

Gender Perspectives and Live-in Relationships: Challenges Faced by Women, Men, and Third-Gender Partners

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Abstract

This research paper explores the complex issues of live-in relationships in India, with special attention given to issues experienced by men, women, and third-gender individuals. The study covers the social-legal scenario on live-in relationships, their status of recognition according to Indian law, and altering judicial interpretations upholding the rights of individuals under live-in relationships. Even though live-in relationships have gotten some legal recognition through judicial verdicts, especially under the Protection of Women from Domestic Violence Act, 2005, there remain loopholes in the law, particularly on gender equity, same-sex relations, and rights of the third-gender. The paper gives a critical analysis of the problems of these individuals, such as social stigma, lack of legal protection, and denial of inheritance and maintenance rights. Through a critical analysis of case laws, the study places the role of the judiciary in identifying such relationships into perspective, while critiquing the inconsistency and moral overtones of judicial decisions. The article concludes on a list of policy suggestions that aim towards legislative reform, including the acknowledgement of live-in relationships through an overhaul law, changes in family laws, and stronger protection under the PWDVA. Legal reforms must be implemented in order to give equal rights to all, irrespective of the gender or sexual orientation, and create legal certainty for non-traditional family forms in a fast-changing society.

Keywords: Live-in relationship, Socio-legal, Maintenance, Legal status, Cultural morality, Discrimination, Economic Vulnerability.

Introduction

The live-in relationship controversy has in the recent past captured legal, social, and gender debates. Grounded historically on paradigms tied to marriage, Indian society has increasingly found itself confronted by other models of alliances, live-in relationships among them being an illicit yet prevailing variety. Characterized by residence by two individuals together without official endorsement in terms of marriage, live-in relationships shake well-established notions about household types, morals, and genders.

Live-in relationships are not new anywhere in the world but their visibility in India is of fairly recent origin. While such arrangements are widespread in Western societies, where the legal framework generally grants cohabiting couples roughly the same rights as married ones, India's reaction has been hesitant and slow. The social climate, heavily conditioned by tradition and conservative values, is likely to regard live-in relationships

as immoral or culturally wrong. This has led to the marginalization and ostracism of individuals who choose to live outside the confines of marriage.¹

The Indian legal reaction has been tardy but evolving. The judiciary has particularly been at the forefront in the interpretation of the rights of the individual under live-in relationships. The Supreme Court has, in several cases, held that cohabitation between a man and a woman without marriage is not unlawful and falls within the right to life under Article 21 of the Constitution.² However, such protections are typically unequal and absent, especially for women and gender minorities who are susceptible to violence, abandonment, or denial of property and inheritance rights.

Moreover, live-in relationship consequences of a gendered nature cannot be undermined. The woman in a live-in relationship ends up facing moral disapproval, ostracism from society, and judicial perplexity about rights. Men are habitually found either exploiting or getting exploited on the basis of false allegations in cases involving domestic violence or maintenance. These gender assumptions betoken an extremely patriarchal mode of thought that understands cohabitation in terms of power and control, rather than equality or autonomy.³

The case assumes an even larger significance when one considers the third gender. Transgender persons while being recognized by the National Legal Services Authority v. Union of India case⁴ still are not socially accepted or legally approved of their sex relations—mostly live-in—are negligible. LGBTQ+ persons are triply subjected to stigma, lack of any legal protection, and social invisibility. While their relations may be emotionally authentic and socially real, they find themselves institutionally denied.

In this context, this research paper explores the matter of live-in relationships from a gendered perspective, exploring the lives and sufferings of women, men, and third gender individuals. It compares and contrasts how law, society, and cultural norms combine to empower or oppress individuals in live-in relationships. The study seeks to answer the following core questions: How do live-in relationships impact partners differently across their gender identities? What legal mechanism can best protect or manage such relationships? To what extent does social stigma affect the lived experiences of individuals in live-in relationships?

The aim is not merely to establish the legal status of live-in relationships but to explore socio-legal concerns of different genders. In this regard, the study will chart loopholes in current law and suggest gender-responsive measures. The focus is solely on the Indian context but briefly compare against universal models where the need arises.

¹ Shiv Visvanathan, *The Morality of Cohabitation: Between Law and Culture*, 42 *Econ. & Pol. Wkly.* 12, 13 (2007).

² *S. Khushboo v. Kanniammal*, (2010) 5 S.C.C. 600.

³ Flavia Agnes, *Interrogating the Legal Constructs of Marriage in India*, 49 *Econ. & Pol. Wkly.* 50, 52 (2014).

⁴ *Nat'l Legal Servs. Auth. v. Union of India*, (2014) 5 S.C.C. 438.

The approach is doctrinal in nature and involves a critical analysis of statutes, case laws, academic literature, and policy briefs. Qualitative insights derived from interviews and real-life experience may be provided consideration, if feasible, to support the legal analysis.

Overall, this study aims to contribute to the gender justice and rights in relation discourse on a wider level by bringing out the intricacies involved in live-in relationships. By putting different gender

identities' experiences at the center, the research aims to advocate for a more inclusive and equitable legal and social recognition.

1. Understanding Live-in Relationships

Live-in relationships or cohabitation refers to the practice whereby two people live together in a home-like marriage, albeit without engaging in legal or religious ceremonies, while such relationships have been present across various cultures throughout history, they have become increasingly prominent and accepted socially in the modern world. Live-in relationships have developed from carrying the taboo connotation to become a matter of debate in public space, court of law, and the media. Still, social acceptance remains unequal and protection at the legal level is ongoing.

1.1. Evolution of the Concept

The live-in is a historically conceived phenomenon, but in most instances inadequately documented. In the Western countries, in the United States and in Europe most prominently, cohabitation came to be accepted during the social revolutions of the 1960s and 1970s, often in conjunction with the growing independence of the individual and the decline of institutional religion.⁵ In more recent times, many legal systems have begun to extend rights and protection to the cohabiting couple through either common-law marriage or domestic partnership legislation.

In India, the concept has appeared on the horizon in the 21st century with increasing urbanization, education, and knowledge of global life. The young people, especially from the metros, began to question the institution of marriage and seek companionship without legal or societal bindings. But the phenomenon has been kept largely within the urban, educated elite and is disapproved upon in rural and conservative society.

1.2. Legal Status in India

Unlike the majority of Western nations, India has no such law pertaining to live-in relationships. Judicial activism has, however, played a key role in recognizing and establishing the legal parameters of such relationships. The Supreme Court of India, in a series of path-breaking judgments, has accepted that live-in

⁵ Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* 200 (Harvard Univ. Press 2000).

relationships are not illegal and fall under the provisions of the right to life and personal liberty contained in Article 21 of the Constitution.⁶

The *S. Khushboo v. Kanniammal*⁷ case was a milestone case. In the said case, the Court pronounced that cohabitation is a right to life and cannot be construed as illegal or immoral. Subsequently, in *Indra Sarma v.*

V.K.V. Sarma,⁸ the Supreme Court addressed the complexities of live-in relationships under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). The Court clarified that it is feasible to treat a live-in relationship as "a relationship in the nature of marriage" if the following requirements—duration, shared residence, financial settlement, and social perception—are met.

Yet, such recognition is relative. Not all live-in relationships are granted legal protection under the PWDVA, and courts are disposed towards treating each case on facts. For instance, casual or "walk-in, walk-out" relationships do not enjoy legal protection under the Act.⁹

Also, the validity of children born out of live-in relationships has been established by the judiciary. In

Tulsa & Ors v. Durghatiya & Ors,¹⁰ the Court maintained the validity of such children and their right to inherit property provided the relationship was of a conjugal nature.

1.3. Social Attitudes and Stigma

Despite judicial recognition, Indian society remains largely traditional in its approach to live-in relationships. Live-in relationships are often viewed from a moralistic perspective, as being contrary to values of family, marriage, and social responsibility. The women in such marriages, particularly, undergo intense scrutiny, often being labeled immoral or wayward.¹¹ The possibility of social reaction and lack of support from their families leads most couples to keep their living arrangements concealed, imposing psychological tension on their relationship.

Moreover, religious, caste, and community hierarchies heavily influence public attitude towards live-in relationships. For the majority of India, the relationships are synonymous with promiscuity and disdain for established practices. Stigmatization here typically results in landlords refusing to rent houses to unmarried couples, workplaces making indirect assumptions, and law enforcement agencies targeting such couples rather than offering protection.

⁶ *Lata Singh v. State of U.P.*, (2006) 5 S.C.C. 475.

⁷ *S. Khushboo v. Kanniammal*, supra note 2.

⁸ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755.

⁹ Id. at ¶ 91.

¹⁰ *Tulsa v. Durghatiya*, (2008) 4 S.C.C. 520.

¹¹ Flavia Agnes, *Marriage, Divorce and Matrimonial Litigation* 144 (Oxford Univ. Press 2011).

The media, in being partially responsible for the popularization of live-in relationships, also perpetuates stereotypes. While television shows and films portray cohabiting as fashionable and agreeable, they necessarily portray it as a part of an elite existence, thus excluding issues such as class, gender-based violence, or legal vulnerability from reality.

1.4. Need for Legal Clarity

The absence of a codified law governing live-in relationships produces uncertainty and fluctuating legal treatment. Even though the judiciary has partly bridged the gap, reliance solely on judicial interpretation results in uncertainty regarding rights. A codified structure would help normalize protection to cohabiting couples and render gender-neutral, inclusive protections assured.

There is also a need for public policy intervention to raise awareness about the rights and responsibilities of individuals in live-in relationships. This is especially needed to prevent exploitation, provide access to legal remedy, and protect vulnerable groups—namely women and third gender individuals—who may be victims of domestic violence or abandonment.

2. Gender and Social Perspectives

The social construction of live-in relationships is inextricably linked with gender. Gender, in India, is not a biological classification but a potent social construction that governs expectations, roles, and moral assessment. When individuals engage in live-in relationships, they go against dominant gender norms, especially those governing marriage, sexuality, and public behavior. This chapter considers how different genders—women, men, and third-gender individuals—exist through live-in relationships with attention to the role that social norms and gendered expectations have in their treatment and

representation.

2.1. Gender as a Social Construct

Gender norms in Indian society are deeply embedded in patriarchy and traditional family structures. Women are generally expected to be submissive, nurturing, and family-oriented, while men are viewed as providers and protectors.¹² These expectations extend into the institution of marriage, which is seen as a moral and social contract that legitimizes sexual relationships, childbearing, and economic cooperation. Live-in relationships, by bypassing this institution, are perceived as destabilizing these gendered roles.

For women, entering a live-in relationship often means challenging societal expectations of purity, obedience, and dependency. Such women are frequently seen as rebellious, immoral, or “too modern.”¹³ In contrast, men

¹² Uma Chakravarti, *Gendering Caste Through a Feminist Lens* 65 (Stree 2003).

¹³ Kalpana Kannabiran, *Tools of Justice: Non-Discrimination and the Indian Constitution* 213 (Routledge 2012).

in live-in relationships are less scrutinized but often seen as either commitment-averse or exploitative. This double standard reflects the enduring patriarchal control over female sexuality and autonomy.

For third-gender individuals—including transgender and non-binary persons—the situation is even more complex. Their relationships often remain invisible, both socially and legally. The heteronormative framework of society fails to acknowledge their identities and relationships, compounding their marginalization. Despite the recognition granted by the Supreme Court in *National Legal Services Authority v. Union of India*,¹⁴ the social stigma remains pervasive, and their relationships are rarely seen as legitimate.

2.2. Social Attitudes and Cultural Morality

Public perception of live-in relationships is highly moralistic and culturally hegemonic. The prevailing cultural values equate morality with marriage, and any deviation from this standard is seen as threatening social order. Women who live with unmarried partners are especially stigmatized for “inviting dishonor” on their communities or families.¹⁵ Such stigma may manifest in a variety of ways, from social exclusion to character assassination and denial of shelter and job opportunities.

Caste, religion, and regional variations compound the complexity. Live-in relationships are considered to be Western influences that erode Indian values in traditional societies. These perceptions not only reinforce discrimination but also lead to actual harm, including honor-based violence, police harassment, and public humiliation. Even in relatively liberal urban settings, cohabiting couples may find it difficult to secure housing to rent due to landlord prejudices.¹⁶

The media serve a double role in this contest. On the one hand, the media fantasize about cohabitation within films and adverts, generally picturing it as the height of autonomy and sophistication. Meanwhile, media frenzy about such relationships—especially when they end in crisis or scandal—is responsible for playing on society's fears and initiating moral panics. Both trends are accountable for a confused and incongruous social understanding of cohabiting relations.

2.3. Intersectionality of Gender and Live-in Relationships

An intersectional analysis is necessary to see how live-in relationships are experienced differently based on gender identity, socio-economic status, caste, and sexuality. A middle-class heterosexual couple in

the city may not face much backlash, while a working-class woman or a trans person may be subjected to intense ostracism or even violence for the same choice.

Legal systems also reflect these biases. While courts have afforded some protection to women in live-in relationships, they take a moralistic stance, questioning the legitimacy of the relationship or the motivation of

¹⁴ *Nat'l Legal Servs. Auth. v. Union of India*, supra note 4.

¹⁵ Flavia Agnes, *Marriage, Divorce and Matrimonial Litigation* supra note 11. at 165.

¹⁶ Siddharth Narrain, *Being LGBT in India: Some Home Truths*, 46 *Econ. & Pol. Wkly.* 45, 46 (2011).

the woman participant.¹⁷ Third-gender people are almost entirely left out of this legal imagination and therefore do not enjoy protection against domestic violence, housing discrimination, or relationship-based rights such as inheritance and custody.

Men, while less frequently discussed as victims, are also socially and emotionally stressed in live-in relationships. For instance, men are stereotyped in society as emotionally unavailable or predatory in such an arrangement, thereby becoming legally presumed guilty if there is any conflict or abuse. Hence, gender norms also constrain men, albeit differently.

3. Challenges Faced by Women, Men, and Third Gender Partners

Live-in relationships offer autonomy and independence compared to conventional marriages but, in India, are normally overpowered by judicial ambiguity, social exclusion, and gendered vulnerabilities. The challenges that partners in such relationships face are not the norm but are shaped by intersecting factors such as gender identity, class, sexuality, and social norms. This chapter systematically analyzes the specific challenges of women, men, and third-gender partners in live-in relationships, highlighting the gaps in legal provisions and social acceptance.

3.1. Challenges Faced by Women

Women in India's live-in relationships find themselves in an extremely vulnerable position based on very rooted patriarchal sentiments that look upon women's sexuality and autonomy as suspicious. They are mostly viewed as offending societal moral standards, hence encountering multi-faceted layers of exclusion—legal, social, and family-based.

A. Lack of Legal Clarity and Protection

Although the Supreme Court has decided that live-in relationship is not illegal,¹⁸ there is no codified legislation that oversees such relationships. The only protective legislative instrument available for women who follow such relationships is the Protection of Women from Domestic Violence Act, 2005 (PWDVA). But enforcement of the law depends on proving that the relationship was "in the nature of marriage."¹⁹ This test puts an evidentiary burden on women, especially where the relationship was not openly known or was not economically interdependent.

In *Indra Sarma v. V.K.V. Sarma*,²⁰ the Court has set criteria for establishing whether a live relationship can be covered by the PWDVA under conditions of duration, social acceptability, and reciprocal obligations. Such

¹⁷ *Indra Sarma v. V.K.V. Sarma*, supra note 8.

¹⁸ *S. Khushboo v. Kanniammal*, supra note 7.

¹⁹ *Indra Sarma v. V.K.V. Sarma*, supra note 17.

²⁰ *Id.*

judicial construction in spite of, notwithstanding, the lower courts deviate in application, leaving women vulnerable to exploitation and abandonment.

B. Social Stigma and Family Rejection

Social opinion remains overall negative towards women who choose to cohabit outside marriage. These women tend to be stereotyped as being immoral or disobedient, and tend to face moral policing informally by society and formally by the state. A 2018 survey conducted by India Today had shown that nearly 70% of Indians do not approve of live-in relationships, and the disapproval is much more for women's involvement.²¹ Women in such relationships are left emotionally and financially deprived as families disown them in most cases.

C. Economic and Emotional Vulnerability

In live-in relations, especially when men continue to control economic means, women tend not to be economically independent. At the time of separation, they may remain without alimony, residence, or maintenance—unlike wedded women who can claim maintenance under Section 125 of the Code of Criminal Procedure. Though the PWDVA does sanction maintenance, the requirement of proving first the sacredness of the relationship in itself creates practical hurdles.

Besides that, emotional abuse and gaslighting often go unreported in live-in relationships. Without strong support systems, most women endure in silence to avoid public embarrassment and victim-blaming.

3.2. Men's Challenges

Although victimization in live-in relationships has been conventionally debated in reference to women, men too face some legal as well as social challenges. It is not an issue of comparative vulnerability, but of different categories of legal jeopardy and social stereotyping.

A. Legal Vulnerability and Misuse Claims

Men are known to complain about being subjected to unfounded domestic violence or monetary exploitation charges through live-in relationships. Even though there is a genuine concern about women's safety, the absence of clear-cut legal boundaries may also lead to arbitrary accusations. In *Lalita Toppo v. State of Jharkhand*,²² the Supreme Court once again declared that women in live-in relationships are eligible to be given maintenance. But in reality, courts can take it for granted that the man is economically burdened even in casual or transient relationships, which again can lead to abuse of legal provisions.

B. Societal Expectations and Stereotypes

²¹ *India Today Mood of the Nation Poll*, India Today (Aug. 25, 2018), <https://www.indiatoday.in/mood-of-the-nation/>.

²² *Lalita Toppo v. State of Jharkhand*, (2013) 8 S.C.C. 154.

Men in live-in marriages may be stereotyped as commitment-phobic, exploitative, or loose in character. This will reflect upon their professional and personal lives, particularly in conservative societies. Without legal status, men may also lose rights to claim parental rights or decisions about children born of such marriages.

C. Mental Health and Lack of Support Systems

Cultural norms discourage men from showing emotional vulnerabilities. In case of failure in live-in relationships, men develop mental illnesses but are less likely to report them due to taboo over male sensitivity and emotive expression.²³ This leads to feelings of isolation, depression, and at times drug or alcohol abuse or self-violence.

3.3. Problems Faced by Third Gender Partners

For third-gender individuals—non-binary and transgender individuals—live-in relationships are not only a personal choice but also a space of resistance against dominant regimes of gender and sexuality. They, however, face some of the most extreme legal and social oppositions.

A. Legal Invisibility

Indian law does not significantly recognize non-heteronormative relationships. Even though the *Navtej Singh Johar v. Union of India*²⁴ decision made homosexual consensual relationships legal, it did not make same-sex or third-gender partnerships legal. Thus, third-gender individuals in live-in relationships are exempt from the PWDVA or maintenance laws, which are gendered in binary terms.

B. Social Discrimination and Violence

Transgender and non-binary people are routinely subjected to intense hostility from their families and communities when they get into live-in relationships. Live-in relationships are seen not only as a danger to moral norms but also as a threat to gender hierarchies. Cases have been recorded where they have been physically assaulted, thrown out of homes, and even "corrected" sexually to terminate such relationships.²⁵

C. Economic Exclusion

Most third-gender individuals face discrimination at work and are pushed into the informal economy such as begging or prostitution.²⁶ The economic marginalization affects their autonomy to live with their partners independently, access housing, or access medical treatment. Live-in relationships in such a situation become unstable and vulnerable to exploitation without institutional or legal recourse.

²³ Radhika Chopra, *Masculinity, Gender and Violence in India*, in *Men and Masculinities in South India* 41 (Caroline Osella et al. eds., Orient Blackswan 2007).

²⁴ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

²⁵ PUCL Karnataka, *Human Rights Violations Against the Transgender Community* 12 (2015).

²⁶ Arvind Narrain & Venkatesh Krishnamoorthy, *It's Not About Us Without Us: Queer Rights in India* 67 (Alternative Law Forum 2011).

D. Healthcare and Mental Well-being

Indian healthcare systems remain ill-equipped to meet the particular needs of third-gendered individuals. No trauma-informed care, legal support, and mental health intervention responsive to their needs is offered when relationships disintegrate or when they have intimate partner violence. This failing of the system leads to highly adverse mental health outcomes, i.e., depression, suicidal thoughts, and alcohol or drug dependency.

4. Judicial Approaches and Case Laws

The Indian courts have also been responsible for articulating the terms of the debate on live-in relationships. Given that there is no specific statutory scheme, the courts have referenced constitutional

principles, international human rights standards, and canons of justice and equity to determine cases relating to such relationships. Judicial dicta have both recognized the legitimacy of live-in relationships and offered some protection to partners—especially women—on the basis of the factual situation of each case. However, there is a lack of consistency and clarity, and this creates uncertainty as well as inequality. This chapter analyzes landmark judgments and judicial approaches that have evolved the legal understanding of live-in relationships in India.

4.1. Legal Acceptance of Live-in Relationships

The beginning of the process of legalizing live-in relationships was made by judicial recognition that live-in arrangements are not illegal per se. In *S. Khushboo v. Kanniammal*, the Supreme Court declared that living together is a right to life guaranteed under Article 21 of the Constitution and that law cannot enforce morality.²⁷ The Court reiterated that society should accept unconventional attitudes and behavior provided they are not against any law.

Secondly, in *Lata Singh v. State of Uttar Pradesh*, the Court held that a woman has the right to marry or cohabit with whomever she chooses, and interference by relatives or society in the exercise of this right is contrary to the Constitution.²⁸ This case turned into a classic reference point for protecting individual freedom in interpersonal relations, including live-in relationships.

4.2. Rights of Women in Live-in Relationships

The turning point arrived in the form of the interpretation of the Protection of Women from Domestic Violence Act, 2005 (PWDVA). According to Section 2(f) of the Act, the definition of a "domestic relationship" is that of a relationship in the nature of marriage and that such women in a domestic relationship have a right to seek relief against domestic violence.

²⁷ *S. Khushboo v. Kanniammal*, supra note 18.

²⁸ *Lata Singh v. State of Uttar Pradesh*, supra note 6.

In *D. Velusamy v. D. Patchaiammal*, the Supreme Court attempted to delineate what constitutes a relationship "in the nature of marriage."²⁹ It listed a series of factors, including common residence, social acceptance, sexual and emotional intimacy, and economic arrangements. The Court also made it explicit, however, that casual relationships or relationships maintained for the sole purpose of sex would not fall under the Act.

Later, in *Indra Sarma v. V.K.V. Sarma*, the Supreme Court was less oblique. Although ultimately denying relief to the woman, the Court laid down broader criteria for establishing live-in relationships deserving protection. These were duration of the relationship, shared chores, and whether the partners moved about publicly as spouses.³⁰ Importantly, the Court acknowledged that denial of protection under the Act in real cases would be a miscarriage of justice.

In *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Court was urged to a broader definition of "wife" under Section 125 of the Code of Criminal Procedure, relating to maintenance. The Court was of the opinion that women living in long-term cohabiting relationships should not be left destitute and that a broad, socially inclusive definition of "wife" should be adopted in order to fulfill the intent of Article 21.³¹

4.3. Parental and Child Custody Rights

Legal recognition of children born from live-in relationships is yet another field of judicial intervention

that is imperative. In *Tulsa v. Durghatiya*, the Court recognized the legitimacy of children born from long-term cohabitation, noting that if a man and woman live together for an extended period of time, marriage is presumed.³² This has implications far-reaching for inheritance and guardianship law.

But that recognition is often contingent on the assumption of a "marriage-like" nature of the relationship. This amounts to placing the burden of proof on the parties—particularly the women and the children—to show the nature of the relationship, which leads to uncertainty in law.

4.4. Third-Gender and Same-Sex Partners

Despite such progressive decisions like *Navtej Singh Johar v. Union of India*, legalizing consensual same-sex relations, Indian courts have been generally silent regarding the issue of the legal recognition of live-in relationships between same-sex or third-gender couples.³³

In *Sreeja v. Commissioner of Police*, a Kerala High Court decision, the Court upheld two consenting adult women to cohabit, again asserting that adults are free to make their own choices regarding mates.³⁴ This was,

²⁹ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469.

³⁰ *Indra Sarma v. V.K.V. Sarma*, supra note 19.

³¹ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 S.C.C. 141.

³² *Tulsa v. Durghatiya*, supra note 10.

³³ *Navtej Singh Johar v. Union of India*, supra note 24.

³⁴ *Sreeja v. Commissioner of Police*, 2018 SCC OnLine Ker 5289.

however, more of a confirmation of liberty of the person than a statement of rights accruing to such a relationship.

In *Arun Kumar v. Inspector General of Registration*, the Madras High Court declared a cis-man and a trans- woman's marriage under the Hindu Marriage Act, 1955, to be constitutionally valid.³⁵ The ruling is important with far-reaching implications that live-in relationships of third-gender people might likewise attempt equal legal recognition founded on progressive judicial interpretative standards.

4.5. Judicial Caution and Moral Undertones

While Indian courts have issued some forward-looking judgments, they sometimes act cautiously, more on the basis of social morality. In *Badri Prasad v. Dy. Director of Consolidation*, the Supreme Court held the existence of a 50-year relationship through cohabitation valid, making a parallel with marriage.³⁶ However, the language of the judgment had the flavor of traditionalism, referring to the couple having "lived as husband and wife" and to the longevity of the relationship.

In addition, the courts have, on occasion, refused to extend legal protections where relationships have been short-lived, secretive, or not publicly acknowledged. That then creates a dichotomy wherein only relationships that emulate the traditional model of marriage are afforded legal protections.

5. Legal Reforms and Policy Recommendations

Live-in relationships in India are in a legal and social limbo—partially acknowledged by the judiciary but largely unregulated by law. While the courts have stepped in to provide some protection, the absence of codified legal rules leaves many issues open. Gender-sensitive and inclusive legal reforms are required to address the issues of individuals in live-in relationships, especially women and third-gender partners. This chapter proposes a multi-pronged strategy of legislative reforms, policy guidelines, and

social mobilization.

5.1. Requirement for Statutory Recognition

The first suggestion is to enact a specific statute recognizing live-in relationships, such as the civil union law under other countries such as France's *Pacte civil de solidarite* (PACS) or Canadian cohabitation agreements.³⁷ Such a statute would create a clear legal framework that provides for the rights and obligations of partners under live-in relationships, such as property distribution, maintenance, parental rights, and maintenance upon a break-up.

³⁵ *Arun Kumar v. Inspector General of Registration*, (2019) 4 Mad LJ 385.

³⁶ *Badri Prasad v. Dy. Director of Consolidation*, (1978) 3 S.C.C. 527.

³⁷ *Claire M. Donze*, *Cohabitation and Civil Unions in France: Legal Recognition of Non-Marital Families*, 16 Tul. J. Int'l & Comp. L. 145 (2007).

Statutory recognition would also eliminate inconsistency in court orders and reduce judicial discretion. Definitions would prevent misappropriation of legal provisions and also protect partners from exploitation and desertion.

5.2. Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was a revolutionary step towards understanding abuse beyond the boundaries of marriage. However, the phrase "relationship in the nature of marriage" in Section 2(f) is vague and construed narrowly.³⁸

Reforms must include a broader and more comprehensive definition of domestic relationships that recognizes diverse cohabitation structures—like same-sex and third-gender couples. Court standards such as shared residence, emotional and economic dependence, and public presentation as spouses must be codified to remove uncertainty.³⁹

Furthermore, the PWDVA must also specify economic abuse more clearly. Maintenance under the Act should not entail protracted litigation or necessarily establish conventional relationship arrangements. Provisions for interim maintenance must be made specific in time and accessible.

5.3. Legal Recognition of Same-Sex and Third-Gender Partnerships

Despite the progressive judgment in *Navtej Singh Johar v. Union of India*, which deiminalized same-sex relationships, India does not have on its statute book any law recognizing same-sex or third-gender marriages.⁴⁰ Such persons continue to be vulnerable, especially in relation to healthcare, inheritance, maintenance, adoption, and rights to housing.

There should be legislation to legalize non-hetero-normative relationships either through civil unions, domestic partnership agreements, or a gender-neutral family law code. This will also bring Indian law in line with international human rights obligations under treaties such as the International Covenant on Civil and Political Rights (ICCPR) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁴¹

5.4. Uniform Civil Code and Reforms in Family Law

The implementation of a Uniform Civil Code (UCC), as envisioned in Article 44 of the Indian Constitution, can help to harmonize religion-neutral and culture-neutral personal laws across religions and cultures, such as live-

³⁸ *Indra Sarma v. V.K.V. Sarma*, *supra* note 30.

³⁹ *D. Velusamy v. D. Patchaiammal*, supra note 29.

⁴⁰ *Navtej Singh Johar v. Union of India*, supra note 33.

⁴¹ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171; Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

in relationships.⁴² A well-drafted UCC must be inclusive, secular, and gender-just so that it provides a legal identity to cohabiting partners regardless of religion, gender, or sexual orientation.

Until that code comes into effect, changes in family laws under different religious personal codes (Hindu, Muslim, Christian, and Parsi laws) must allow individuals to choose to lawfully register cohabitation contracts and acquire basic rights.

5.5. Maintenance and Inheritance Laws Reforms

Legislations such as Section 125 of the Code of Criminal Procedure and the Hindu Adoption and Maintenance Act, 1956 are currently restricted to legally married couples. Courts have sometimes interpreted such provisions in an expansive way, but the lack of codification and uniformity affects their enforceability.⁴³

Reforms should enable couples living together to claim maintenance based on grounds such as relationship duration, economic dependency, and household contribution—whether or not they are married. Similarly, succession laws should be reformulated to give property rights and inheritance claims to cohabiting partners and children of cohabiting families.

5.6. Child Rights and Custody

Live-in relationship children are placed in legal and social suspicion regarding legitimacy, inheritance, and guardianship. Presumption of legitimacy under long cohabitation as decided in *Tulsa v. Durghatiya* needs to be codified in civil and personal laws.⁴⁴

Live-in partners must be accorded the right to apply for custody, guardianship, and visitation rights equal to that of married couples. Legal frameworks also need to encompass joint parentage and adoption rights, especially for same-sex or third-gender couples, with the welfare of the child as the paramount consideration.

5.7. Social and Institutional Sensitization

Legislative reforms in isolation are insufficient unless they are accompanied by public awareness and institution building. Sensitization programs must be brought into the operational work of police stations, family courts, child welfare committees, and medical establishments. These must incorporate:

- Gender sensitivity and LGBTQIA+ sensitivity
- Legal rights of cohabiting couples
- Domestic violence protocols for non-marital households
- Mental health support and counseling mechanisms

⁴² INDIA CONST. art. 44.

⁴³ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, supra note 31.

⁴⁴ *Tulsa v. Durghatiya*, supra note 32.

Moreover, schoolbooks and the media should include stories that validate unconventional relationships and dismantle patriarchal and hetero-normative stereotypes.

Conclusion

The social and legal climate of live-in relationships in India remains complex, with a mix of evolving judicial readings and the lack of well-articulated legislative frameworks. The courts have, in the course of time, gone a long way in acknowledging and providing limited protections to live-in partners. However, there remain enormous lacunae, particularly concerning inheritance, maintenance, and protection of third-gender and homosexual unions. Legal recognition of live-in relationships is not only crucial for the protection of individual rights but also for creating a more equitable and inclusive society. Live-in relationships, although increasingly common in modern India, are extremely stigmatized socially, especially in rural and conservative settings. Such relationships are viewed with suspicion and moral censure by large sections of society, especially by those who hold high regard for traditional family forms. As a result, the live-in partners, particularly women and third-gender people, are subject to social isolation, financial abuse, and even physical violence. These vulnerabilities are compounded by the lack of protective legal covers. The Protection of Women from Domestic Violence Act, 2005 has provided some relief, but it is not clear whether it extends to non-marital unions. The absence of clear definitions and provisions for maintenance and property rights in live-in relationships often results in partners seeking relief having to face long, drawn-out legal battles.

The judiciary has played a crucial role in granting some form of recognition and protection to live-in couples, but the patchy judicial approach has created confusion. Instances include *Indra Sarma v. V.K.V. Sarma* and *D. Velusamy v. D. Patchaiammal*, the courts have tried to define what is a "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005, but the definition remains in the hands of the judiciary. Additionally, even when the Navtej Singh Johar judgment legalized same-sex relationships, legal recognition of same-sex and third-gender marriages remains non-existent.

Legal reforms are an crying need. There should be a clear legislative framework to extend full protection to all persons in live-in relationships, irrespective of gender or sexual orientation. Such reforms would not only provide greater legal certainty but also allow people to claim property, maintenance, and child custody rights without fear of exclusion or discrimination. Gender-neutral laws, as well as socially inclusive policies, would help resolve the problems of women, men, and third-gender partners so that all are accorded respect and dignity.

Last but not least, live-in relationships have to be viewed for what they are—valid expressions of personal choice and autonomy. An enlightened legal response, along with social awareness and education, is called for in bringing these relationships on an equal footing under Indian law, assuring equal treatment to all individuals regardless of their relationship pattern or gender identity.