



## Legal recognition and rights of live-in partnerships: A judicial perspective in India

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### Abstract

This research article delves into the evolving judicial perspective on the legal recognition and rights of individuals engaged in live-in partnerships in India. With the societal landscape witnessing significant shifts in relationship dynamics, the judiciary's role in interpreting and safeguarding the rights of live-in partners becomes paramount. Through an analysis of landmark court judgments and legal precedents, this article explores the criteria used by Indian courts to determine the validity and legal status of live-in relationships, as well as the rights and protections afforded to partners in such arrangements. By shedding light on the judicial approach to live-in partnerships, this article contributes to the discourse surrounding contemporary family law and social justice in India.

**Keywords:** Legal recognition, judicial, social justice, live in relationship, family law

### Introduction

In Indian society, marriage has historically been the predominant form of union, serving as the cornerstone of family life and societal structure. However, in recent decades, profound shifts in social norms, cultural attitudes, and individual preferences have led to the emergence of live-in partnerships as a viable alternative to traditional marital arrangements. These relationships, characterized by cohabitation between partners without the formalities of marriage, have gained increasing acceptance and prevalence in Indian society.

Despite the growing recognition and prevalence of live-in relationships, the legal framework surrounding such partnerships in India remains ambiguous and uncertain. Unlike marriage, which is governed by a comprehensive set of laws and regulations, live-in relationships lack clear legal recognition and protections. This has led to numerous challenges and complexities for individuals involved in such arrangements, including questions regarding property rights, inheritance, maintenance, and protection from domestic violence.

Against this backdrop, the role of the Indian judiciary in shaping the legal landscape concerning live-in partnerships becomes crucial. As the custodian of justice and interpreter of the law, the judiciary plays a pivotal role in providing clarity, guidance, and protection to individuals engaged in live-in relationships. Through its interpretation of existing laws and landmark judgments, the judiciary has the power to define the rights, obligations, and legal status of partners in live-in relationships. This article aims to explore how the Indian judiciary has navigated the complexities surrounding live-in partnerships and contributed to the legal recognition and rights of individuals involved in such arrangements. By analyzing landmark court cases, legal precedents, and evolving judicial perspectives, this article seeks to shed light on the dynamic relationship between the judiciary and live-in relationships in India.

Through a comprehensive examination of judicial approaches, interpretations, and decisions, this article seeks to provide insights into the evolving legal landscape concerning live-in partnerships in India. By understanding

the judicial perspective on this issue, stakeholders, policymakers, and individuals involved in live-in relationships can gain a deeper understanding of their rights, responsibilities, and legal protections in the eyes of the law. In essence, this article serves as a critical exploration of the intersection between law, society, and individual relationships in the context of live-in partnerships in India. By examining the role of the judiciary in shaping the legal framework surrounding these relationships, this article aims to contribute to broader discussions on family law, social justice, and individual rights in contemporary Indian society.

### Historical Context

To comprehend the judicial perspective on live-in relationships in India, it's imperative to delve into the historical evolution of family law and social norms. Traditional Indian society has long been characterized by deeply ingrained cultural values and norms that prioritize marriage as the fundamental institution for forming familial bonds and societal structures. Marriage, often arranged and solemnized through religious and cultural ceremonies, was considered the only socially acceptable form of partnership, providing stability, legitimacy, and social status to individuals and families.

In this traditional context, live-in relationships were largely marginalized and stigmatized, viewed as morally unacceptable deviations from societal norms. Cohabitation outside the bonds of marriage was often frowned upon and subjected to social ostracism, particularly in conservative and orthodox communities. The patriarchal nature of Indian society further exacerbated the stigma surrounding live-in relationships, with women, in particular, facing societal scrutiny and condemnation for their perceived deviation from traditional roles and values.

However, societal attitudes and norms began to undergo gradual transformation in the late 20th century, driven by various socio-economic, cultural, and demographic factors. Urbanization, globalization, and the influence of Western ideals led to greater exposure to alternative lifestyles and relationship models. Changing economic dynamics,

increased educational opportunities, and shifting gender roles also contributed to the reevaluation of traditional norms surrounding marriage and partnerships. As societal attitudes towards relationships evolved, so did the legal landscape concerning live-in partnerships. The Indian legal system, rooted in colonial-era laws and influenced by traditional Hindu, Muslim, and other personal laws, initially provided limited recognition and protection to non-marital relationships. The absence of specific legislation governing live-in relationships left individuals involved in such arrangements vulnerable to legal uncertainties and social stigma.

However, the judiciary played a crucial role in interpreting and adapting existing laws to address the changing realities of modern relationships. Landmark judgments by the Indian courts, such as the Supreme Court's decision in *Indra Sarma v. V.K.V. Sarma* (2013), provided significant recognition and protection to individuals in live-in relationships, affirming their rights to maintenance and protection from domestic violence under existing legal frameworks. Overall, the historical evolution of family law and societal norms in India reflects a gradual shift towards greater acceptance and recognition of non-marital relationships, including live-in partnerships. While challenges and stigma persist, particularly in conservative pockets of society, the changing legal and social landscape offers hope for greater inclusivity, equality, and respect for individuals' choices in forming intimate relationships.

#### **Landmark Court Judgments:**

In the realm of family law and the recognition of live-in relationships in India, several landmark court judgments have played a pivotal role in shaping legal precedents and establishing the rights of partners in such arrangements. Two cases, in particular, stand out for their significant contributions to this evolving legal landscape: *D. Velusamy v. D. Patchaiammal* and *Indra Sarma v. V.K.V. Sarma*.

*D. Velusamy v. D. Patchaiammal* (2010) was a landmark case heard by the Supreme Court of India that addressed the issue of live-in relationships and the rights of partners involved. In this case, the court laid down specific criteria to determine the existence of a live-in relationship and the rights of partners therein. The court held that for a relationship to be considered a live-in relationship, it must fulfill certain conditions, including cohabitation, mutual consent, and holding themselves out as a couple to society. This judgment provided much-needed clarity on the legal status of live-in relationships and established guidelines for courts to adjudicate disputes arising from such arrangements.

Another significant case that contributed to the legal recognition of live-in relationships in India is *Indra Sarma v. V.K.V. Sarma* (2013). In this case, the Supreme Court affirmed the rights of women in live-in relationships, particularly regarding maintenance and protection from domestic violence. The court held that a woman in a domestic relationship, whether married or not, is entitled to protection from domestic violence and can seek maintenance from her partner. This judgment marked a significant departure from traditional interpretations of domestic relationships and underscored the need for legal recognition and protection of individuals in live-in partnerships.

These landmark judgments have had far-reaching implications for the legal recognition and rights of partners in live-in relationships in India. By establishing clear criteria for determining the validity of such relationships and affirming the rights of partners involved, the judiciary has played a crucial role in ensuring greater legal protection and equality for individuals in non-marital partnerships. Moreover, these judgments have helped dispel ambiguity and uncertainty surrounding the legal status of live-in relationships, providing clarity and guidance to courts, legal practitioners, and individuals alike.

Landmark court judgments such as *D. Velusamy v. D. Patchaiammal* and *Indra Sarma v. V.K.V. Sarma* have been instrumental in shaping the legal recognition and rights of live-in partnerships in India. By providing clear criteria for determining the validity of such relationships and affirming the rights of partners involved, these judgments have contributed to a more equitable and inclusive legal framework that reflects the evolving realities of modern relationships.

#### **Criteria for Validity**

In the absence of specific legislation governing live-in relationships in India, the judiciary has been tasked with determining the validity of such arrangements based on various criteria. These criteria, while not exhaustive, serve as guiding principles for courts to assess the nature and intent of live-in partnerships. Among the key criteria considered by Indian courts are cohabitation, mutual consent, and holding out as a couple to society.

Cohabitation is often cited as a crucial factor in determining the validity of a live-in relationship. Courts have held that the sharing of a common household and living arrangements akin to those of a married couple can be indicative of a genuine domestic relationship. However, mere cohabitation alone may not suffice to establish the existence of a live-in partnership; courts also consider the duration and continuity of cohabitation, as well as the nature of the relationship between the partners.

Mutual consent is another essential criterion considered by courts when assessing the validity of live-in relationships. Consent implies a voluntary agreement between the partners to enter into and maintain a domestic relationship without the formalities of marriage. Courts scrutinize the intention of the parties to live together as partners and evaluate whether such consent is freely given and unequivocal.

Furthermore, the concept of "holding out" as a couple to society is crucial in determining the validity of live-in relationships. This criterion refers to the public acknowledgment and recognition of the partners' relationship by their peers, family, and community. Courts may consider factors such as joint social activities, financial interdependence, and public representations of the relationship when assessing whether the partners hold themselves out as a couple to society.

It is important to note that while these criteria provide a framework for evaluating the validity of live-in relationships, courts adopt a case-by-case approach and consider the totality of circumstances in each case. The judiciary recognizes the diverse nature of relationships and acknowledges that rigid adherence to specific criteria may not always be appropriate or fair. As such, courts exercise discretion and apply these criteria flexibly to ensure that the

rights and interests of individuals in live-in partnerships are duly protected.

The criteria for determining the validity of live-in relationships in India reflect the evolving understanding of contemporary partnerships and familial arrangements. While cohabitation, mutual consent, and holding out as a couple to society are important factors considered by courts, the judiciary adopts a nuanced and contextual approach in assessing the nature and intent of such relationships. By balancing legal principles with considerations of equity and justice, courts play a vital role in upholding the rights and dignity of individuals in live-in partnerships within the framework of Indian law.

### Rights and Protections

The judicial recognition of rights and protections for partners in live-in relationships is a crucial aspect of the legal framework surrounding such arrangements in India. While live-in partnerships may lack the formal legal status of marriage, courts have sought to uphold the rights and interests of individuals involved through various legal mechanisms. This section explores the judicial approach to recognizing rights such as maintenance, inheritance, and protection from domestic violence for individuals in live-in partnerships.

**Maintenance:** One of the primary rights recognized by Indian courts for partners in live-in relationships is the right to maintenance. Maintenance refers to the financial support provided by one partner to the other for their sustenance and well-being. In the landmark case of *Indra Sarma v. V.K.V. Sarma*, the Supreme Court of India held that a woman in a live-in relationship is entitled to maintenance under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). The court ruled that the provisions of the PWDVA apply to women in domestic relationships, whether married or not, thereby extending the right to maintenance to partners in live-in relationships.

**Inheritance:** Another significant aspect of rights for partners in live-in relationships is inheritance. In India, inheritance laws govern the distribution of property and assets upon the death of an individual. While the legal status of live-in relationships may impact inheritance rights to some extent, courts have recognized the right of partners in such arrangements to inherit the property of their deceased partners under certain circumstances. In the absence of a valid will, partners in live-in relationships may be entitled to inherit the property of their deceased partners as per the laws of intestate succession, subject to the discretion of the courts.

**Protection from Domestic Violence:** Courts in India have also extended legal protections to partners in live-in relationships against domestic violence. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) provides a comprehensive legal framework for addressing various forms of domestic violence, including physical, emotional, and economic abuse. Partners in live-in relationships, particularly women, can seek protection orders, including restraining orders and residence orders, under the provisions of the PWDVA. The judiciary has played a proactive role in enforcing these provisions and ensuring that individuals in live-in partnerships have access to legal remedies and protections against domestic violence.

The judicial recognition of rights and protections for partners in live-in relationships reflects the evolving understanding of contemporary family structures and the need to adapt legal frameworks to changing social realities. While live-in partnerships may lack the formal legal status of marriage, courts in India have affirmed the rights of individuals involved and extended legal protections to ensure their well-being and security. By upholding principles of equity, justice, and human rights, the judiciary plays a crucial role in safeguarding the interests of individuals in live-in relationships within the framework of Indian law.

### Conclusion

The judicial perspective on live-in partnerships in India represents a significant milestone in the evolution of family law and societal norms. While substantial strides have been taken in recognizing the rights of individuals in such relationships, there are ongoing challenges in ensuring consistent and equitable legal treatment for live-in partners. However, the judiciary's commitment to interpreting and applying the law in a progressive and inclusive manner offers hope for further advancements in this area.

Through landmark judgments and nuanced legal reasoning, courts have played a crucial role in shaping the legal landscape surrounding live-in relationships. By upholding principles of equality, justice, and human rights, the judiciary has paved the way for greater recognition and protection of the rights and dignity of individuals in such partnerships. Nonetheless, there is still work to be done to address lingering legal ambiguities and societal prejudices that may hinder the full realization of these rights.

Moving forward, it is imperative for the judiciary to continue its efforts to create a legal framework that accommodates the diverse forms of relationships prevalent in modern society. By remaining vigilant to emerging issues and adapting legal principles to meet evolving social realities, the judiciary can uphold the fundamental values of fairness and equality for all individuals, regardless of their relationship status. Ultimately, by fostering a legal environment that respects the autonomy and agency of individuals in their personal lives, the judiciary can contribute to building a more inclusive and equitable society for future generations.

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