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**LEGAL STATUS OF LIVE-IN RELATIONSHIP**

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**ABSTRACT**

In India, the legality of live-in relationships and how they affect social norms is the subject of heated debate and criticism. In the past, cohabitation between unmarried heterosexual partners has been considered equivalent to marriage. However, in 2010, the Hon'ble Supreme Court of India declared live-in relationships to be legal and granted maintenance to a woman involved in such a relationship. This dissertation aims to clarify the current legal status of live-in relationships in India, analyzing recent court judgments and comparing them with other legal systems. The present dissertation also highlights the need for a legal framework to secure the succession rights of live-in partners, particularly in cases of intestate, succession.

As per the opinion of Author, it should be legalized in our society because as enumerated through various Judgments rendered by the Hon'ble Supreme Court of India as well as different High Courts, the aspect of live-in relationship comes under the purview of right to life and personal liberty and personal liberty as enshrined under Article 21 of the Constitution of India. There are many objectives of this dissertation which includes but are not limited to evaluate the status of live-in relationship and the role of live-in relationship in social transformation.

The first and foremost objective of this dissertation is that whether law with respect to live-in relationship is clear in India or not. There are many questions that need to be answered. Marriage, whether considered as a contract or sacrament, confers a status of husband and wife on the parties to the marriage, of legitimacy on the children of the marriage, and gives rise to certain spousal mutual rights and obligations of spouses.

Another objective of this dissertation is to analyze the rights guaranteed to female live-in partners along with the rights of child born out of such relationships. If live in relationships are recognized prima facie then it may implicitly promote bigamy.

The research methodology of the present dissertation will be Empirical and the same would mainly comprise of questionnaire and survey methods and also there would be some help from different sources for collection of material related to live-in relationship like books, articles and journals to analysis of different events in the context of the live-in relationship.

## ***1.0 Introduction***

In India, the legality of live-in relationships and how they affect social norms is the subject of heated debate and criticism. In the past, cohabitation between unmarried heterosexual partners has been considered equivalent to marriage. However, in 2010, the Indian Supreme Court declared live-in relationships to be legal and granted maintenance to a woman involved in such a relationship. This article aims to clarify the current legal status of live-in relationships in India, analyzing recent court judgments and comparing them with other legal systems. The article also highlights the need for a legal framework to secure the succession rights of live-in partners, particularly in cases of intestate, succession. The author recommends a statutory legislation based on the Waggoner model, as suggested by Professor Waggoner, and modified by Spitko, which includes an optional registration process to establish clarity regarding inheritance rights and liabilities of both parties.

It should be legalized in our society because in Indian constitution it specifically provided the right to life and personal liberty and the aspect of live in relationship is comes under the concept of personal liberty.

### ***1.1 Meaning of Live-In relationship***

India is gradually adopting western ideas and lifestyles, including the concept of live-in relationships, which is a significant development in this regard. A relationship of a man with a woman in legal parlance is legitimate if is based on proper marriage and illegitimate if not as per Marriage Laws. A live-in relationship is a type of domestic arrangement where an unmarried couple lives together in a long-term committed relationship that is akin to marriage.<sup>1</sup> All over the Hindu and Christian worlds, marriage began as a sacrament. Marriage began as a sacrament implied a permanent and indissoluble union. It was a union not merely in this life but also in all lives to come-an eternal union. The Shanskarars ordained that once is a maiden given in marriage, and the injunction was: A true wife must preserve her chastity as much after as before her husband's death.

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<sup>1</sup> Amartya Bag, Succession Rights in Case of Live-In Relationships: An Analysis in the Indian Context (March 30, 2011 also available at SSRN: <http://ssrn.com/abstract=2011751> <http://dx.doi.org/10.2139/ssrn.2011751> (assessed on 24/10/2012),

In this light one trend in the recent times that has been sticking out like a sore thumb has been the issue of —live in relationship. The impression that one gets from the expression itself is that of a relationship which is of a casual nature, though if we delve deeper into the issue it is far from the truth. The couples who are entering into live in relationships are mature, financially stable and above all independent individuals, who are ready to contribute what is expected of them in a relationship of marriage. The only thing that they are not ready for is to enter formally into the relationship of marriage. The term used by the Hon'ble Supreme Court for such relationships is relation in the nature of marriage'.

Due to the multiplicity of people entering into such kind of relationship the Apex Court thought it imperative to lay down some kind of precedent in relation to such relationships. While deciding the above case the Court made a reference to the landmark US judgment of Marvin v. Marvin. The given case involved the famous film actor Lee Marvin, with whom a lady Michelle had lived for many years without marrying him, and was then deserted by him and she claimed alimony.

The term “alimony” comes from the Latin word “alimonia” which means nourishment or sustenance. However, it is more common in western countries than in India. It is a pure form of modern adultery which is formed purely on the pillars of fashionable and individual life styles<sup>2</sup>. Youth generation of today is more interested in cohabitation by which they can get a more friendly approach to their relationship. Youngsters accept cohabitation to flee from responsibilities and commitment or to explore each-others life before marriage. Usually, it is accepted by the high classes, society people. We are all aware that marriage has been ingrained in our culture since the beginning of time. Our society is now exposed to the concept of live-in relationships as a result of changing times. Article 21 of India's Constitution deals with relationships of this kind. The rights that women in live-in relationships have to property maintenance and inheritance are also discussed in greater detail in this project.

In every aspect of life, India has a rich cultural heritage. "Marriage" is one area where India is thought to have had a long and interesting history: In the Indian context, marriage is the most important social institution. It is a lawfully and socially endorsed association of two people,

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<sup>2</sup> [www.airwebworld.com/articles/index.php?article=1266](http://www.airwebworld.com/articles/index.php?article=1266)

normally a man and a lady. With the passing of Acts like the Hindu Marriage Act of 1953 and the Hind Adoption and Maintenance Act of 1956, marriage is also recognized by law.

In any case, with the developing times, we can see an extreme change in the assessments of individuals with regards to marriage. The whole idea of “Live-in Relationships” comes into play because people these days, especially young people don’t see marriage as a necessity to fit in with society. The idea of living together is widely accepted in the majority of Western nations. Those relationships in which a couple stays together without getting married are known as live-in relationships. There is no doubt that Western culture has had a significant impact on our country, and as a result, people have been exposed to the concept of living together. People first became aware of this whole idea through movies. However, in our nation, live-in relationships are still considered taboo i.e. It's better to have a live-in relationship rather than having a divorced life.

The concept of live-in relationships is widely accepted in many parts of the world, particularly in Western countries. However, in recent years, this trend has also gained popularity in Eastern countries. Despite this, the term "live-in" remains controversial in many Eastern countries, and there are several concerns and debates surrounding this topic<sup>3</sup>.

The legal definition of a live-in relationship refers to an arrangement in which unmarried couples cohabit in a committed relationship that resembles marriage. While this type of relationship is widely accepted in some parts of the world, in other countries, there is a strict stance against accepting this concept. It has been observed that younger generations are generally more open to accepting the idea of live-in relationships.

A live-in relationship is a type of domestic arrangement where two individuals decide to live together on a long-term or permanent basis in a mutually emotionally and/or sexually intimate relationship. This term is usually associated with unmarried couples. In the Western world, cohabitation is now a common pattern, and people may choose to live together for various reasons, such as testing compatibility or establishing financial security before marriage.

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<sup>3</sup> Shahista Pathan -Emerging concept of live in relationship February, 2012 also available at <http://legalservicesindia.com/article/article/emerging-concept-of-live-in-relationships-1013-1.html>

Sometimes, legal restrictions may also prevent couples from getting married, such as same-sex, interracial, or interreligious couples who are not permitted to marry under certain laws.

Other reasons include living with someone before marriage<sup>4</sup> in an effort to avoid divorce, a way for polygamists or polyamorists to avoid breaking the law, a way to avoid the higher income taxes paid by some two-income married couples (in the United States) negative effects on pension payments (among older people), and philosophical opposition to the institution of marriage and seeing little difference between the commitment to live together and the commitment to marriage. Some individuals also may choose cohabitation because they see their relationships as being private and personal matters, and not to be controlled by political, religious or patriarchal institutions.

Cohabitation is a preferred choice for some couples as it does not entail a long-term legal commitment and can be easier to establish or terminate than a marriage, without incurring the legal costs often associated with divorce. However, in some jurisdictions, cohabitation can be legally recognized as common-law marriages, either after a specified duration of time, or upon the birth of the couple's child, or if the couple behaves and considers themselves as husband and wife.

## ***1.2 Status of Live-In Relationship under Indian Law***

The Constitution of India provides all citizens with the fundamental right under Article 21, which guarantees the right to life and personal liberty. This means that individuals are free to live their lives as they choose. While a live-in relationship may be considered immoral by conservative Indian society, it is not considered illegal under the law. In the case of Kushboo, a South Indian actress who endorsed premarital sex and live-in relationships, criminal appeals were filed against her, which the Supreme Court quashed. The court stated that it cannot be illegal for two consenting adults to live together, and in their words, "living together cannot be illegal."<sup>5</sup>

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<sup>4</sup> <http://legal-dictionary.thefreedictionary.com/Live-in+relationship>

<sup>5</sup> [www.indialawjournal.com/volume2/issue\\_2/article\\_by\\_saakshi.html](http://www.indialawjournal.com/volume2/issue_2/article_by_saakshi.html),

The issue surrounding live-in relationships in India is not limited to their legality, but also extends to the rights of the partners involved and the status of any children born out of such unions. The Hindu Marriage Act of 1955 grants legitimacy to every child, regardless of whether they were born out of a void, voidable, or valid marriage. However, children born out of live-in relationships do not have property or maintenance rights. In case of a breakup, the responsibility for maintaining the child remains a significant problem if neither partner is willing to take on this responsibility.<sup>6</sup> The status of the female partner remains vulnerable in a live in relationship given the fact she is exploited emotionally and physically during the relationship. The Domestic Violence Act provides protection to the woman if the relationship is — in the nature of marriage.

It's important to note that merely spending weekends together or having a one-night stand would not make it a domestic relationship. Also, if a man maintains a woman financially and uses her mainly for sexual purposes and/or as a servant, it would not be considered a relationship in the nature of marriage. In June 2008, the National Commission for Women recommended that the Ministry of Women and Child Development should consider including live-in female partners in the right to maintenance under Section 125 of Cr PC. This recommendation was supported by the verdict in the case of *Abhijit Bhikaseeth Auti v. State of Maharashtra and others*.<sup>7</sup> The Maharashtra Government echoed this positive opinion on live-in relationships in October 2008 by accepting the proposal presented by the Malimath Committee and Law Commission of India. The proposal suggested that if a women has been in a live-in relationship for a significant amount of time, she should be entitled to the same legal status as a wife.

However, recent observations have shown that in the context of Section 125 of Cr P C, only a divorced wife is treated as a wife. As a result, individuals who have not been married, such as live-in partners, cannot claim maintenance under Section 125 of Cr P C as they cannot be divorced.

D.Velusamy vs D.Patchaiammalis<sup>8</sup> one of the most important case pertaining to the inclusion of female partner in the Domestic Violence Act, 2005. The relevant part is extracted below:

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<sup>6</sup> Swasti Misra, Student, Dr. Ram Manohar Lohiya National Law University, Lucknow

<sup>7</sup> Criminal Writ Petition NO.2218 of 2007

<sup>8</sup> CRIMINAL APPEAL NOS. 2028-2029\_OF

The matter must also be examined from the perspective of The Protection of Women from Domestic Violence Act, 2005. According to Section 2(a) of the Act, an "aggrieved person" is any woman who is or has been in a domestic relationship with the respondent and alleges to have been subjected to any act of domestic violence by the respondent. Section 2(f) defines "domestic relationship" as a relationship between two people who have lived together or currently live together in a shared household related by consanguinity, marriage, adoption, or in a relationship similar to marriage or as family members living together as a joint family. Section 2(s) defines "shared household" as a household where the aggrieved person lives or has lived in a domestic relationship, either alone or with the respondent, and includes any such household owned or leased jointly by the aggrieved person and the respondent, or owned or leased by either of them, in which both the aggrieved person and the respondent have any right, title, interest, on such a household that belongs to the joint family, regardless of whether the aggrieved person or the respondent has any right, title, or interest in it.

Section 2(f) of The Protection of Women from Domestic Violence Act, 2005 recognizes the domestic relationship between two persons who have lived together in a shared household in a relationship that resembles marriage. This includes female partners in live-in relationships. Since the Act is relatively new, it acknowledges the rising trend of live-in relationships. The crucial question is what duration of cohabitation in a live-in relationship should warrant the same legal rights as a formal marriage. The Veluswami<sup>9</sup> judgment highlights the acceptable duration for a live-in relationship to be recognized as a domestic relationship under the Act: In this case, the respondent, D. Patchaiammal, filed a petition under Section 125 of the Criminal Procedure Code (Cr.P.C.) in the year 2001 before the Family Court in Coimbatore. She claimed that she had married the appellant, and they lived together in her father's house for two or three years. After this period, the appellant moved to his native place but continued to visit the respondent occasionally.

The extract highlights that the Protection of Women from Domestic Violence Act, 2005 recognizes not only the relationship of marriage but also a relationship "in the nature of marriage" as a domestic relationship. This means that a woman in a live-in relationship can avail the same benefits and protections under the Act as a married woman in case of domestic violence.

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<sup>9</sup> CRIMINAL APPEAL NOS. 2028-2029\_OF 2010

Justice Katju's observation also points out that earlier, there was no provision for maintenance to a woman who was in a live-in relationship with a man and then deserted by him. However, the concept of "palimony" has been recognized in the USA, which refers to the grant of maintenance to a woman who has lived with a man for a substantial period of time without marrying him and is then deserted by him. In case a woman in a live-in relationship or a marital relationship is subjected to any form of violence, she can file a complaint under section 498 A, IPC. The Domestic Violence Act also provides for various reliefs and protections, including protection orders, compensation, and interim orders, under sections 18 to 23.

### ***1.3 Law in other Countries***

In France, there is the arrangement of —Civil Solidarity Pacts known as —*pacte civil de solidarite*, passed by the French National Assembly in October 1999 that permits couples to go into an association by marking under the steady gaze of a court representative.<sup>10</sup> The agreement ties —two grown-ups of various genders or of a similar sex, to coordinate their normal life and permits them to partake in the freedoms concurred to wedded couples in the space of personal duty, lodging and social government assistance. The agreement can be denied singularly or reciprocally subsequent to giving the accomplice, 90 days notice recorded as a hard copy.

In Philippines, live in relationship couple,,s right to each other,,s property is administered by co-possession rule. Article 147, of the Family Code, Philippines gives that when a man and a lady who are capacitated to wed one another, live solely with one another as a couple without the advantage of marriage or under a void marriage, their wages and pay rates will be possessed by them in equivalent offers and the property gained by the two of them through their work or industry will be represented by the standards on co-proprietorship.

In the UK, couples who live together without being married do not have the same legal rights and protections as married couples. For example, there is no legal obligation for partners to maintain each other financially, and they do not have automatic inheritance rights to each other's property or assets in the event of one partner's death. However, partners can make arrangements such as creating a will or entering into cohabitation agreements to protect their

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<sup>10</sup> Live-In Relationship, available at <<http://legalservices.co.in/blogs/entry/Live-In-Relationship>>

interests and provide for each other in case of separation or death. As per a 2010 note from the Home Affairs Section to the House of Commons, unmarried couples do not have automatic rights to each other's property or assets in case of a breakdown in the relationship, unless specifically provided for in a will or legal agreement. However, the law does recognize and prioritize the interests of any children born to such couples. Both parents are legally obligated to provide for their children, regardless of their marital or cohabiting status. This includes financial support, as well as access and custody arrangements in case of a separation or divorce. In the UK, children born from live-in relationships have the right to be supported financially by both parents, regardless of who they live with. In case of a breakup, both partners are responsible for providing financial support to their children. The court can decide which parent the child should live with and can also allow contact between the child and the non-residential parent, unless there are exceptional circumstances.

In Scotland, the live in relation were conferred legal sanctity in the year 2006 by Family Law. (Scotland) Act. Section 25 (2) of the Act postulates that a court of law can consider a person as a co-habitant of another by checking on three factors; the length of the period during which they lived together, the nature of the relationship during that period and the nature and extent of any financial arrangements, in case of breakdown of such relationship, Section 28 of the Act gives a cohabitant the right to apply in court for financial support. This is in case of separation and not death of either partner. If a partner dies intestate, the survivor can move the court for financial support from his estate within 6 months.<sup>11</sup>

In Australia, to clarify, the Act referred to in the previous message is the Family Law Act of 2009 in Australia. This law recognizes cohabitation and provides legal protection for couples who live together in a domestic relationship, but it requires the same conditions to be met as for a common law marriage.

However, orders for maintenance for "spouses" or "cohabitants" under this law are typically rehabilitative and for a limited period of time, unlike in a formal marriage where alimony or spousal support may be granted for longer periods.

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<sup>11</sup> James Stewart Manches (Ed.), *Family Law-jurisdictional Comparisons, European Lawyer Reference, LLP, 2011, p. 95 at 328*

#### ***1.4 Status of same sex union Live-In Relationship in India***

That's correct. In India, same-sex marriage is not recognized, and live-in relationships are the only type of union recognized by law to some extent. Although the decriminalization of section 377 of the Indian Penal Code in 2018 was a significant step towards LGBTQ+ rights, same-sex couples are still not given legal protection for their relationships. As a result, many same-sex couples opt to carry their relationship as live-in couples.

In 2020, the Uttarakhand High Court ruled that live-in relationships between same-sex couples are not unlawful and are protected under Article 21 of the Indian Constitution, which guarantees the fundamental right to life and personal liberty. The court stated that this right is vast enough to protect an essential right of self-determination with regards to a person's identity and freedom of choice with regards to the sexual choice of the partner. However, there is still a lack of specific laws and regulations that protect the rights of same-sex couples in India.<sup>12</sup>

The Orissa High Court's ruling in August 2020 recognized same-sex live-in relationships under the constitutional right to life and equality, stating that discrimination based on sexual orientation violates the right to equality. The court held that women in same-sex relationships are entitled to the same legal protections against domestic violence as women in different-sex cohabiting relationships. under the Protection of Women from Domestic Violence Act of 2005. This decision was seen as a significant step forward for LGBTQ+ rights in India, though same-sex marriage is still not legally recognized.<sup>13</sup>

The Gujarat High Court, in its order, stated that "the choice of individuals regarding with whom they would like to live is a fundamental right under Article 21 of the Constitution of India." The Court also directed the police to ensure that the couple is not harassed or ill-treated in any manner, and that they are not subjected to any coercive action. The court also noted that same-sex couples are entitled to the same protection as any other couple living together.

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<sup>12</sup> Same sex couples can live together: Uttarakhand HC. Hindustan Times. 20 June 2020 16 Orissa HC green signals same sex live-in relationships. The Leaflet. 26 august 2020

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The Punjab and Haryana High Court, in July 2020, ruled that same-sex couples are entitled to live-in relationships and protection of their lives and liberty under Article 21 of the Constitution of India. The court also held that any act by the family members or society against same-sex couples in live-in relationships will be a violation of their fundamental rights.<sup>14</sup>

The courts in India have consistently held that individuals, regardless of their sexual orientation, have the right to live together in a consensual relationship. The courts have also recognised live-in relationships as a legitimate form of relationship, and that individuals in such relationships are entitled to the same legal protections as those in traditional marriages. While same-sex marriage is not yet recognised in India, the courts have taken steps to protect the rights of individuals in same-sex relationships, including through the use of "friendship agreements" and other legal means.<sup>15</sup>

### ***1.5 Maintenance Rights of Live-In Partners***

The Maintenance Act of 1956 mandates the provision of food, clothing, residence, education, and medical care to a Hindu wife by her husband under Section 18 of the Act, but there is no similar provision for husbands to claim maintenance from their wives. However, under the Shastric Hindu law, "avarudh stri" or concubines were eligible for maintenance<sup>16</sup> but this was not recognized in the Act of 1956. Muslim women also have the right to maintenance under the Shariat and the Muslim Women (Protection of Rights on Divorce) Act of 1986. In the absence of specific maintenance laws, Parsis and Christians have provisions for interim and permanent alimony in divorce cases. Married individuals of any religion can claim maintenance under Section 125 of the Code of Criminal Procedure, 1973.

Section 125(1) of the Code of Criminal Procedure, which pertains to maintenance, defines "wife" in Explanation (b) to include a divorced woman who has not remarried. This provision has sparked a discussion on the rights of partners in live-in relationships, which have become more prevalent in modern society. The issue of maintenance for a woman who marries a Hindu male while his first marriage is still valid has been the subject of much debate among jurists,

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<sup>14</sup> Look into threat of life to two female live-in partners: High court to Mohali SSP. Hindustan Times 21 July 20

<sup>15</sup> HC: Unmarried same-sex couples can live together, Uttarakhand HC. Times of India 21 June 2020

<sup>16</sup> Bai Nagubai v. Bai Monghibai, (1925-1926) 53 IA 153

lawyers, courts, and social workers. There have been conflicting decisions on this matter, and a clear position has not yet been established.

In the case of *Savitaben Somabhai Bhatiya v. State of Gujarat*<sup>17</sup> the Supreme Court emphasized that the intention of the legislature is what is relevant in determining the eligibility for maintenance under Section 125 of the Code of Criminal Procedure, and not the attitude of the parties involved. The Court held that the term "wife" in Section 125 refers only to a legally wedded wife, and thus the second wife in this case was not entitled to maintenance. However, a second wife whose marriage is void due to the survival of the first marriage is also not considered a legally wedded wife and is therefore not eligible for maintenance under this provision. There have been conflicting decisions on the issue of maintenance for a woman who marries a Hindu male during the subsistence of his first marriage, and this issue remains a subject of debate among legal experts, courts, and social workers.

The Supreme Court's decision in *Narinder Pal Kaur Chawla v. Manjeet Singh Chawla*<sup>18</sup> adopted a more lenient stance, allowing a second wife to seek maintenance under the Hindu Adoptions and Maintenance Act, 1956. In this case, the husband had concealed the fact of his first marriage and had maintained a relationship with the second wife for 14 years. The court also relied on the provisions of the Protection of Women from Domestic Violence Act, 2005, and opined that denying maintenance to the second wife would reward the husband for deceiving her.

In *Suresh Khullar v. Vijay Kumar Khullar*<sup>19</sup> the husband's failure to disclose his first marriage constituted fraud, and the court held that the appellant was entitled to maintenance. The Supreme Court has also recognized the distinction between the legality and morality of relationships, holding that a bigamous marriage may be illegal but not immoral so as to deny maintenance to the spouse. However, in cases of bigamous relationships, the court has generally recognized the first wife as the legally wedded wife entitled to maintenance, leaving the status of the second wife ambiguous. The Malimath Committee Report in 2003 recommended amending Section 125 to include a woman who has lived with a man for a reasonable period, recognizing the need for reforms in light of the increasing prevalence of live-in relationships.

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<sup>17</sup> (2005) 3 SCC 636: 2005 SCC (Cri) 787

<sup>18</sup> AIR 2008 Del 7

<sup>19</sup> AIR 2008 Del 1

The Maharashtra state government has approved an amendment to the Code of Criminal Procedure that applies to the state, but it is currently awaiting approval from the President of India due to its placement in the Concurrent List of the Constitution of India. Interestingly, in 1985, the Supreme Court ruled in *Sumitra Devi v. Bhikan Choudhary*<sup>20</sup> that if a man and woman had lived together for a significant period and were considered husband and wife by society, the court could assume that they were married for the purpose of awarding maintenance. However, the courts have not applied this principle to include supposed live-in partners. Notably, the Protection of Women from Domestic Violence Act, 2005 was the first law to provide live-in partners with the same rights as married couples. Nevertheless, the protection offered by this Act does not entitle live-in partners to the same benefits under personal laws.

### ***1.6 Inheritance Rights of Live-In-Partners***

Under Hindu law, the widow of a male Hindu is considered a Class I heir and is entitled to one share with absolute ownership over her husband's property if he passes away without a will<sup>21</sup> Similarly, a husband has the right to inherit a share of his wife's property upon her death.<sup>22</sup> In Muslim law, a widow with children is entitled to one-eighth of her late husband's property, while childless widows are entitled to one-fourth of the property. In the case of a husband, he would inherit three-fourths of his wife's property if they had children, and half if they did not, upon her death.

In a live-in relationship, partners do not have an automatic right of inheritance to each other's property. The Hindu Succession Act, 1956 does not specify succession rights for even a mistress living with a male Hindu. However, in the case of *Vidhyadhari v. Sukhrana Ba*<sup>23</sup>, the Supreme Court provided hope for those in a live-in relationship, ruling that those who have been in a long-term live-in relationship can receive property in inheritance from their partner.

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<sup>20</sup> (1985) 1 SCC 637: 1985 SCC (Cri) 145

<sup>21</sup> Section 10 of The Hindu Succession Act, 1956

<sup>22</sup> Section 15(a) of The Hindu Succession Act, 1956

<sup>23</sup> (2008) 2 SCC 23

In this case, a woman with whom a Hindu male had a live-in relationship received his property upon his death, even though he had a legally wedded wife.<sup>24</sup>

It was not until the introduction of the Protection of Women from Domestic Violence Act, 2005, that those in a marriage and those in a live-in relationship were treated equally by a statute. Prior to this, the laws to protect women from cruelty by a husband were limited and only covered specific circumstances in criminal law. The need for reforms that offered protection, economic and other tangible reliefs for battered women was addressed through this civil legislation. The act provides a range of remedies to women facing violence, including compensation, protection orders, restraining orders, the right to reside in the shared household, and more. The definition of domestic violence has been expanded to include all forms of physical, sexual, emotional, and economic abuse.<sup>25</sup>

The Protection of Women from Domestic Violence Act, 2005 is a significant civil legislation that provides protection, economic, and other tangible reliefs for battered women. It treats women in a marriage and those in a live-in relationship equally, offering a range of remedies to women facing violence, including compensation, protection orders, restraining orders, and the right to reside in the shared household.

The most interesting reform brought about by this law is the protection offered to all women and children, including those in a live-in relationship. The definition of "aggrieved person" includes any woman who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. The term "domestic relationship" covers those who have lived together in a shared household, including live-in partners, and they have a right to all remedies available to a wife under this Act. They enjoy the right to reside in the shared home and cannot be evicted by the man in retaliation. The Act also provides for preventive measures where Magistrates may pass restraining orders to protect the woman from acts that are likely to take place.

The Madras High Court's decision in *M. Palani v. Meenakshi*<sup>26</sup> is significant because it expanded the scope of the Protection of Women from Domestic Violence Act, 2005 to include relationships that are not conventionally recognized as marriage or cohabitation. The Court

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<sup>24</sup> *Revanasiddappa v. Mallikarjun*, (2011) 11 SCC 1: (2011) 3 SCC (Civ) 581

<sup>25</sup> Section 3 of the Protection of Women from Domestic Violence Act, 2005

<sup>26</sup> 29 AIR 2008 Mad 162

held that the couple need not have lived together for a specific period of time, as long as they shared a household and lived together at the time of having sexual relations.

This decision recognizes the evolving nature of relationships in society and highlights the need to protect women from violence and abuse in all types of relationships. It also emphasizes the importance of the legal recognition of the rights of women in live-in relationships and provides them with access to legal remedies in cases of violence and abuse.

Furthermore, this decision also clarifies that the term "domestic relationship" under Section 2(f) of the Act is not limited to traditional marital relationships, but includes relationships in the nature of marriage, which may include live-in relationships. The Court's interpretation of the term "domestic relationship" ensures that women in live-in relationships are not denied legal protection and remedies available to them under the Act.

This means that the Act would be applicable even in situations where a man and woman are involved in a regular sexual relationship without any explicit intention of a long-term commitment. Although some people might see this as a way for a woman to seek revenge on a man who ends a failed live-in relationship, the bigger concern of safeguarding the rights and vulnerabilities of the "other" woman has been partly resolved by permitting such claims.

### ***1.7 Divorce (Break-Up) between Live-In Partners***

Divorce refers to the legal termination of a valid marriage, other than by the death of one of the partners, which enables both parties to remarry, either immediately or after a specified period of time. The notion of divorce was first introduced in India towards the end of the 19th century and was limited to certain classes of Christians. Later, in 1955, it was extended to Hindus through the Hindu Marriage Act. Prior to this, some states had their own laws that allowed divorce in specific circumstances, such as the Bombay Hindu Divorce Act (22 of 1947), the Madras Hindu (Bigamy, Prevention and Divorce) Act (6 of 1949), and the Saurashtra Hindu Divorce Act (30 of 1952). These laws were repealed by the Hindu provisions Marriage Act, 1955. Currently, divorce is regulated by different laws in various communities across India. None of these matrimonial laws recognize or provide legal protection to live-in relationships in the country.

When it comes to live-in relationships, it is not feasible for partners to have a formal divorce under the existing legal framework. A close examination of the current matrimonial laws reveals that unless such relationships are recognized under the law, partners cannot legally separate. It appears that entering into a live-in relationship may be relatively easy, whether by choice or circumstance, but exiting such a relationship in a formal manner can be difficult. Additionally, the legal consequences of such a relationship are still largely unresolved. For instance, there is no legislation in place that governs the division and protection of property, whether separate or jointly owned, upon separation of partners in a live-in relationship.

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