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# **LEGAL STATUS OF LIVE-IN RELATIONSHIP** **IN OTHER COUNTRIES**

Authored by- **Shikha Bhatnagar & Dr. Sarika Tyagi**

## **Abstract**

The term Live-in relationship is becoming very popular now a days; the only difference is that in the past, people used to hesitate in declaring their status because of fear of the society. However, in today's society, Indians are openly speaking about this form of relationship.

Although this new type of living arrangement is unstable, but still it is common in Western countries and in some metro cities in India. Therefore, it becomes essential to understand the rights, obligations, and legal requirements in relation to cohabitation at global level.

In metropolitan cities of India this kind of relationship has become an alternative to marriage where individual gives priority to freedom and people try to stay away from the responsibilities and obligations of a married life. In India there is no specific legislation relating to live in relationship but in other countries like France, UK, Ireland, Australia, Canada and many more are having specific law relating to cohabitation which defines various rights and obligations of common law partners. The research article will try to discuss the statutes relating to live-in relationship/ cohabitation in other countries.

Key Words : *Live-in relationship, taboo, Indian society, foreign countries, legal status*

## Introduction

### **Concept Of Live- In Relationship / Cohabitation**

According to Cambridge Dictionary the act of living and having sexual relationship with someone, especially someone to whom you are not married to. Cohabitation has been praised as test drive for marriage.<sup>1</sup>

People who live together in a consensual relationship with a partner but are not legally married to the partner and in a registered partnership with the partner, often known as cohabiting couples. People in such unions are referred to as "cohabiting couples" in those nations (such as Australia, Canada, and New Zealand) that let cohabiting couples to apply for "de facto" or "common law" marriages or partnerships..<sup>2</sup>

## Cohabitation As An Alternative To Marriage

A contradicting view on cohabitation understands it as an alternative to marriage. Slowly and gradually marriage is losing its importance in Indian society and cohabitation has become a substitute for it. Main reasons are mentioned here :

- First and the foremost , people consider marriage as an outdated institution and value personal autonomy and have liberal attitudes with regard to gender roles and the division of labor
- Second, cohabiters may feel that marriage is not relevant for them.
- They do not reject marriage for ideological reasons; they just do not consider it important to get married.
- Marriage would not make any difference for their commitment and feelings towards their partner;
- They might even feel that they are in a way married, just not in the legal sense.

Not only in India but in foreign countries live-in relationship is prevalent from the very old days . In other countries sometimes it is termed as cohabitation, common law partnership or living apart together . Every country has its own laws related to live-in relationship or cohabitation such as in Scotland there exist family law Scotland act 2006, In France there is a

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<sup>1</sup> <https://dictionary.cambridge.org/dictionary/english/cohabitation>

<sup>2</sup> [https://www.oecd.org/els/family/SF\\_3-3-Cohabitation-forms-partnership.pdf](https://www.oecd.org/els/family/SF_3-3-Cohabitation-forms-partnership.pdf)

PACS agreement and in Canada family law act 1990 is prevalent.<sup>3</sup>

The Supreme Court has ruled in a number of decisions that live-in relationships are not against the law and fall under the protection of Article 21 of the Indian Constitution's Right to Life. Therefore, it is important to consider how live-in relationships are governed legally in various countries around the world. Cohabitation is now recognised as lawful in many countries throughout the world. In order to address the problems associated with cohabitation, they also have cohabitation-related laws. Sharia law forbids it in some places, while industrialised nations like the United States, the United Kingdom, Australia, Canada, France, and many more consider it legal. heterosexual couples that share a home together”.

Varied countries have different views on live-in relationships. For instance, cohabitation after divorce is commonly punished in Bangladesh by the salishi system of informal courts, especially in rural areas. According to an Islamic penal code that was suggested in 2005, cohabitation in Indonesia would have been punishable by up to two years in prison. Also Sharia law forbids cohabitation in countries where it has been practised. However, several industrialised countries, including the USA (23 percent in 2003), Denmark, Norway, Sweden (over 50 percent), and Australia (22 percent), among others, permit live-in relationships and do not view them as illegal.<sup>4</sup>

## **Now We Will Discuss The Laws Related To Cohabitation In Different Countries**

### **UNITED STATES OF AMERICA**

In United States, cohabitation is the living together of two or more persons who are in an intimate relationship but who are not legally connected through marriage or a civil union.<sup>5</sup>

In contrast to the 7.6 million opposite-sex cohabiting couples in the US in 2011, there were 514,735 cohabiting same-sex couples as of the 2010 Census, according to a different data from the Census Bureau. Although cohabiting people come from all age groups, their average age range is 25 to 34.

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<sup>3</sup>[https://www.researchgate.net/publication/313878453\\_The\\_different\\_meanings\\_of\\_cohabitation\\_across\\_Europe\\_How\\_cohabitors\\_view\\_their\\_unions\\_and\\_differ\\_in\\_their\\_plans\\_and\\_behaviors/link/58acced092851c3cfd05c59/download](https://www.researchgate.net/publication/313878453_The_different_meanings_of_cohabitation_across_Europe_How_cohabitors_view_their_unions_and_differ_in_their_plans_and_behaviors/link/58acced092851c3cfd05c59/download)

<sup>4</sup> <https://www.advocatekhor.com/blogs/index.php?bid=4294fe94c613c9ad072931429&bcmd=VIEW>

<sup>5</sup>[https://en.wikipedia.org/wiki/Cohabitation\\_in\\_the\\_United\\_States#:~:text=Cohabitation%20in%20the%20United%20States%20is%20loosely%20defined%20as%20two,marriage%20or%20a%20civil%20union.](https://en.wikipedia.org/wiki/Cohabitation_in_the_United_States#:~:text=Cohabitation%20in%20the%20United%20States%20is%20loosely%20defined%20as%20two,marriage%20or%20a%20civil%20union.)



Unmarried couples who are cohabitating can choose to draught a range of legal contracts (commonly referred to as "cohabitation agreements") that can help protect their rights as a couple while also protecting their individual interests and assets..<sup>6</sup>

Legal Status: As of 2022, only two states—Michigan and Mississippi—have cohabitation bans that are actually enforced. The statute in Michigan came into effect in 1931.<sup>7</sup>

However, unmarried cohabitants do not automatically have the same rights as married people, especially when it comes to property that was acquired during a relationship. Even in long-term relationships, unmarried couples are typically exempt from the application of marital property rules. Additionally, regulations governing the transfer of property from one spouse to the other upon death, the responsibility for caring for the other's property during periods of mental incapacity, and even visitation privileges in hospitals do not apply to unmarried couples. Although most of these rules have been updated to prevent injustice to children, traditionally, children of unmarried couples were not given the same rights as children of married couples.

Living together contracts that grant each party rights akin to those enjoyed by married couples are a relatively new trend among both heterosexual and homosexual couples.

Laws in several states, including California, refer to cohabiting couples as "domestic partners." Those who "have decided to share one another's life in an intimate and committed relationship of mutual caring," including having a "shared residence, and are the same sex or persons of opposite sex if one or both of them," are considered such couples in California.<sup>8</sup>

#### **CANADA :**

Live-in relationships are recognized as Common-Law relationships in Canada. Simply said, a common-law partnership is a union between two people that lasts for the minimum amount of time necessary for a marriage to be recognised by the state. e practiced either by straight people or people who are in same-sex relationship.

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<sup>6</sup> <https://www.findlaw.com/family/living-together/cohabitation-agreements.html>

<sup>7</sup> [Lawmaker wants to end Michigan's ban on unmarried couples living together](#). 21 May 2021.

Retrieved 2021-12-31.

<sup>8</sup>

Cohabitation/live-in relationships are also considered legal in Canada. It is also known as common law marriage. Section 54 of the Family Law Act 2006 RSO 1990 governs live-in relationship and states that people who cohabit or wish to cohabit and who are not married can enter into an agreement which will deal with all their rights and obligations in respect of the cohabitation, at the time when they cease to cohabit and on their death. Including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to decision-making responsibility or parenting time with respect to their children; and
- (d) any other matter in the settlement of their affairs.<sup>9</sup>

Quebec consist the highest number of people living in live-in relationship in the world.

If two persons have been continually residing together in a conjugal relationship for at least three years, they are deemed common law partners in Ontario, Canada. They simply need to have been living together for a year if they have a kid together through birth or adoption.<sup>10</sup>

#### **UNITED KINGDOM :**

Live-in partnerships are primarily protected by the UK's Civil Partnership Act. Even though the phrase "common law partners" is occasionally used to refer to a man and a woman who are in a committed marriage. A note from the Home Affairs Section to the House of Commons in 2010 stated that unmarried couples do not have a guarantee that they will inherit the other person's belongings in the event of relationship breakdown. If a couple decides to split up while cohabitating, their property cannot be divided.<sup>11</sup>

Family law Scotland act 2006 provisions from 25 to 28 deals with meaning of cohabitants and discuss about various rights such as Rights in certain household goods, Rights in certain money and property and Financial provision where cohabitation ends otherwise than by death.

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<sup>9</sup> <https://www.ijlmh.com/wp-content/uploads/Live-In-Relationship-The-Legality-of-Unconventional-Relationship-in-India.pdf>

<sup>10</sup> <https://www.separation.ca/family-law/common-law/#:~:text=In%20Ontario%2C%20Canada%2C%20two%20people,living%20together%20for%20one%20year.>

<sup>11</sup> 9Abhishek Kumar Singh, Live-In Relationships: Impact On Marriage Institution, Academia (Aug 10, 2020, 05:15PM),[https://www.academia.edu/7341823/LIVE\\_IN\\_RELATIONSHIPS\\_IMPACT\\_ON\\_MARRIAGE\\_INSTITUTION](https://www.academia.edu/7341823/LIVE_IN_RELATIONSHIPS_IMPACT_ON_MARRIAGE_INSTITUTION)

**FRANCE :**

The Civil Solidarity Pact in France regulates live-in relationships. It is a type of legally enforceable common relationship contract between two adult individuals for arranging their shared lives. It comes with obligations and rights, but fewer than marriage. In terms of their marital status, the couple that has registered under PaCS is no longer regarded as being single.<sup>12</sup>

The single significant drawback is that live-in partners are not recognised under French inheritance laws, which prevents them from receiving any state pensions in the event that their partner passes away.

Unmarried couples, including same-sex partners, are able to enter into a pacte civil de solidarité (PAC), which safeguards the rights of each party's individual members and entitles partners to partake in property rights and income tax advantages.<sup>13</sup>

**PHILIPPINES :**

In the Philippine Family Code, the term "union without marriage" is used in the section on property rights of cohabiting spouses. Philippines has created some provisions for the property rights under its civil code for the non-marital unions despite the fact that this idea, or non-marital unions, are not recognised legally like India.

For those who live together as a married couple without taking benefit of marriage, the Philippines family code provides regulations respecting property. According to the Philippine Civil Code, live-in partners' property should be managed according to the principles of equal co-ownership, and it is also assumed that any property they acquire while they are living together was gained via their joint efforts. The one who looks after the family and manages its affairs is regarded as having contributed jointly to the acquisition of property, though in reality the person may or may not have participated directly in the acquisition of property.

**AUSTRALIA :** Cohabitation type of relationships are becoming common now a days especially among young generation . people are giving preference to live in relationship in comparative to marriage. A Cohabitation Agreement is a contract between a two unmarried adult couple who is romantically involved and is planning to live together under a same roof . It defines the rights and responsibilities of each party of live in and make provisions about how to divide the couple's

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<sup>12</sup> Chakshu Thakral, Live In Relationship as a new form of Family, WisdomcruX (Aug 12, 2020, 02:30 PM), <https://www.wisdomcruX.lawtimesjournal.in/index.php/2018/07/18/live-in-relationship-as-a-new-form-offamily>

<sup>13</sup> <https://www.legalserviceindia.com/legal/article-4058-live-in-relationship-in-various-countries.html>

assets in case they get separated in the future. The agreement can cover some or all their assets and debts.

This cohabitation agreement can be made by two adults who are:

- In a de facto relationship
- Not married to each other
- Not related by family
- Living together, or planning to live together

The [Family Law Act \(1975\)](#) governs the rights of cohabiting couples in Australia. For non-intimate couples, such as friends or siblings, who are planning to live together.

A Cohabitation Agreement is also known by various other names such as :

- Binding financial agreement (BFA)
- Living together agreement
- De facto partner agreement
- Common law partner agreement
- Non-marital agreement.<sup>14</sup>

**IRELAND** : The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010's Part 15 contains the new Irish legislative framework for cohabiting couples. Both cohabitants of the same sex and those of the opposite sex must abide by these guidelines. The Irish scheme provides for a range of possible remedies for 'qualifying cohabitants', who must have lived together for at least 5 years, or for at least 2 years if they have a dependent child. The scheme also regulates the making of 'cohabitants' agreements'. A key limitation on the scheme is that the claimant must establish 'financial dependency' as a prerequisite of a remedy.

One of two individuals (whether of the same sex or the opposite sex) who live together as a couple in an intimate and committed relationship is referred to as a cohabitant under section 172(1).

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<sup>14</sup><https://www.lawdepot.com/au/cohabitation-agreement/#.YtP69nZBzIU>

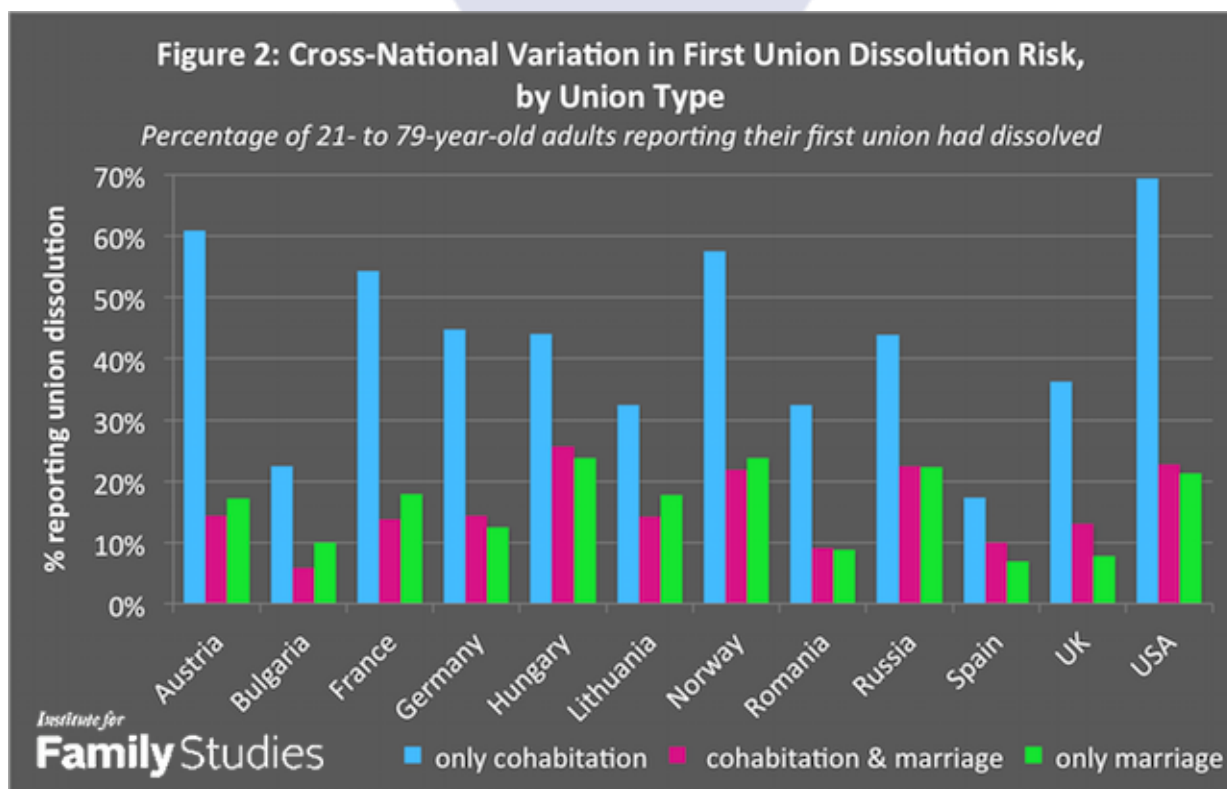
**CHINA :** A contract for a live-in relationship can be signed in China by a couple. Due to the fact that a kid born outside of marriage enjoys the same rights and privileges as a child born within a marriage, the child's rights are protected.

**Norway**

In Norway, cohabitation is a typical form of partnership. If a couple has shared children or has cohabited for five years, they may be entitled to certain privileges. A cohabitation agreement is another way that cohabitants might control their relationship.

41% of births in the OECD as a whole take place outside of marriage. More than 50% of children are born outside of marriage in 11 OECD nations (Chile, Denmark, Estonia, France, Iceland, Mexico, the Netherlands, Norway, Portugal, Slovenia, and Sweden), (71%), and Chile (74%).<sup>15</sup>

Here is a graphical statistics of Number of couples cohabitating in several countries across the world ...



<sup>15</sup> [https://www.oecd.org/els/family/SF\\_2\\_4\\_Share\\_births\\_outside\\_marriage.pdf](https://www.oecd.org/els/family/SF_2_4_Share_births_outside_marriage.pdf)

## Conclusion

According to the study mentioned above, living together is significantly healthier than being married but then getting divorced because of it. A novel idea called a live-in relationship serves as an alternative to marriage so that the couple can get to know one another and completely prevent divorce. People are more accepting live-in relationships as a result of social, political, and economic changes in society, much to how following the fall of communism and the Soviet Union, countries like Russia, Bulgaria, and Estonia became more accepting of the practise.

Some nations have legalised this practise and made it acceptable, while others continue to forbid it because they view it as taboo. Human nature is incredibly mysterious and active. On the one hand, we are very resistant to change because it might upset or change the established order, but on the other hand, we implement these changes to help individuals from all walks of life advance . The idea is spreading around the world, including India. However, due to an increasing number of partnerships and a shift in public opinion, our culture needs legislation to control them. Through its several rulings, the Supreme Court attempted to uphold the rights of cohabiting partners and their kids, but it is still evident that Indian law does not sufficiently address the issue of cohabiting or non-marital couples .

According to the study of Philippines and Scotland the law does not provide for registration of non-marital relationship as compared to France and United Kingdom, but these countries provide for the regulation of property matters of live in partners. The United States of America legally recognises the live- in-relationship. Similarly in some more countries like in Canada , Australia , Ireland also cohabitation has been legalized.

In various foreign countries like in France, Canada , US,UK, Australia , Ireland and many more other countries have given legal sanction to the living arrangement which we call as cohabitation. These countries had already made a statute related to cohabitation which basically fall under the Family Law Act of the concerned country . These laws have defined rights relating to Inheritance, Succession, Maintenance, but in France there is a lack of inheritance Laws.

Our Indian Legislature should get inspired from the laws of the other countries and try to adapt any one country law on cohabitation what we called it as Live in Relationship in India.

Those who were once resistant to change will gradually become receptive. As change does not occur quickly, nations that once prohibited the practise of live-in relationships will eventually

legalise it. Although most nations take a while to decriminalise or abolish limitations on live-in relationships, the process will still take place. All we can hope for is a new world order in which everyone is free to live their lives as they choose, without interference from the government or anybody else.

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