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Legal Recognition without Regulation: The Need for a Uniform Law on Live-in Relationships in India

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Abstract

Live-in relationships have emerged as a socio-legal phenomenon, reflected in society, family structures, and individual choices in India. Constitutional protection has been progressively extended to individuals in cohabitation by the Indian courts through the interpretation of Article 21, but the recognition remains judicial and fragmented. As the Indian legal structure lacks a statutory framework, live-in relationships face inconsistency, resulting in uncertainty in rights, obligations, and the protection of individuals and children born out of such relationships. This paper argues that in the absence of a regulatory legal framework, it is critical to safeguard dignity, equality, and legal certainty for individuals living in such cohabitations. Study has shown that the progress of judicial interventions in live-in relationships is based on case-by-case adjudications, solving issues like maintenance, domestic violence, legitimacy of children, and inheritance rights. Judgements surely have prevented unfair state interference and social pressure on such couples but they have also resulted in inconsistent standards and uneven protection. Due to the lack of statutory guidelines, such couples face harassment from police, moral policing from society and uncertain legal outcomes. The paper intends to demonstrate how statutory recognition for live-in relationships can coexist with cultural diversity while ensuring legal protections by studying comparative legal frameworks from countries that have formally regulated live-in relationships. It argues that a uniform and constitutionally bound law for cohabitation would not undermine the concept of marriage but rather elaborate existing family laws by considering contemporary lifestyles. It concludes by suggesting a balanced legislative framework that provides clarity on rights and responsibilities to ensure personal autonomy and gender justice. It is necessary to provide legal relief aligned with constitutional values and transforming the social landscape.

Keywords: *Live-in Relationships, Article 21, Judicial Intervention, Uniform Statutory Framework, Personal Autonomy*

Introduction

Live-in relationships have emerged in India as a socio-legal phenomenon in recent years, resulting in a transformation in social attitudes, family structures, and individual decision-making. Indian society has been deeply and traditionally reflecting a marriage-centric lifestyle where marriage is the primary and socially accepted form of intimate partnership. However, social perceptions have changed due to urbanisation, various educational opportunities, economic independence and global exposure. Along with these changes, emphasis has grown on individual autonomy and personal lifestyle choices, which has encouraged many individuals to opt for cohabitation instead of opting for traditional institution of marriage. Even though live-in relationships are a growing prevalence and socially visible these days, the Indian legal system is not yet equipped to address the issues arising from such cohabitations. Indian courts have played a vital role in extending constitutional protection to live-in-relationship couples in the absence of legislative intervention. The Indian judiciary has recognised the rights of two consenting adults who choose their partners and cohabitation, via an extended interpretation of Article 21 of constitution guaranteeing the right to life and personal liberty. Judicial pronouncements have shielded the individuals in cohabitation from state interference and social coercion by emphasising the principles of dignity, privacy and autonomy for them.

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Additionally, courts have also addressed issues like maintenance, protection from domestic violence, legitimacy of children and inheritance of rights in the cases relating to live-in relationships. However, the judicial approach is only case-specific, resulting in an inconsistent legal stand and a fragmented legal approach.

The lack of a uniform statutory framework has created a gap through which live-in relationships in India operate without any legal guidance. This lack of a statutory framework has led to legal uncertainty regarding the rights, roles, and obligations of partners in such relationships, their legal status towards one another, the legal status of the relationship and the protection available to vulnerable individuals in such relationships namely, women and children. Lack of codified norms and inconsistent judicial decisions leave individuals to face police harassment, moral policing and unpredictable consequences on a legal front. This research paper contends that legal recognition of these individuals without a proper legal framework is inadequate. It argues that a constitutionally guarded legal framework is necessary to ensure equality, dignity, legal certainty and gender justice for individuals choosing to live in cohabitation while aligning family laws in India at the same time for our evolving social aspects.

Conceptual Understanding of Live-in Relationships

A live-in relationship is an arrangement where two consenting adults live in cohabitation in an intimate partnership, similarly as marriage without entering into a legally recognised marital union. These relationships are characterised by emotional commitment to one another, shared home, and at times, financial interdependence. Unlike marriage, live-in relationships in India are not part of the legal framework as of now. While marriages are governed by codified personal laws that define rights and obligations very clearly. But live-in-relationships do not ultimately confer statutory rights to maintenance, succession or inheritance, nor do they impose marital duties upon parties and hence are not legally enforceable. Cohabitation often resembles marital relationships in their very nature, despite not having formal recognition. Partners in cohabitation may share a home, share responsibilities, be dependent financially, and raise children together. This very interdependence makes way for legal issues in case of disputes, specifically in matters relating to maintenance, domestic violence, inheritance or property rights and welfare of children born out of such relationships. The absence of predefined laws for such living arrangements leaves partners, especially the economically dependent ones, vulnerable to legal uncertainty and even exploitation.

Due to the lack of a clear statutory definition of live-in-relationships a significant ambiguity is created with the legal system. Courts in India are compelled to interpret the legitimacy of such relationships, their nature and the issues they bring on a case-by-case basis, and they often have to rely on subjective characteristics like the duration of live-in, shared house and its arrangements, even the social perception. While the judiciary has been flexible and courts have been granting protection to deserving cases, it has also led to unpredictable standards and inconsistency in outcomes. There are varying thresholds in different courts for determining when a live-in-relationship qualifies for a legal protection and hence their arrises legal certainty and uniformity. The ambiguity in the concept of cohabitation calls for a clear and comprehensive legal understanding of live-in relationships. In the absence of unifom statutory definition, individuals in such relationships remain uncertain about the legality of their role, status and even the form of protection granted to them. A defined legal framework is therefore essential for not only consistency in interpretation by courts but also for developing the comprehensive legislation that reflects current social realities.

Constitutional and Judicial Recognition in India

Indian courts have assumed a role in recognising and, accordingly, regulating cohabitation through constitutional interpretation due to the lack of a proper legal framework. Under Article 21, this judicial recognition has primarily evolved to guarantee the right to life and personal liberty under the Constitution of India. The Supreme Court has extended the interpretation of this article to assert the right to live with dignity, the right to freedom for intimate personal choices and the right to privacy. Courts have established that consenting adults are entitled to choose cohabitation as a lifestyle and choose their partners without any undue interference from the social bodies or the state itself. Judicial decisions have further emphasised that personal relationships are a matter of individual autonomy and cannot be constrained by social morals or conventional norms. Courts have protected individuals from harassment, coercive gestures by law enforcement agencies or family members and unlawful detention by giving recognition to live-in relationships as a legally exercised personal liberty. This approach of courts complied as an instrument in reaffirming constitutional values of equality, dignity and liberty for intimate relationships other than marriage.

Along with constitutional protection, courts extended the limits of legal safeguards to couples in cohabitation through purposive interpretation of existing legal norms. For example, the Protection of Women from Domestic Violence Act, 2005, recognises relationships as “in the nature of marriage,” resulting in the enablement of women in cohabitation to seek protection against domestic abuse, maintenance, and even the residence rights against their partners. Various related issues like right to maintenance under the provisions of criminal law, legitimacy of children born out of cohabitation and issues relating to inheritance and succession have also been addressed by judicial interpretations. However, the social approach remains widely reactive and fragmented despite the developments in judicial pronouncements. Legal protection to such individuals is extended on a case-by-case basis, completely dependent on judicial discretion and subjective assessment of the relationship’s nature. The absence of a dedicated legal framework for cohabitation has resulted in inconsistency in the recognition and uneven protection across various

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jurisdictions. Consequently, even though judicial intervention has granted relief in a few cases, it failed to offer comprehensive and certain legal safeguards. This calls for a pressing need of the statutory uniform framework to complement principles provided by the constitution and provide consistent legal protection for individuals in live-in-relationships.

Legal Vacuum and Its Consequences

In the absence of a uniform legal framework for the governance of live-in relationships in India, a legal vacuum has been created, resulting in extended consequences for individuals in such relationships. Individuals in such relationships lack clarity regarding their legal status as a partner, rights and obligations due to the absence of codified norms. Legal issues regarding financial support, ownership of property, inheritance and responsibilities of children born out of such relationships remain widely undefined, resulting in individuals being vulnerable to legal uncertainty. Such ambiguities affect economically dependent individuals in cohabitation, especially women who may not be provided with effective legal remedies in case of dissolution of the relationship. Children born out of cohabitation are largely impacted due to the absence of legislative clarity. Even though the judicial pronouncements have made progress in protecting the interests of such children by recognising their legality in various aspects, there is still ambiguity regarding succession, inheritance and social acceptance. In the absence of uniform statutory law and recognition of these children, they are exposed to discrimination in society, which undermines their right to equality and dignity.

In the absence of statutory safeguards, individuals are often compelled to rely on judicial intervention for relief, which is neither immediate nor uniformly accessible. Additionally, in the absence of legal guidelines, it encourages unwanted interference by law enforcement agencies and social bodies. Individuals in cohabitation frequently suffer through police harassment, police surveillance, and pressure to maintain public morality. Moral policing by members of family, friends, or community groups further extends this vulnerability, and eventually, personal liberty and privacy are violated. Individuals in live-in relationships are usually compelled to rely on judicial interference to get relief, which is not immediate or even uniformly accessible to all live-in couples in the absence of statutory law.

Evaluation of Judicial Interventions

A very important role has been played by judicial interventions in extending legal protection to individuals in cohabitation, especially in the absence of codified regulation. Courts have prevented state interference and recognised the autonomy of two consenting adults in a live-in-relationship, while acting as a guardian to constitutional values. Through extensive interpretation of constitutional provisions as well as existing status, the judiciary has granted access to remedies like maintenance, protection from domestic violence, especially for women and the legitimacy of children born out of such cohabitation in deserving cases. However, relying on judicial decisions as remedies in the form of a primary mechanism of legal protection has limitations. Judicial recognition is basically reactive as it addresses the disputes only after the harm is caused. The adjudication remains case-by-case and flexible which ultimately lacks predictability. It often depends on judicial assessments of the nature and duration of the relationship in question being widely subjective. This has resulted in uneven application of legal protections to individuals in cohabitation, inconsistent legal standards across various courts and different jurisdictions.

Consequently, while judicial interventions have provided essential relief in individual cases, they remain insufficient to address the systemic challenges posed by live-in relationships. This underscores the urgent need for legislative intervention to ensure uniformity, certainty, and effective protection. Moreover, judicial recognition is not a substitute for a comprehensive legal clarity on the issue. Courts are obliged to operate within existing legal frameworks and their interpretations, but they cannot form a detailed regulatory guideline for the same. In the absence of a uniform statutory framework, an excess burden is laid on the judiciary and at the same time, individuals are left without clear legal guidelines on their rights and responsibilities as a partner in a live-in-relationship. Consequently, while judicial interventions in various cases have provided relief, they still are insufficient to address several challenges faced by live-in relationships. This calls for an urgent need for a legislative approach to ensure uniformity, certainty and effective protection for live-in-relationship couples.

Comparative Legal Perspectives

Across the entire world, various jurisdictions have framed statutory frameworks for the regulation of non-marital cohabitation and recognised the changing nature of individual intimate relationships and structures of family. Various countries like France, the United Kingdom, and various states in the United States have formed legal structures that recognise live-in relationships and balance individual autonomy with legal certainty. For example, France has implemented the *Pacte Civil de Solidarité (PACS)*, which allows heterosexual and homosexual couples, cohabiting together, to formalise their relationship and take advantage of available rights of properties, taxation and social security defined for such couples. Similarly, the United Kingdom recognises non-marital cohabitation through various statutory provisions and contractual arrangements that enable partners in such relationships tp protect their interests through cohabitation agreements and legally provided limited statutory rights. In the United States, legal recognition is provided to unmarried cohabiting couples, providing them rights related to property distribution, healthcare and parental responsibilities by domestic partnership laws and cohabitation agreements, in few states. These legal frameworks

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emphasise consent, mutual responsibility among partners, and dispute-resolution mechanisms, while allowing individuals the freedom to choose the legal regulation applicable to them. Most importantly, these legal frameworks give live-in relationships statutory recognition and demonstrate that they can coexist with cultural diversity and varying social norms. Such comparative experiences offer valuable insights for India in crafting a balanced and context-sensitive legal framework.

Comparative analysis demonstrates that a legal framework regulating live-in relationships does not undermine the institution of marriage. It complements current family laws by considering contemporary social realities that are different from traditional marital frameworks. By providing legal protection, these jurisdictions ensure that such couples are shielded from exploitation and uncertainty, as no marital obligations are imposed on them. Such comparative studies provide valuable guidance for India in creating a balanced and effective legal framework.

Need for a Uniform Statutory Framework in India

In India, a uniform statutory legal framework governing live-in relationships is necessary to address the limitation inherent in only judicial recognition. In the absence of legislative clarity, inconsistency and unpredictability have arisen as courts have extended constitutional and statutory protection in only a few cases. A comprehensive statute is required to provide a precise definition of live-in relationships, give definite criteria for recognition and provide basic rights and obligations for partners. Such a statutory framework is necessary to protect vulnerable individuals in such relationships, especially women and economically independent partners, who are often affected by legal uncertainty in case the relationship doesn't work. A uniform law is also important to safeguard the rights and interests of children born out of such living arrangements, where parental responsibilities, maintenance obligations and rights of succession are clearly defined. With this, principles of equality and non-discrimination highlighted in the Constitution will be upheld. A legal framework grounded in the Constitution would further promote gender justice as well as prevent exploitation of partners at the same time respect personal autonomy and freedom of choice. It is important to note that regulating live-in relationships through law would not weaken the marriage institution. It would rather function as an alternate legal structure which will acknowledge various forms of intimate relationship while it preserves the sanctity of marriage via existing personal laws.

Proposed Framework and Policy Recommendations

A balanced legal framework that regulates live-in relationships should be guided by social realities and constitutional values. Primarily, the law must provide a clear and certain definition of what can be termed a live-in relationship for the surety of uniform interpretation and application of the said law. Recognition of these relationships should be based on basic factors like shared household, its arrangements, duration of cohabitation and mutual consent. Secondly, the law must incorporate safeguards to prevent misuse of legal provisions while also making sure that consent remains the basis for the recognition of such cohabitation arrangements. Special provisions must be added for protection of women and economically dependent partners through provisions relating to protection against abuse, maintenance, and residence rights. Clear statutory guidelines relating to parental responsibility and inheritance and property rights are necessary to protect the welfare of children and to avoid legal uncertainty. Additionally, the framework should provide mechanisms for the prevention of police harassment and moral policing by members of society. It should also include clear directives that limit law enforcement intervention in consensual relationships of adults. Law's effectiveness would further be strengthened by access to grievance redressal mechanisms and initiatives of awareness. Overall, such a legal framework must align with a few constitutional values such as dignity, equality and liberty, ensuring that legal regulation is a support mechanism and not a restrictive aspect to individual freedom.

Conclusion

In contemporary India, live-in relationships have emerged as an undeniable reality in society. It has reflected in changing social norms, evolution in family structures and growing emphasis on personal autonomy and individual choices. While Indian courts have given recognition and protection to such relationships progressively via expansive interpretation of Article 21 of the Constitution of India, judicial intervention alone is not sufficient to address the multifaceted legal and social challenges that arise from cohabitation without marriage. The absence of a comprehensive statutory legal framework has left partners in such relationships in a legal vacuum, along with uncertainty, inconsistency, and vulnerability. Protection by courts is offered only after disputes arise and is subject to judicial discretion, which results in uneven standards and unpredictable outcomes. Reliance is put on the decisions of courts, which are based on a case-by-case basis and it fails to provide clear guidance on the rights and obligations of individuals in such relationships relating to property, maintenance, parental responsibility and inheritance. Consequently, individuals in such cohabiting arrangements, especially women as well as children, constantly face risk of exploitation, social stigma and insecurity. This research paper concludes that legal recognition of live-in couples without regulation is inadequate for addressing the issues faced by cohabiting couples. To ensure legal certainty, protection of personal autonomy and gender justice, a uniform and constitutionally rooted statutory framework is necessary. Such legislative certainty would not undermine the sanctity of the marriage institution but complement the family laws in existence by legally acknowledging various forms of intimate relationships in current society. By adopting a properly designed coherent legislative response and moving beyond uncertain judicial protection, family

laws in India can be more effectively aligned along with the changing social realities and foundational constitutional values of dignity, equality, and liberty.

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