



# LEGAL FRAMEWORK FOR LIVE-IN RELATIONSHIPS – A COMPARATIVE ANALYSIS

**Shudharshini E**

**Student**

**School of Excellence in Law, The Tamil Nadu Dr. Ambedkar Law University**

## **ABSTRACT:**

Live-in relationships, where couples cohabit without formal marriage, are increasingly prevalent in modern societies. These relationships challenge traditional notions of marriage and family while raising legal questions regarding the rights and obligations of partners. The legal stance on live-in relationships varies significantly across jurisdictions, influenced by cultural, religious, and legal factors. Some countries have established specific legal frameworks to regulate such relationships, while others rely on judicial precedents and general legal principles.

The increasing prevalence of live-in relationships is driven by various factors, including changing social attitudes, economic independence, and the desire for flexibility in personal commitments. Many individuals opt for live-in relationships as an alternative to marriage, seeking companionship without the formal legal and social bindings associated with matrimony. However, this evolving social norm necessitates legal recognition to address concerns related to property rights, financial obligations, domestic violence protections, and the rights of children born in such relationships.

## **INTRODUCTION:**

In India, live-in relationships are not governed by a specific law, but the judiciary has played a crucial role in granting legal recognition and protections. The Supreme Court has upheld the validity of such relationships under the right to life and personal liberty (Article 21 of the Constitution). Key judicial pronouncements, such as *S. Khushboo v. Kanniammal* (2010) and *Indra Sarma v. V.K.V. Sarma* (2013), have affirmed that live-in relationships are not illegal and partners are entitled to protection under the Protection of Women from Domestic Violence Act, 2005. Furthermore, courts have recognized inheritance and property rights for children born out of such relationships, ensuring their legal security.

## **Legal Recognition and Rights of Partners**

### **1. India**

India lacks a specific statute governing live-in relationships. However, the Supreme Court has, through various judgments, recognized them under the right to life and personal liberty (Article 21 of the Constitution). Partners in live-in relationships can claim protection from domestic violence under the Protection of Women from Domestic Violence Act, 2005. Courts have also upheld inheritance and property rights for children born out of such relationships.

## 2. United States

The U.S. does not have a unified federal law addressing live-in relationships. Instead, state laws determine the rights of cohabiting couples. Some states recognize "common-law marriages," granting rights akin to legally married spouses, while others require explicit cohabitation agreements for legal protection in matters of property division and inheritance.

## 3. United Kingdom

The UK does not confer legal marital status on live-in partners, often referring to them as "cohabiting couples." The Cohabitation Rights Bill has been proposed but not yet enacted. However, cohabitants can seek financial remedies under property and trust laws, and children born in such relationships are granted the same rights as those from married couples.

## 4. France

France offers legal recognition to cohabiting couples through the *Pacte Civil de Solidarité* (PACS). This contractual union provides some but not all rights of marriage, including tax benefits, inheritance rights, and social security benefits, making it one of the most progressive frameworks for live-in partnerships.

## 5. Australia

Australia recognizes live-in relationships under the term "de facto relationships." The Family Law Act, 1975, grants de facto partners similar rights as married couples concerning property division, child custody, and financial support, provided they meet specific criteria such as duration of cohabitation and financial dependency.

## Comparative Analysis

1. **Legal Status:** While some countries (e.g., France and Australia) offer legal frameworks specifically for live-in relationships, others (e.g., India and the UK) rely on judicial precedents and common law principles.
2. **Property and Financial Rights:** In countries like Australia and some U.S. states, cohabitants enjoy rights like married couples. In contrast, nations like India and the UK provide limited protection unless a cohabitation agreement exists.
3. **Protection Against Domestic Violence:** Many jurisdictions, including India, Australia, and the UK, extend domestic violence protections to live-in partners.
4. **Children's Rights:** Most countries ensure that children born out of live-in relationships have the same rights as those from marriages, particularly in inheritance and parental responsibilities.

## FOREIGN JURISDICTION ANALYSIS:

Live-in relationships, also known as cohabitation, refer to an arrangement where two individuals live together in a long-term relationship without being legally married. These relationships have become increasingly prevalent worldwide due to changing societal attitudes toward marriage and personal autonomy. Various countries have developed legal frameworks to regulate the rights and responsibilities of partners in such relationships.

### Foreign Jurisdiction Analysis: France

France has a well-defined legal framework for live-in relationships through the *Pacte Civil de Solidarité* (PACS), introduced in 1999. The PACS is a civil union that provides legal recognition to cohabiting couples, whether heterosexual or same sex, offering them certain rights and responsibilities akin to marriage but with more flexibility.

## Key Provisions of the PACS Law:

1. **Legal Recognition:** Under the French Civil Code (Articles 515-1 to 515-7), PACS provides a contractual basis for cohabitation, ensuring legal status for the partners.
2. **Rights and Duties:** Partners in a PACS share financial responsibilities, including joint expenses and tax benefits, similar to married couples. However, they do not automatically inherit each other's property unless specified in a will.
3. **Separation Process:** Unlike marriage, PACS can be dissolved through mutual consent or a unilateral declaration, offering an easier legal exit.
4. **Parental Rights:** PACS does not automatically grant adoption rights to partners, unlike marriage, but provides certain protections for children born within the relationship.

France's PACS model serves as a progressive legal framework that balances individual freedom with legal protection. Many countries have adopted similar frameworks, highlighting the growing recognition of live-in relationships worldwide.

## A COMPARATIVE ANALYSIS:

Live-in relationships, where two individuals cohabit without entering a formal marriage, have become increasingly common across the globe. While some countries have established legal frameworks to regulate such relationships, others rely on judicial interpretations to provide legal recognition. This comparative analysis examines the legal provisions governing live-in relationships in France and India, identifies gaps in the Indian legal system, and explores the judicial approach adopted by Indian courts in the absence of explicit legislation.

Comparative Analysis: France vs. India

### 1. Legal Recognition of Live-In Relationships

- **France:** France provides formal recognition to live-in relationships through the *Pacte Civil de Solidarité* (PACS), introduced in 1999. PACS offers an intermediate legal status between marriage and informal cohabitation, allowing couples to establish legal rights and obligations without the constraints of marriage. The provisions of PACS are codified in Articles 515-1 to 515-7 of the French Civil Code.
- **India:** There is no specific law governing live-in relationships. However, Indian courts have recognized such relationships under constitutional and statutory interpretations, particularly under the Protection of Women from Domestic Violence Act, 2005 (PWDVA), providing some legal safeguards to women in live-in relationships.

### 2. Rights and Duties of Partners

- **France:** PACS partners have financial responsibilities towards each other, including joint taxation benefits, shared liabilities, and mutual financial support. They have certain social security benefits, such as health coverage and pension entitlements. PACS can be dissolved by mutual consent or a unilateral declaration, making separation easier compared to divorce.
- **India:** Indian law does not grant live-in partners financial support, maintenance rights, or property-sharing provisions unless a court deems the relationship to be "in the nature of marriage" under the PWDVA, 2005. Women in live-in relationships can claim maintenance under Section 125 of the Code of Criminal Procedure (CrPC) if they meet the criteria of a stable and long-term relationship. Live-in partners do not enjoy tax benefits or social security provisions like married couples.

### 3. Inheritance and Parental Rights

- France: PACS partners do not automatically inherit each other's property, unlike married couples. However, they can inherit through a will. Parental rights and responsibilities, including child custody and adoption, are regulated under separate laws, ensuring protections for children born within a PACS arrangement.
- India: Live-in partners do not have automatic inheritance rights in each other's property. However, children born out of live-in relationships are recognized as legitimate under *SPS Balasubramanyam v. Suruttayan*<sup>1</sup>, allowing them to inherit parental property. Adoption and custody rights in live-in relationships are determined on a case-to-case basis, leading to legal uncertainty.

#### Gaps in Indian Law Regarding Live-In Relationships

Despite judicial recognition, several gaps exist in the Indian legal framework:

1. Lack of Formal Recognition – Unlike France's PACS, India lacks a codified law that grants legal status to live-in relationships.
2. Ambiguous Financial Rights – Live-in partners do not have defined financial responsibilities, making issues of maintenance and property division complex.
3. Inheritance Rights – There is no automatic inheritance for live-in partners, creating uncertainty in matters of succession.
4. Social Security Benefits – Live-in partners are excluded from social security schemes, pensions, and tax benefits available to married couples.
5. Lack of Clarity on Separation Procedures – Unlike PACS, which provides a structured separation process, live-in relationships in India lack legal guidelines for dissolution.

#### Judicial Approach in India

In the absence of a specific statute, Indian courts have played a crucial role in shaping the legal status of live-in relationships:

- *Indra Sarma v. V.K.V Sarma*<sup>2</sup>: The Supreme Court acknowledged the vulnerability of women in live-in relationships and granted them protection under the PWDVA, 2005.
- *S. Khushboo v. Kanniammal*<sup>3</sup>: The Supreme Court ruled that live-in relationships are not illegal or immoral, upholding an individual's right to personal autonomy.
- *D. Velusamy v. D. Patchaiamma*<sup>4</sup>: The Court laid down the criteria for recognizing a live-in relationship as "marriage-like," including stability, exclusivity, and social acceptance.
- *Tulsa v. Durgatiya*<sup>5</sup>: The Supreme Court ruled that children born from live-in relationships would be considered legitimate and could inherit their parents' property.

<sup>1</sup> (1992) 1 SCC 460

<sup>2</sup> (2013) 15 SCC 755

<sup>3</sup> (2010) 5 SCC 600

<sup>4</sup> (2010) 10 SCC 469

<sup>5</sup> (2008) 4 SCC 520

## LEGISLATIVE RECOMMENDATIONS:

India can take inspiration from **France's PACS** and other international models to develop a legal framework for live-in relationships. Key provisions that could be incorporated include:

**a. Formal Legal Recognition** - Inspired by Articles 515-1 to 515-7 of the French Civil Code, India could introduce a legally recognized civil partnership for live-in couples. Such a law should allow both heterosexual and same-sex couples to register their relationship voluntarily.

### b. Rights and Responsibilities of Partners

- **Financial and Maintenance Rights:** Establish clear financial obligations between partners, similar to PACS, ensuring shared financial responsibilities and maintenance provisions.
- **Joint Property Ownership:** Live-in partners should be able to enter into property agreements similar to cohabiting couples in Sweden and Canada, where partners can regulate property distribution through contracts.
- **Tax and Social Security Benefits:** PACS partners in France enjoy tax benefits and certain social security advantages. India could consider similar benefits to ensure financial security.

**c. Inheritance and Parental Rights** - **Inheritance Rights:** Live-in partners should have the right to inherit property if explicitly mentioned in a will, similar to PACS. **Parental Rights and Child Custody:** Children born from live-in relationships should be given equal legal rights in matters of inheritance, custody, and guardianship.

**d. Termination of the Relationship** - A clear separation process should be outlined, allowing couples to dissolve their legal status through mutual consent or a unilateral declaration, similar to PACS in France. Provisions should be in place to ensure financial settlements and protection for vulnerable partners, particularly women.

### Feasibility of Implementing These Provisions in India

While incorporating elements of PACS and similar foreign laws is beneficial, India faces social, cultural, and legal challenges in implementing such reforms:

**a. Social and Cultural Considerations** - **Traditional Views on Marriage:** Indian society largely views marriage as a sacred institution. A formal law recognizing live-in relationships could face opposition from conservative groups. **Family Law Conflicts:** Personal laws governing marriage, inheritance, and property rights differ across religious groups, making it complex to introduce a uniform law for live-in relationships.

### b. Legal Considerations

- **Conflict with Personal Laws:** Unlike France, India follows religious-based personal laws, which may conflict with a national live-in relationship law.
- **Need for a Separate Statute:** Rather than integrating live-in relationships into existing marriage laws, it may be better to introduce a standalone "Live-In Relationship Act" similar to PACS.
- **Judicial Trends:** Indian courts have already taken steps to recognize live-in relationships. A codified law could complement existing judicial interpretations.

## Proposed Draft Framework for an Indian Law on Live-In Relationships

### The Live-In Relationship (Recognition and Protection) Act

#### Section 1: Short Title and Commencement

This Act shall be called the Live-In Relationship (Recognition and Protection) Act, 2025 and shall extend to the whole of India.

## Section 2: Definition of a Live-In Relationship

A live-in relationship shall be defined as a continuous cohabitation between two consenting adults in a marriage-like arrangement without formal solemnization of marriage.

## Section 3: Legal Recognition

1. Live-in partners may voluntarily register their relationship before a designated authority.
2. Registration shall grant partners limited legal rights, including maintenance and property-sharing rights.
3. Registration shall not be mandatory for partners to claim rights under this Act.

## Section 4: Rights and Responsibilities of Partners

1. Financial Rights: Each partner shall bear financial responsibilities similar to a marriage.
2. Property Rights: Partners may jointly own property and enter into cohabitation agreements governing financial and property matters.

## Section 5: Parental and Child Rights

1. Children born from a live-in relationship shall be considered legitimate and have equal inheritance rights.
2. Custody and guardianship shall be governed by the Guardians and Wards Act, 1890, with the welfare of the child as the primary concern.

## Section 6: Separation and Termination of Relationship

1. A live-in relationship may be terminated by mutual consent or a unilateral declaration with prior notice.
2. In case of separation, maintenance rights shall be determined under this Act, ensuring financial protection for the vulnerable partner.

## Section 7: Protection Against Abuse and Exploitation

1. Live-in partners shall be entitled to seek relief under the Protection of Women from Domestic Violence Act, 2005.
2. No person shall be forced into a live-in relationship against their consent.

## CONCLUSION:

Live-in relationships have gained recognition worldwide, with some countries, such as France, Sweden, and Canada, implementing structured legal frameworks to regulate them. France's Pacte Civil de Solidarité (PACS) provides a codified legal status for cohabiting partners, ensuring financial rights, social security benefits, and inheritance provisions under specific conditions. In India, live-in relationships lack explicit legal recognition. While they are not considered illegal, their legal status is primarily determined through judicial interpretations rather than statutory provisions. Courts have gradually extended certain rights to live-in partners, such as maintenance under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and inheritance rights for children born from such relationships. However, the absence of a formal legal framework leads to uncertainty, particularly regarding financial security, property rights, and social benefits. India should move toward a codified legal framework to provide clear legal status, rights, and responsibilities for live-in partners. While judicial

interpretations will remain important, a structured statute would ensure consistency, reduce legal uncertainty, and offer greater social security for individuals in live-in relationships.

**REFERENCES:**

[www.refugis.info](http://www.refugis.info)

