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Legal Protection of Live-in Relationships in India: A Comparative Analysis of the French and United Kingdom Models

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ABSTRACT

Live-in relationships are gaining acceptance as a means of forming personal bonds, reflecting changing social values. Their legal recognition, however, remains fragmented and has developed largely through the Indian courts rather than through comprehensive legislation. Although the Supreme Court has recognised the constitutional right of consenting adults to cohabit and has extended limited protection to women and children through the interpretative application of statutes such as the Protection of Women from Domestic Violence Act, 2005, questions of succession, property rights, and financial obligation remain unaddressed by any comprehensive statutory measure. This article evaluates the Indian legal position on live-in relationships and considers whether selected features of French and United Kingdom law might inform the development of more effective provisions. Adopting a doctrinal and comparative methodology, it analyses leading decisions of the Supreme Court of India, the statutory framework of the French Civil Solidarity Pact (PACS), and the common law approach to cohabitation in the United Kingdom. The comparison shows that the French framework affords greater stability and predictability through voluntary statutory recognition, whereas the United Kingdom relies largely on judicial interpretation and property law and offers comparatively limited protection. The article argues that India's continued reliance on judicial pronouncements produces divergent outcomes, and that a clearly defined statutory framework could resolve recurring difficulties without impinging upon the institution of marriage. It cautions against the wholesale adoption of foreign law and proposes the selective incorporation of features such as voluntary recognition, clearly defined financial obligations, and standards for genuine long-term cohabitation, so as to enhance legal certainty, protect vulnerable partners, particularly women and children, secure harmony with constitutional values and social realities, and preserve the distinct legal status of marriage.

Keywords: *Live-in relationships; cohabitation; comparative law; family law; PACS; Protection of Women from Domestic Violence Act, 2005; France; United Kingdom.*

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I. INTRODUCTION

The concept of family has undergone significant transformation as social values have changed, and the ways in which individuals form these relationships have changed with it. Among these changes is the emergence of the live-in relationship as an accepted mode of partnership in India and in other countries. Although marriage remains the most common means of forming a family, an increasing number of couples choose to live together without marrying. Urbanisation, education, employment, personal independence, age, and evolving social attitudes have all contributed to this development.

Indian statute law contains no dedicated code governing live-in relationships, and much of the legal recognition accorded to them has therefore emerged through the courts. This is particularly evident in relation to the protection of women and children and the rights of consenting adults. Although the courts have furnished a partial solution, many questions concerning property rights, inheritance, maintenance, and legal certainty remain unanswered.

For this reason, a comparison with the legal systems of France and the United Kingdom is instructive. This article examines how each jurisdiction addresses live-in relationships and considers how their approaches might inform the extension of greater legal protection to such relationships in India.

II. LIVE-IN RELATIONSHIPS IN INDIA

India, unlike certain other jurisdictions, lacks specific legislation concerning cohabitation, and Indian law does not expressly regulate live-in relationships. The courts have progressively recognised and defined their legal status through constitutional interpretation. Although live-in relationships enjoy no express statutory recognition in India, the courts have acknowledged the right of two consenting adults to live together without a formal marriage. The law has consequently developed in favour of the positive constitutional rights identified by the courts, including the right to personal liberty, the right to be free from domestic violence, the right to maintain a family, and the rights of children born of live-in relationships.

The constitutional foundation for the recognition of live-in relationships is Article 21 of the Constitution of India,¹ which guarantees the right to life and personal liberty. The Supreme Court has expanded the scope of Article 21 to include the right to make decisions concerning personal relationships, the right to privacy and dignity, and the right to personal autonomy. The right to choose a life partner, and the right to live together without entering the formal institution

¹ INDIA CONST. art. 21.

of marriage, therefore falls within the right to personal liberty, provided that the relationship contravenes no law and involves no element of coercion.

The courts' gradual acknowledgement of live-in relationships has occurred through a series of significant decisions. In *Lata Singh v. State of Uttar Pradesh*,² the Supreme Court held that two adults are free to live together even without the formal institution of marriage, and that such a decision does not constitute a criminal act. Although the case concerned principally an inter-caste marriage, the Court reaffirmed the broader principle that adults are entitled to order their personal relationships as they see fit and that others must not disturb such relationships by unlawful means.

The Supreme Court developed this principle further in *S. Khushboo v. Kanniammal*.³ It held that cohabitation, though regarded by some as socially unacceptable, cannot be treated as illegal or immoral in law merely because it is socially disapproved. The Court affirmed that constitutional morality takes precedence over prevailing social attitudes and protects the choices of individuals in their intimate relationships.

The scope of legal protection was further clarified in *D. Velusamy v. D. Patchaiammal*,⁴ in which the Court held that not every instance of cohabitation amounts to a genuine live-in relationship. The Court stated that cohabitation must be in the nature of marriage to attract protection under the Protection of Women from Domestic Violence Act, 2005.⁵ It further held that the couple must live together in a shared household and present themselves publicly as spouses, sharing a common household, family, and financial arrangement, in order to be regarded as being in a relationship in the nature of marriage.

In *Indra Sarma v. V.K.V. Sarma*,⁶ the Supreme Court recognised the complexity of contemporary relationships while affirming that not every live-in relationship qualifies for legal protection. The Court laid down indicators for determining whether a relationship falls within the nature of marriage and emphasised that the object of the law is not to legitimise every live-in relationship but to protect weaker parties, particularly women, from exploitation. Legislative intervention nonetheless remains limited. The Protection of Women from Domestic Violence Act, 2005 marked the first legislative acknowledgement of live-in relationships, which fall within Section 2(f) of that Act insofar as it protects women in a relationship in the nature of marriage.⁷ Such

² *Lata Singh v. State of U.P.*, (2006) 5 SCC 475.

³ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600.

⁴ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

⁵ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(f), INDIA CODE.

⁶ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

⁷ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(f), INDIA CODE.

women are entitled to seek protection orders, residence orders, monetary relief, and compensation orders where domestic violence is inflicted upon them. The Act does not, however, determine the broader legal status of live-in relationships in matters such as succession, jointly held property, or inheritance upon the death of a partner.

The law has been more liberal in relation to children born of such relationships. The courts have held that children born of live-in relationships cannot be penalised for the circumstances of their birth. Such children have been recognised as legitimate for certain purposes, and the welfare of the child takes precedence over all other considerations.

A significant legal grey area nevertheless persists in India. The partition of property between partners, rights of succession, and long-term maintenance remain unsettled. No settled threshold determines when partners acquire legally recognised rights and protections. Individuals are left to piece together their entitlements from fragmentary judicial precedent, which often yields disparate results and little certainty. This raises the question whether features of other jurisdictions might be drawn upon to fill these gaps while continuing to uphold marriage as a distinct legal institution.

III. THE FRENCH APPROACH: LEGAL RECOGNITION THROUGH THE CIVIL SOLIDARITY PACT (PACS)

France provides a legal framework for such relationships through the Civil Solidarity Pact (PACS, or *pacte civil de solidarite*).

Introduced by the Law of 15 November 1999,⁸ this arrangement was designed to extend recognition to unmarried couples who do not wish to enter into marriage. Although initially intended for same-sex couples, it has over time been increasingly adopted by opposite-sex couples as well. A PACS is established by the registration of two consenting adults, who thereby voluntarily enter into a civil union recognised by law. It does not impose duties and responsibilities identical to those of marriage, but it creates a legal relationship and confers certain benefits, such as financial support between the parties and specified tax and social-security advantages. Its dissolution is subject to fewer formalities than the dissolution of marriage.

The advantages of this framework include stability and predictability, since the financial rights and duties of the parties are defined in advance and are clear.

⁸ Law No. 99-944 of Nov. 15, 1999, Relating to the Civil Solidarity Pact (Fr.).

This assists in resolving financial disputes and reduces unnecessary recourse to the courts, while preserving the parties' freedom to enter into or leave such unions voluntarily. The model offers valuable guidance for India in recognising stable live-in relationships without undermining the institution of marriage. It may not be fully transplantable, given the social and legal differences between the two jurisdictions, but its essential mechanism is registration, whereby the parties may elect to register their partnership and assume limited obligations while acquiring clear legal rights in relation to each other.

IV. THE UNITED KINGDOM MODEL: NEGLIGIBLE LEGAL RECOGNITION OF COHABITATION

The United Kingdom has a markedly different legal framework from that of France, as it offers no statutory scheme recognising live-in relationships. Protection for cohabiting couples instead depends heavily on individual cases decided according to principles derived from the law of property and trusts and from the common law.

There is a widespread misconception that a 'common law marriage'⁹ enables cohabiting partners to acquire the status of married persons after living together for a number of years, but no such institution exists in the law of the United Kingdom.

The consequence is that, in the United Kingdom, no right to inherit, to receive maintenance, or to claim a share of property upon separation arises from cohabitation alone. Some statutory provision nonetheless exists in particular areas: where property is in issue, the court examines the intention of both partners and their respective financial contributions; the children of a cohabiting couple are recognised under the law governing parental obligations; and victims of domestic violence may seek relief under the relevant legislation whether or not they are married.

Overall, however, on separation a cohabiting partner does not receive the same measure of financial support as a spouse. The experience of the United Kingdom suggests that judicial protection alone can prove inadequate. In the absence of any statutory basis for the recognition of live-in relationships, the courts have frequently faced protracted disputes and inconsistent outcomes. For India, the United Kingdom's reliance solely on judicial decisions is not an attractive model; judicial decisions may continue to play a central role in protecting cohabiting couples, but a carefully drafted statute offers a far more secure legal foundation.

⁹ LAW COMMISSION, *Cohabitation: The Financial Consequences of Relationship Breakdown*, Law Com. No. 307 (2007).

V. COMPARATIVE ANALYSIS

A comparative analysis of the position of live-in relationships in India, France, and the United Kingdom reveals three distinct conceptual models for balancing the individual's freedom of choice against the law's duty to protect. All three jurisdictions recognise that adults may choose to live together as though married without formalising a marriage, but they differ in the degree to which the law confers recognition on such relationships.

In India, the recognition of live-in relationships has been predominantly judicial, as the legislature has not yet enacted a statute regulating them.

The Indian courts have accordingly developed principles governing live-in relationships largely through a pragmatic interpretation of the Constitution, protecting the woman and the children of a genuine live-in relationship from harassment while acknowledging the autonomy of consenting adults to choose the form of relationship in which they live. Because this framework rests solely on a judicial foundation, however, a measure of subjectivity and inconsistency is inevitable, particularly in relation to succession and the property rights of the parties. France, by contrast, has adopted a legislative option in the form of the Civil Solidarity Pact (PACS),¹⁰ by which couples may voluntarily declare their relationship and thereby secure certain rights and benefits. PACS is not marriage; it represents a flexible and autonomous form of family structure outside traditional marital status.

France recognises that not everyone need marry in order to form a lasting relationship, and that stable relationships formed outside wedlock also require a degree of legal predictability and security, marriage being only one of several legal forms of family structure that a couple may choose.

The United Kingdom occupies an intermediate position between the French and Indian approaches. There, unmarried partners acquire no automatic rights or entitlements merely by reason of cohabitation and may for that reason suffer legal or financial disadvantage. Neither foreign model is precisely suited to the Indian context.

India can neither rest wholly on the legislative model adopted in France, since it may be difficult to create a parallel institution that competes with and diminishes the significance of marriage as a social and cultural institution recognised within the various religious frameworks of India, nor rely solely on judicial discretion, which may give rise to ambiguity, uncertainty, and a multiplicity of outcomes, particularly in sensitive areas such as property and children. The most

¹⁰ CODE CIVIL [C. civ.] arts. 515-1 to 515-7 (Fr.).

suitable approach for India would therefore be a balance of the two models: a limited legislative reform establishing a legal framework and conferring certain minimum rights, distinct from those accorded within marriage, on genuinely lasting live-in relationships, without disturbing the existing institution of marriage. Such reform could focus, at a minimum, on maintenance after dissolution, the welfare of children of the relationship, claims to shared property, and the prevention and punishment of domestic violence committed against a partner, together with similar provisions available on an optional basis, so as to provide a proper legal definition and regulation of genuine live-in relationships without impairing the choice, privacy, freedom, and dignity of the adults concerned.

VI. SUGGESTIONS

The prevalence of live-in relationships in India calls for legal regulation that balances the individual's right to autonomy against the right to legal certainty. Reliance solely on judicial precedent has produced legal uncertainty and inconsistent outcomes.

It should be noted that this body of jurisprudence has been built up over the past four decades and earlier. Legislative intervention may be an appropriate means of resolving these questions of property, maintenance, and related matters. Reform along French lines might be considered, under which individuals who wish to formalise a long-term relationship but choose not to marry could obtain legal recognition of that relationship. Any such reform must, however, ensure that marriage remains distinct, with all its social and legal implications. It must constitute an additional option and must not diminish the sanctity attached to the legal institution of marriage.

The law should be specific as to the property of the partners and the maintenance of a live-in relationship.

Statutory guidelines would reduce divergent interpretation among courts and clarify such matters as maintenance in all cases, the maintenance of jointly acquired property, and residence, while preserving the sanctity of marriage as an institution. The welfare and interests of children should also form a significant part of any legislative agenda, protecting and providing for children irrespective of their parents' marital status in lasting live-in relationships. Any such regulation should guard against abuse while permitting, by consensual agreement, the formalisation of live-in relationships along the lines adopted in certain Western jurisdictions, so as to ensure consistency in the law.

VII. CONCLUSION

Although the concept of the live-in relationship increasingly receives judicial recognition, that recognition is largely accorded on a case-by-case basis within the limits of the existing legal framework in India. Over time, the Indian courts have extended various constitutional rights and protections to partners who live together with a sense of permanence resembling marriage. The absence of specific legislation governing the property and financial affairs of such partners nevertheless gives rise to significant legal ambiguity and uncertainty for the partners and their children.

The comparative experience of France and the United Kingdom suggests that, while offering an alternative form of union outside marriage can be both feasible and equitable, it must be undertaken in a manner appropriate to the legal, social, and economic conditions of India.

The appropriate course is a middle path, under which India neither follows the French model nor rigidly adopts the British one. The approach must in no way undermine or diminish the sanctity and distinctiveness of the institution of marriage, but should instead create certainty for those living in relationships outside marriage and protection for the weaker party.
