
LIVE-IN RELATIONSHIPS AND SOCIAL JUSTICE: BALANCING TRADITIONAL VALUES AND INDIVIDUAL RIGHTS

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ABSTRACT

In modern India, the idea of cohabitation has become a major social and legal phenomena, reflecting shifting views on marriage, family, and personal freedom. Even while marriage is still seen as the most revered and acceptable institution in Indian society, more and more adults are opting to live together without getting married. This change has sparked a lot of discussion about whether or not these kinds of relationships are compatible with traditional cultural values and whether or not they should be protected by the law and the constitution. This article explores live-in relationships from a social justice perspective, focusing on striking a balance between individual rights and traditional norms. It starts by going over the ideas of marriage and cohabitation before tracing the development of nonmarital cohabitation in India throughout history. With a focus on Articles 14, 19, and 21 of the Indian Constitution, which protect equality, freedom, dignity, privacy, and individual liberty, the study also examines the constitutional framework controlling interpersonal relationships. It also examines the ongoing confrontation between social morality and constitutional morality, emphasizing the judiciary's duty in defending fundamental rights even when they go against accepted societal norms. The paper finds that constitutional principles increasingly support an individual's ability to select their personal relationships, even though live-in relationships continue to suffer social rejection in India. It highlights the necessity of a fair legal system that upholds equality, autonomy, and human dignity while honoring India's traditional customs. To close the gap between conventional society values and the constitutional ideal of social justice, the study suggests extensive legislative reforms and increased public awareness.

Keywords: Live-in Relationships; Social Justice; Constitutional Morality; Individual Rights; Marriage; Right to Privacy; Gender Justice; Judicial Recognition.

INTRODUCTION

The institution of marriage has long occupied a central position in Indian society, serving not only as a legal union but also as a social, cultural, and religious institution that shapes family life and social order. Traditionally, marriage has been regarded as the legitimate foundation for companionship, procreation, and the upbringing of children. However, rapid urbanisation, economic independence, increased educational opportunities, and changing social attitudes have significantly influenced individual choices regarding intimate relationships. Among these evolving forms of relationships, live-in relationships have emerged as a notable social reality, particularly among young adults in metropolitan areas.

A live-in relationship generally refers to an arrangement in which two consenting adults choose to cohabit and share their lives without entering into a legally recognised marriage. Although such relationships are not governed by a comprehensive statutory framework in India, they have gradually received judicial recognition through constitutional interpretation and the progressive development of family law. Indian courts have increasingly acknowledged that adults possess the freedom to choose their partners and determine the nature of their personal relationships, provided such choices do not violate the law or infringe upon the rights of others.¹

The growing prevalence of live-in relationships has generated considerable legal and social debate. While many view them as an expression of personal liberty, privacy, and individual autonomy, others perceive them as inconsistent with India's cultural traditions and moral values. This divergence reflects a broader tension between constitutional guarantees of individual freedom and the expectations of a society that continues to attach significant importance to the institution of marriage. Consequently, the legal treatment of live-in relationships requires a careful balance between respecting constitutional rights and acknowledging the social realities of a diverse society.

INDIAN MARRIAGE CONCEPT

In India, marriage is one of the most important and ancient social structures. It has long been seen as the cornerstone of family life and is essential to upholding moral principles,

¹ S. Khushboo v. Kanniammal, (2010) 5 SCC 600.

cultural continuity, and societal order. In the Indian culture, marriage is seen as a sacred and permanent relationship that establishes legal, social, and emotional rights and obligations between spouses, in contrast to a simply contractual arrangement. It strengthens the institution of the family and offers a framework for friendship, mutual support, reproduction, and childrearing².

The concept of marriage in India is shaped by the country's diverse religious, cultural, and legal traditions. In Hindu law, marriage has historically been considered a *samskara* (sacrament), symbolising a spiritual and lifelong bond between husband and wife. It is regarded as a sacred union intended not only for the fulfilment of personal companionship but also for the performance of religious duties and continuation of the family lineage. Conversely, under Muslim law, marriage (*Nikah*) is generally treated as a civil contract that creates mutual rights and obligations between the spouses. Christian and Parsi laws also recognise marriage as a legally valid union, governed by their respective personal laws. Despite these differences, all personal laws recognise marriage as a legally protected institution that carries significant rights and responsibilities.³

The legal definition of marriage has changed significantly since the adoption of contemporary family laws. A number of aspects of marriage, including its validity, registration, divorce, maintenance, legitimacy of children, and succession, are governed by statutes like the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, the Indian Christian Marriage Act, 1872, and the Muslim Personal Law (Shariat) Application Act, 1937. These laws seek to uphold justice and fairness in the marriage relationship while safeguarding the rights of spouses.

Although marriage is not specifically defined in the Indian Constitution, its interpretation has been greatly impacted by constitutional concepts. The ability to select one's life partner is a crucial component of the right to life and personal liberty protected by Article 21 of the Constitution, the Supreme Court has repeatedly ruled. As a result, marriage is acknowledged as a symbol of dignity, autonomy, equality, and personal choice in addition to being a personal arrangement.

Thus, the concept of marriage in India represents a combination of traditional values and modern constitutional principles. It continues to preserve its religious and cultural

² Mulla's Principles of Hindu Law (LexisNexis 2021) 15–20.

³ Paras Diwan, Muslim Law in Modern India (Allahabad Law Agency 2020) 45–52.

significance while increasingly recognising individual dignity, equality, and freedom of choice. This evolving understanding provides the basis for examining the legal and social position of live-in relationships within the framework of social justice and constitutional rights.

CONCEPT OF LIVE-IN RELATIONSHIPS

A live-in relationship refers to an arrangement in which two consenting adults voluntarily choose to live together in a relationship resembling marriage without undergoing a formal marriage ceremony or obtaining legal recognition as spouses. Unlike marriage, a live-in relationship is primarily based on mutual consent, companionship, emotional commitment, and shared responsibilities rather than a legally solemnised union. Although Indian law does not provide a statutory definition of a live-in relationship, the judiciary has recognised its existence as a social reality and has extended legal protection in appropriate circumstances.

From a legal perspective, live-in relationships are neither prohibited nor declared illegal under Indian law. Courts have consistently held that two adults who voluntarily decide to live together do not commit any criminal offence merely because they are not married. The Supreme Court has recognised that the choice of an adult to cohabit with another person falls within the scope of the fundamental rights guaranteed under the Constitution, particularly the rights to life, personal liberty, dignity, privacy, and autonomy under Article 21.⁴

Judicial decisions have also attempted to distinguish casual relationships from relationships that are "in the nature of marriage." A relationship may receive legal protection when it exhibits characteristics such as long-term cohabitation, shared household, financial interdependence, social recognition, and a genuine intention to live together as partners. Such recognition is particularly important in extending protection to women against domestic violence and preventing their exploitation.

The legal status of children born from live-in relationships has also undergone significant development. Indian courts have recognised that children born from stable live-in relationships should not suffer discrimination merely because their parents were not formally married. This approach reflects the constitutional commitment to equality, dignity, and the welfare of children.

⁴ S. Khushboo v. Kanniammal (2010) 5 SCC 600; Justice K.S. Puttaswamy v. Union of India (2017) 10 SCC 1

Thus, a live-in relationship represents an evolving form of family relationship in contemporary India. While it does not replace the institution of marriage, it has increasingly been acknowledged by the judiciary as a legitimate exercise of personal choice deserving legal protection where justice, fairness, and constitutional values require it.

CONSTITUTIONAL PERSPECTIVE

The Constitution of India does not expressly recognise or regulate live-in relationships. However, the constitutional principles of liberty, equality, dignity, privacy, and individual autonomy have significantly influenced the judicial approach towards such relationships. Over the years, the Supreme Court of India has interpreted the fundamental rights guaranteed under Part III of the Constitution broadly, thereby extending constitutional protection to adults who voluntarily choose to live together without marriage.

The foundation of this protection lies in **Article 21**, which guarantees the right to life and personal liberty. The Supreme Court has consistently held that the right to life under Article 21 is not limited to mere physical existence but includes the right to live with dignity, privacy, and autonomy. The freedom to choose one's life partner and the manner in which one wishes to conduct personal relationships forms an integral part of this constitutional guarantee. Accordingly, two consenting adults have the constitutional freedom to enter into a live-in relationship without interference from the State or society, provided their relationship does not violate any law.⁵

The Protection of Women from Domestic Violence Act of 2005 has given women in relationships that resemble marriage legal protection against domestic violence and other forms of exploitation because Article 14 of the Constitution guarantees equality before the law and equal protection of the laws. This principle requires that people in live-in relationships should not be subject to arbitrary discrimination simply because they have chosen not to marry. Courts have increasingly recognized that constitutional rights are available to every individual, regardless of marital status.

The freedom guaranteed under **Article 19** also supports the constitutional recognition of personal choice. The freedoms of expression, movement, and association collectively

⁵ Shafin Jahan v. Asokan K.M. (2018) 16 SCC 368; Lata Singh v. State of Uttar Pradesh (2006) 5 SCC 475.

reinforce an individual's right to make independent decisions regarding personal relationships. Although these freedoms are subject to reasonable restrictions, social disapproval alone cannot justify interference with the choices made by consenting adults.

Although India still lacks a comprehensive law governing live-in relationships, constitutional jurisprudence has gradually filled this legislative gap through progressive judicial interpretation. The courts have recognised that while marriage remains an important social institution, the Constitution protects the dignity, liberty, and autonomy of every individual to choose the nature of their personal relationships. This evolving constitutional approach reflects the commitment of Indian constitutional law to safeguard individual rights while balancing the broader interests of society.

CONSTITUTIONAL MORALITY VS. SOCIAL MORALITY

India's acceptance of cohabitation has sparked a significant constitutional discussion between social and constitutional morality. Constitutional morality is based on the ideals and ideas included in the Indian Constitution, whereas social morality is based on the norms, traditions, religious convictions, and cultural practices that are recognized by society. In a democratic society, these principles of liberty, equality, dignity, fraternity, and justice, direct how laws are interpreted and applied.

In a diverse country like India, social morality often reflects the collective beliefs of the majority. Marriage has traditionally been regarded as the only socially acceptable form of intimate relationship, and relationships outside marriage have frequently been viewed with disapproval. Consequently, live-in relationships have often been criticised as being contrary to Indian culture and family values. However, social attitudes are neither uniform nor static; they evolve with changing social, economic, and cultural conditions.⁶

Conversely, constitutional morality mandates that all people be treated equally and with dignity, regardless of social norms. It requires the government and the judiciary to uphold fundamental rights even when doing so is controversial or goes against accepted social norms. The Constitution protects people's freedom to make their own decisions as long as they don't break the law or damage the rights of others. It does not force citizens to adhere to majoritarian

⁶ S. Khushboo v. Kanniammal (2010) 5 SCC 600

moral standards.

When constitutional rights and societal morality clash, the Supreme Court of India has consistently upheld that constitutional morality must take precedence. The Court has ruled in a number of significant rulings that the right to life and personal liberty under Article 21 of the Constitution must include personal autonomy, privacy, dignity, and the choice to select one's spouse. Therefore, denying consenting adults who wish to live together constitutional protection cannot be justified by the fact that such a relationship may not be widely accepted by society.

Therefore, the legal acceptance of cohabitation in India is based on the conflict between social and constitutional morality. Constitutional morality is the driving principle for defending individual rights in a constitutional democracy, whereas social morality reflects societal expectations. The autonomy, equality, and dignity of people who choose different types of family life have been greatly protected by the progressive judicial interpretation of these concepts.

JUDICIAL RECOGNISATION

The judiciary has been crucial in acknowledging and defending the rights of people who choose to live together without getting married, despite the fact that India lacks a comprehensive law that specifically governs live-in relationships. The Supreme Court and many High Courts have interpreted existing laws and constitutional principles through a number of progressive rulings to provide such partnerships legal status and protection. By guaranteeing that the rights of consenting adults are protected in line with the Constitution, judicial intervention has therefore filled the legislative gap.

D. VELUSAMY V. D. PATCHAIAMMAL⁷

It explained that not every live-in relationship would qualify for legal protection. The Court held that only a relationship "in the nature of marriage" would receive protection under the Protection of Women from Domestic Violence Act, 2005. It identified factors such as voluntary cohabitation, legal capacity to marry, a shared household, and a relationship

⁷ (2010) 10 SCC 469.

resembling marriage as relevant considerations for determining whether such protection should be granted.

INDRA SARMA V. V.K.V. SARMA⁸

The Supreme Court recognised that many women in live-in relationships are vulnerable to economic and social exploitation. While reiterating that every live-in relationship does not automatically receive legal recognition, the Court emphasised the need to protect women who have lived in relationships resembling marriage and identified several indicators to determine whether a relationship falls within the expression "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005.

TULSA V. DURGHATIYA⁹

The judiciary has also recognised the rights of children born from stable live-in relationships. The Supreme Court has held that children should not suffer legal or social disadvantages because of the marital status of their parents. Such decisions uphold the constitutional principles of equality, dignity, and the welfare of children, thereby reinforcing the concept of social justice.

The way Indian family law is developing is reflected in the courts' acceptance of cohabitation. Although marriage is still the most important legally recognized institution, courts have recognized that people who choose other forms of companionship need legal protection due to shifting social circumstances. Judicial precedents continue to be the main source of legal advice in the absence of particular legislation, striking a balance between social fairness, constitutional principles, and the rights of people living together.

CONCLUSION

In India, live-in partnerships are becoming more common as a result of shifting lifestyles and growing respect for personal autonomy. The Constitution safeguards consenting people's rights to select their partners and live with dignity and autonomy, even though marriage is still the most widely recognized institution. Indian courts have acknowledged and safeguarded cohabitation through a number of court rulings, especially to protect the rights of

⁸ (2013) 15 SCC 755

⁹ (2008) 4 SCC 520.

women and children. To guarantee social fairness while defending individual rights, a balanced strategy that honors both traditional values and constitutional norms is crucial.

SUGGESTIONS

1. Enact a comprehensive law to regulate live-in relationships.
2. Strengthen legal protection for women in live-in relationships.
3. Ensure equal rights and protection for children born from live-in relationships.
4. Create public awareness about constitutional rights and responsibilities.
5. Encourage a balance between traditional family values and individual freedom.
6. Promote legal literacy to reduce social stigma and discrimination.