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NAVIGATING MODERNITY AND TRADITION: A LEGAL, SOCIO-CULTURAL, AND CONSTITUTIONAL ANALYSIS OF LIVE-IN RELATIONSHIPS IN INDIA

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I. INTRODUCTION

India finds itself today navigating between two competing normative universes: a constitutional vision of guarantee of liberty, dignity and equality to each individual and a social order that remains substantially structured around the institution of marriage, caste endogamy, and patriarchal families. Live-in relationships – coexistence of two adults in a marriage-like relationship without entering into the solemnity of marriage – find themselves right at this fault line. They are neither explicitly proscribed by any central legislation, nor explicitly permitted; their legal status has therefore been almost exclusively determined through judicial construction of the Constitution, patchwork through the Protection of Women from Domestic Violence Act, 2005,² and recently, through state-level codification, such as the Uttarakhand Uniform Civil Code³. This article will map the constitutional basis of the right to cohabit, chronicle the evolution of judicial doctrine, analyze the socio-cultural pushback that remains an impediment to enforcement and social acceptance, and investigate the recent legislative interventions in the space before arriving at an assessment of the future of live-in relationships under Indian law.

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² The Protection of Women from Domestic Violence Act, 2005, s. 2(f).

³ The Uniform Civil Code (Uttarakhand), 2024, and the Uttarakhand UCC Rules, 2025 — provisions on registration, termination, and maintenance for live-in relationships (notified March 2024; rules effective 27 January 2025).

II. CONSTITUTIONAL FOUNDATIONS

(A.) Article 21 and the Right to Live with Dignity

The case law on live-in relationships in the contemporary jurisdiction to date finds its origin in Article 21 of the Constitution ⁴, which states that no person shall be deprived of his life or personal liberty except through procedure established by law. However, the Supreme Court after *Maneka Gandhi v. Union of India* ⁵ has upheld a wide construction of Article 21 which states that the right to live is not just a right to animal existence, but a right to live with human dignity.

In *Lata Singh v. State of Uttar Pradesh* ⁶, the Court made it clear that: every adult has the right to marry and live with the partner of his or her choice and to a live-in relationship. Even if society disapproves of the same, it would not be against the law.

In *S. Khushboo v. Kanniammal* ⁷, the Court quashed criminal proceedings against Khushboo, who had made the media privy to her lifestyle, as she had openly supported pre-marital relations and a live-in arrangement. The Court also held that the right to live together is a part of the right to life guaranteed under Article 21, and opined that there is no law which expressly prohibits living together without marriage.

(B.) Article 19 and Associational Freedom

Along with Article 21, the right to cohabit has also been grounded in other articles in the Constitution, namely Article 19(1)(a) and 19(1)(d) ⁸, which protect the freedom of speech and movement respectively, and more generally in the freedom of association implied in the constitutional architecture. In *Nandakumar v. State of Kerala* ⁹, the Supreme Court reaffirmed the protective stance that even a relationship between two adult persons amounts to a live-in relationship under Article 21 and, that where the parties are above the age of majority but below the age of consent (in the majority of personal laws), then their choice to cohabit enjoys protection under that Article 21. Significantly, the Court was lenient in regard to this latter aspect and did not deny the parties the liberty to cohabit, because both parties were under the then legal marriageable age, but was rather mindful of individual freedom.

⁴ Constitution of India, arts. 14, 19, 21, 44.

⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

⁶ *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475.

⁷ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600.

⁸ Constitution of India, arts. 19, 21.

⁹ *Nandakumar v. State of Kerala*, (2018) 16 SCC 602.

(C.) Article 14 and the Anti-Discrimination Rationale

The lesser-noticed but perhaps more structurally significant equality thread is Article 14,¹⁰ and the analysis of whether a concession to one form of cohabitation and not another has an intelligible differentia with a rational nexus to a legitimate state aim is presently a live issue. Opponents of mandatory registration regimes claim that imposing a duty to notify the police of cohabitory arrangements, publish their details publicly and subject them to a criminal penalty where they do not register, without imposing a cohabitation evidence burden on married counterparts, may not withstand the scan of Article 14 and this issue remains open to challenge before the courts.

III. THE JUDICIAL TRAJECTORY: FROM SUSPICION TO QUALIFIED RECOGNITION

(a.) Early Ambivalence

The courts in India have not been very kind to live-in relationships. The morality of the colonial period continued to hold sway even after Independence and a live-in relationship was something that was seen as 'suspicious' and at times even 'repugnant' by the trial courts and the High Courts. The critical juncture is believed to have been the case of *Payal Sharma v. Superintendent, Nari Niketan*¹¹ in which the Allahabad High Court held that both the man and woman being major are entitled to cohabit and this is hardly anything that the society may say is immoral and illegal.

(b.) D. Velusamy and the "Relationship in the Nature of Marriage" Test

Decoding 2(f), the Court considered Section 2(f) of the Protection of Women from Domestic Violence Act, 2005¹², which indicates that a "domestic relationship" includes a relationship "in the nature of marriage." It clarified the following cumulative factors which a relationship must fulfill to fall within the ambit of the enactment:

- (a) the person should be proven to have held out themselves for the world at large as being akin to spouses;
- (b) the person should be of the age of majority for the purpose of marriage;

¹⁰ Constitution of India, art 14.

¹¹ *Payal Sharma v. Superintendent, Nari Niketan*, 2001 SCC OnLine All 332.

¹² The Protection of Women from Domestic Violence Act, 2005, s. 2(f).

(c) the person should be otherwise qualified for the marriage by law, including an unmarried status; and

(d) the relationship must have subsisted for a reasonable period of time, with the parties holding themselves out as being akin to spouses. The Court explicitly disqualified "walk-in and walk-out" relationships and relationship where the partner already has a spouse from falling within the scope of the statute.

Some academics have argued that the decision effectively applied a quasi-matrimonial approach to an inherently non-matrimonial context, and has effectively closed the door to many women who do not fit within the Court's own conception of vulnerable women that should be protected, even though many may arguably be more vulnerable than the Court acknowledged.

(c.) Indra Sarma: Refining the Test

The Supreme Court revisited and further clarified this in the case of *Indra Sarma v. V.K.V. Sarma*,¹³ in which it laid down a more comprehensive list of criteria to determine whether a relationship can be categorised as one "in the nature of marriage", which include "the period of relationship, shared household, pooling of resources and financial arrangements, domestic arrangements establishing responsibility to one partner for purposes of the household, sexual relationship, having children, socialisation in public, intention and conduct." The Court reaffirmed that, under the DV Act, a relationship in the nature of marriage cannot include bigamous or adulterous cohabitation, irrespective of the duration of their relationship¹⁴.

(d.) Maintenance and the Section 125 CrPC Route

In addition, a long line of cases have extended the protection under the Section 125 of the Code of Criminal Procedure, 1973 (now largely replicated in Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023)¹⁵, which confers a right of "maintenance" on a "wife", including the Indian Supreme Court's decision in *Chanmuniya v. Virendra Kumar Singh Kushwaha*¹⁶. In this case, the Court concluded that Section 125 of the CrPC should be broadly and liberally construed to include a woman in a long-term live-in relationship, in order to prevent "vagabondism, destitution and the curse of the society". This vast and broad

¹³ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

¹⁴ The Protection of Women from Domestic Violence Act, 2005, s. 2(f).

¹⁵ The Code of Criminal Procedure, 1973, s. 125; now s. 144, Bharatiya Nagarik Suraksha Sanhita, 2023.

¹⁶ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141.

notion of "wife" remains in tension with the more limited Velusamy test, however, and the contrast persists as a doctrinal inconsistency.

(e.) Legitimacy of Children and Inheritance

Perhaps the most consensus amongst the courts is regarding children born from live-in relationships. In *Tulsa v. Durghatiya*¹⁷ the court stated that a child born out of a long and continued cohabitation would not be treated as illegitimate on the application of the presumption contained in Section 114 of Indian Evidence Act, 1872¹⁸, which presumes that a man and woman, who have cohabited for a long period of time as husband and wife, had done so in accordance with a marriage of the man and woman unless the contrary is proved by way of evidence.

This presumption was again reiterated in *Bharatha Matha v. R. Vijaya Renganathan*¹⁹ and, more recently, in *SPS Balasubramanyam v. Suruttayan*²⁰. These children have also been held to have a right in property including a right in the self-acquired property of their parents as well as in the ancestral coparcenary property of the family, although this is the more controversial issue.

IV. THE STATUTORY LANDSCAPE

(a.) Absence of a Central Statute

There is no central legislation that explicitly deals with the formation, registration or dissolution of live-in relationships in India. The Protection of Women from Domestic Violence Act, 2005²¹, was the first legislation that recognized the existence of cohabiting relationships, but, solely in the context of the protection of women from domestic violence while in a "relationship in the nature of marriage". Property rights, rights to succession and to maintenance are thus uncertain and largely based on judicial presumption, the Indian Evidence Act²² and the general civil law.

(b.) The Uttarakhand Uniform Civil Code: A New Paradigm

¹⁷ *Tulsa v. Durghatiya*, (2008) 4 SCC 520.

¹⁸ The Indian Evidence Act, 1872, s. 114.

¹⁹ *Bharatha Matha v. R. Vijaya Renganathan*, (2010) 11 SCC 483.

²⁰ *SPS Balasubramanyam v. Suruttayan*, AIR 1992 SC 756.

²¹ The Protection of Women from Domestic Violence Act, 2005, s. 2(f).

²² The Indian Evidence Act, 1872, s. 114.

However, the patchwork was broken in 2024-25 when the Government of Uttarakhand²³ passed the first UCC enacted by any Indian state since Independence, and the first set of laws anywhere in India making the lives-in-a-relationship registering formally. All future couples who register their life-in-a-relationship in the State of Uttarakhand will be registering onto the statutory register of persons engaged in a life-in-a-relationship. Having passed the draft law through the Uttarakhand Assembly, received the Presidential notification of assent, and having notified the law in the Gazette of India in March 2024, and having received the approval for the draft rules by the State Cabinet, and having formally implemented the Act in Jan 2025, the live-in-a-relationship will be required to register himself/herself through a statement of his/her relationship with the other person in the prescribed form within thirty days of commencement of cohabitation to the designated registrar and the both spouses/partners will be required to register their marriage and file a statement of their marriage with the designated registrar.

It is noteworthy that if the person in cohabitation is under 21 years of age, the registrar shall also inform the parents and/or the guardian of the person who is less than 21 years of age.

It will be an offense for a person to refuse to furnish the prescribed particulars, and on conviction, is punishable with imprisonment up to 3 months, or with fine not exceeding Rs.25000/-or with both, and it is also an offense for the Landlords/Owners to refuse rent agreement to the couple without registration.

On the protective side, the Uttarakhand code also brings about certain rights which were reserved only to the legally married couples and live-in partners had to suffer: - children born of registered live-in relationship shall be deemed to be legitimate; A woman deserted by her live-in partner shall be entitled for maintenance.

(c.) Critique of the Registration Model

Uttarakhand model has also been critiqued in terms of scope of the law and implementation criteria. For instance, critics have noted the broadness of the proposed law in terms of when a "live-in relationship" begins and the extra-territorial application of its obligation towards the residents of Uttarakhand outside the state. It has been argued that the requirement to register one's relationship with a "community head" or obtain religious certification runs counter to the concept of informational privacy and decisional autonomy around intimate relationships

²³ The Uniform Civil Code (Uttarakhand), 2024, and the Uttarakhand UCC Rules, 2025 — provisions on registration termination, and maintenance for live-in relationships (notified March 2024; rules effective 27 January 2025).

that the Supreme Court endorsed in *K.S. Puttaswamy v. Union of India*²⁴ within the ambit of Article 21.²⁵ Whether the Uttarakhand model of registration and punishment can withstand the challenges on equal treatment, proportionality and privacy implications vis-à-vis married couples is to be seen.

V. SOCIO-CULTURAL DIMENSIONS

(a.) The Persistence of Stigma

Despite judicial validation, the Indian society has not accepted the concept of live-in relationship uniformly. Live-in relationships are still considered taboo by a large section of Indian society and are particularly frowned upon in non-metropolitan areas. Members of couples in live-in relationships, including inter-caste or inter-faith couples, continue to be subjected to harassment by their family members and community organizations despite the Supreme Court's unequivocal order in *Shakti Vahini v. Union of India*²⁶ to the states to provide protection to consenting adults in exercising their rights of choice of partner.

(b.) Gendered Vulnerability

The dimensions of socio-cultural opposition to live-in relationships do not impact both genders equally. Women carry the burden of social, economic and legal risk: they are more likely to be socially ostracised, are economically more dependent in most cases and (assuming the Velusamy and Indra Sarma criteria are not met), even have no recourse to maintenance or protection in the event of desertion. It is this gendered disparity which is the objective behind the judicial desire for a broad interpretation of the protective legislation - but it also accounts for the reasons why some feminist lawyers have been ambivalent about the Uttarakhand registration scheme: the maintenance provision is a genuine pro-active step but the support system that it generates may also serve to discourage the very women it aims to benefit.

(c.) Urban-Rural and Generational Divergence

The increasing number of cohabiting couples in metro-cities like Delhi, Mumbai, Bengaluru and Pune are, many times, very explicitly driven by economics or a conscious attempt to

²⁴ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

²⁵ Constitution of India, art. 21.

²⁶ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192.

avoid the pressure of ceremonies and expensive rituals of marriage. But this change is limited to a very small section of society, and the more comfortable Indian social fabric, where a majority of society still uses marriage as the means of property transmission, disciplining sexuality and caste-keeping, has not undergone a similar change.

VI. LIVE-IN RELATIONSHIPS AND THE UNIFORM CIVIL CODE DEBATE

The Uttarakhand experiment must be placed in the context of the larger and long-standing efforts towards a pan-Indian Uniform Civil Code under Article 44, with the Directive Principle raised and mostly associated with Muslim personal law and triple talaq, especially in the case of *Shayara Bano v. Union of India*²⁷. The presence of live-in relationships regulation in the Uttarakhand code signals a major leap for the UCC project, from one where it dealt with marriage and divorce across religions, to one where it also touches upon the regulation of intimate life outside marriage. Whether this is an appropriate use of the state's duty to protect vulnerable parties, or an extra-curial slip into the intimate privacy zone delineated by *Puttaswamy*²⁸ will be the defining battle ahead for other states contemplating such laws.

VII. CONCLUSION

Indian live-in relationships occupy a truly in-between constitutional and social space. While the judiciary, relying heavily on the provisions of Articles 21, 19 and 14²⁹, has always held that the choice of two consenting adults to live together without entering into a marriage is a protected form of liberty, through a series of cases culminating in *Velusamy*³⁰ and *Indra Sarma*³¹, it has also laid out an evolving but fragmented framework, to eventually extend protections of domestic violence, maintenance and, finally, legitimacy and inheritance to these relationships. The Uttarakhand UCC's mandatory registration regime³² is the first significant legislative shift in this space that had always been managed by judicial fiat, foraying into the legislation-based domain with tangible benefits as well as a surveillance and

²⁷ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

²⁸ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

²⁹ Constitution of India, arts. 14, 19, 21, 44.

³⁰ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

³¹ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

³² The Uniform Civil Code (Uttarakhand), 2024, and the Uttarakhand UCC Rules, 2025 — provisions on registration, termination, and maintenance for live-in relationships (notified March 2024; rules effective 27 January 2025).

punishment mechanism whose relationship with privacy is yet to be litigated. In this way, Indian family law will continue to chart a course between modernity and tradition.

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18. *S.P.S. Balasubramanyam v. Suruttayan*, (1992) Supp. 2 SCC 304.
19. *Tulsa v. Durghatiya*, (2008) 4 SCC 520.