. Sarma* (2013): The Supreme Court has laid down the criteria for “relationship in the nature of marriage.”¹⁵

2.2 Tests for Determining Relationship in the Nature of Marriage

Courts have used indicators such as:

1. **Duration of cohabitation**
2. **Shared household**
3. **Financial arrangements**
4. **Social recognition**
5. **Mutual consent and conduct**

These indicators help determine eligibility for maintenance, protection and inheritance rights.

¹⁰ *Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469, 476–77.

¹¹ *S.P.S. Balasubramanyam v. Suruttayan*, A.I.R. 1992 S.C. 756, 758.

¹² Gujarat Uniform Civil Code Bill, 2026 (India).

¹³ *Badri Prasad v. Dy. Dir. of Consol.*, (1978) 3 S.C.C. 527, 528.

¹⁴ *S. Khushboo*, (2010) 5 S.C.C. at 615.

¹⁵ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755, 774–75.

3. RIGHTS OF WOMEN IN LIVE-IN RELATIONSHIPS

3.1 Protection under Domestic Violence Act

The PWDVA also includes live-in relationships, which safeguard women from:

- Physical abuse
- Emotional abuse
- Economic deprivation

Women can seek protection orders, residence orders and compensation.¹⁶

3.2 Right to Maintenance

Women in live-in relationships can seek maintenance under:

- Section 125 CrPC¹⁷
- PWDVA¹⁸
- Velusamy v. D. Patchaiammal – The court explained that only those relationships which are similar to marriage in essence can seek maintenance.¹⁹

3.3 Judicial Approach

The judicial approach is beneficial and considers the following factors:

- Economic dependency
- Duration and stability of the relationship
- Social vulnerability

3.4 Challenges for Women

- Burden of proving the relationship
- Lack of formal documentation
- Social stigma
- Variability in judicial application

4. RIGHTS OF CHILDREN BORN OUT OF LIVE-IN RELATIONSHIPS

4.1 Legitimacy

Children born out of long-term live-in relationships are legitimate.

¹⁶ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(f), INDIA CODE (2005).

¹⁷ Code of Criminal Procedure, No. 2 of 1974, § 125, INDIA CODE (1974).

¹⁸ PWDVA § 2(f).

¹⁹ Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. at 476–77.

- S.P.S. Balasubramanyam v. Suruttayan: Presumption of marriage is applicable in cases of prolonged cohabitation.²⁰

4.2 Inheritance Rights

- Section 16 of Hindu Marriage Act is to be interpreted to protect inheritance rights.²¹
- Bharata Matha v. R. Vijaya Renganathan: Children born out of live-in relationships have rights to inheritance.²²

4.3 Maintenance Rights

- Section 125 CrPC is applicable regardless of marital status.

4.4 Custody and Welfare

- Courts will give precedence to welfare over legitimacy.

4.3 Maintenance Rights

- Section 125 CrPC applies regardless of parents' marital status.²³

4.4 Custody and Welfare

- Courts prioritize **best interests of the child**, ensuring welfare takes precedence over marital legitimacy.

5. ROLE OF JUDICIARY

The judiciary has been very proactive by:

- Recognizing live-in relationships under fundamental rights
- Providing protection to women and children
- Bridging the legislative gap

The judiciary prefers social justice over formalism.

²⁰ S.P.S. Balasubramanyam v. Suruttayan, A.I.R. 1992 S.C. 756, 758.

²¹ Hindu Marriage Act, No. 25 of 1955, § 16, INDIA CODE (1955).

²² Bharata Matha v. R. Vijaya Renganathan, (2010) 11 S.C.C. 483, 490.

²³ CrPC § 125

6. RECENT DEVELOPMENTS

- Gujarat Uniform Civil Code Bill, 2026: Suggestions for registration of live-in relationships, maintenance for women and parental responsibilities.²⁴
- More public awareness and legal acceptance may be a precursor to legal recognition.

7. CHALLENGES

7.1 Legal Ambiguity

- No comprehensive law on the subject exists.
- Legal provisions are subject to judicial interpretation.

7.2 Social Barriers

- Cultural stigma attached.
- Inequality between the sexes.

7.3 Exploitation Risk

- Women are abandoned.
- Children are in legal limbo.

8. SUGGESTIONS AND REFORMS

1. Enact comprehensive legislation on the subject of live-in relationships.
2. Enact legislation on the definition of “relationship in the nature of marriage.”
3. Ensure equality between the sexes.
4. Enact comprehensive

9. CONCLUSION

Live-in relationships are a reflection of the changing values of our society. While the judiciary has provided protection to women and children, legal recognition is necessary for uniformity, clarity and justice. The Gujarat UCC Bill is a step towards legalizing live-in relationships, but legislation across India is necessary for the protection of all stakeholders.

²⁴ Gujarat Uniform Civil Code Bill, 2026 (India).

FOOTNOTES

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8. *Id.*
9. *Id.*
10. *Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469, 476–77.
11. *S.P.S. Balasubramanyam v. Suruttayan*, A.I.R. 1992 S.C. 756, 758.
12. Gujarat Uniform Civil Code Bill, 2026 (India).
13. *Badri Prasad v. Dy. Dir. of Consol.*, (1978) 3 S.C.C. 527, 528.
14. *S. Khushboo*, (2010) 5 S.C.C. at 615.
15. *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755, 774–75.
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17. Code of Criminal Procedure, No. 2 of 1974, § 125, INDIA CODE (1974).
18. PWDVA § 2(f).
19. *Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. at 476–77.
20. *S.P.S. Balasubramanyam v. Suruttayan*, A.I.R. 1992 S.C. 756, 758.
21. Hindu Marriage Act, No. 25 of 1955, § 16, INDIA CODE (1955).
22. *Bharata Matha v. R. Vijaya Renganathan*, (2010) 11 S.C.C. 483, 490.
23. CrPC § 125.
24. Gujarat Uniform Civil Code Bill, 2026 (India).