

## **“The Evolving Landscape of Live- in Relationship in India”**

***\*Ayushi Trivedi***  
***Research Scholar***

***\*\*Dr. Axshita Srivastava***  
***Asst. Professor***

### **Abstract**

Live- in relationships have become more prevalent in India, with the judiciary significantly contributing to their recognition and legitimacy. Despite the judiciary acting as a progressive force by time and again highlighting the legitimate and non- punishable nature of the concept of live- in relationships, the stigmatization of the concept has posed as the biggest hurdle in its acceptance by the Indian society. This article traces the historical trajectory of the concept of live- in relationships with special emphasis on a comparative study of its development in the US, Sweden and India.

***Keywords:*** Marriage, live in relationship, origin, development.

### **INTRODUCTION**

A live-in relationship can be defined as an arrangement where two unmarried individual cohabite and engage in a long-term, committed relationship that mirrors many aspects of a marriage. The term “cohabitation” traces its roots to the Latin term “*cohabitare*” which translates “to dwell together” or “to live in company with”.<sup>1</sup> The complexity and rigidity of traditional family systems, often influenced by religious doctrines can lead individuals to seek alternative forms of union. For many, cohabitation represents a means to attain greater personal freedom within a relationship. In conventional societies, however, religious and cultural norms typically condemn premarital sexual relations and cohabitation, aiming to uphold lineage integrity, societal discipline and prescribed moral values. The terms “live- in relationship” and “cohabitation” is often treated as synonymous, these arrangements differ significantly in purpose and context, extending beyond a simple legal definition. For example, some individuals, understand cohabitation as a step toward marriage, often describing it as a trial marriage, while there are individual who represent a more casual, yet committed, form of dating and there are even individuals who view cohabitation as a substitute of formal marriage, or even as a lifestyle choice.<sup>2</sup> These diverse interpretations conclusively highlight that cohabitation is not a fixed but rather a dynamic concept that changes depending upon surrounding cultural and social environment.<sup>3</sup> With the expansion of modern economies and a growing focus on personal autonomy and the societal structure,

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<sup>1</sup> Online Etymology Dictionary, “Cohabitation” (Etymonline) <https://www.etymonline.com/word/cohabitation> (accessed 26th May 2025).

<sup>2</sup> Larry L Bumpass, James A Sweet and Andrew Cherlin. ‘The Role of Cohabitation in Declining Rates of Marriage’ (1991) 53 *JSTOR* 913.

<sup>3</sup> Patrick Heuveline and Jeffrey M Timverlake, ‘The Role of Cohabitation in Family Formation: The United States in Comparative Perspective’ (2004) 66 *Journal of Marriage and Family* 1214.

many roles fulfilled within marriage, such a sexual intimacy, are now frequently exercised outside the framework of traditional bounds.

Over the last decades, non- marital forms of family life has received significant prominence, particularly across the societies in the US and other Western nations. Declining rates of formal marriage, alongside rising rates live- in relationships, reflect a global shift in norms of relationships. This phenomenon is termed by scholars as deinstitutionalization of marriage, where the established legal and social expectations out of marital roles are steadily eroding.<sup>4</sup> The widespread rise of live-in relationships highlights that this trend is not simply the result of isolated personal decisions; rather, it reflects a deeper structural transformation in the way intimate relationships are initiated, maintained and understood in modern society.

## **HISTORICAL EVOLUTION OF LIVE IN RELATIONSHIPS**

Live- in relationships although often regarded as a modern development, historical records evidence that this kind of informal unions have existed across cultures for centuries. These arrangements, while lacking formal recognition, were present in various social settings long before this concept entered mainstream discourse. However, prior 1900s, such relationships remained largely undocumented and socially marginalized, often confined to specific communities or subcultures where they operated outside the visibility of official statistics and dominant norms.<sup>5</sup> Historically, this kind of informal relationship was more prevalent among social and demographic groups within European states, which included economically disadvantaged individuals, people separated from spouses, rural populations with distinct customary practices, and those who rejected the institution of marriage on ideological grounds. In Sweden, for example, individuals who opposed the exclusivity of religious ceremonies, choosing instead to live together without a church- sanctioned union, introduced a concept similar to live- in relationships and termed it “marriage of conscience”.<sup>6</sup>

An important historical precursor to contemporary cohabitation is the concept of common law marriage, roots of which can be traced to medieval England, where marital unions were validated by mutual consent and public recognition rather than by formal rites or legal documentation.<sup>7</sup> This practice was later incorporated into the legal frameworks of the United States during the colonial period, largely due to the scarcity of formal marriage ceremonies and the lack of regulatory framework.<sup>8</sup> Notably, the state of Alabama became the first state in USA to formally acknowledge common law marriage in the mid- 19<sup>th</sup> century through the

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<sup>4</sup> Andre J Cherlin, ‘The Deinstitutionalization of American Marriage’ (2004) 66(4) *Journal of Marriage and Family* 848.

<sup>5</sup> Arland Thornton and Thomas E Fricke, ‘Social Change and the Family: Comparative Perspectives’ in Arland Thornton (ed.), *the Well- Being of Children and Families: Research and Data Needs* (University of Michigan Press 2001) 77-91.

<sup>6</sup> Silvana Seidel Menchi (ed.), *Marriage in Europe, 1400-1800* (University of Toronto Press 2016).

<sup>7</sup> Michael J. Meehan, ‘Establishing a Common- Law Marriage’ (2025) 45 *New England Journal of Legal Studies* 23 <https://digitalcommons.fairfield.edu/nealsb/vol45/iss1/2> (accessed 26 May 2025).

<sup>8</sup> Investopedia, ‘Common Law: What it is, How its used, and How it differs from civil law’ (Investopedia, 16 March 2009) <https://www.investopedia.com/terms/c/common-law.asp> (accessed 26 May 2025).

case of *Meagher Vs. Meagher*<sup>9</sup>. Further, the Supreme Court of the US in the case of *Meister Vs. Moore*, had ruled that a marriage conducted without a formal ceremony could be valid, provided it was not expressly prohibited by legislations.<sup>10</sup> These developments showcase that informal marital arrangements were not merely exceptions but served as functional alternatives where formal marriage procedures were inaccessible or impractical.

Late 1900s marked a transformative era in the nature of intimate partnerships, often referred to as the “marriage bust”.<sup>11</sup> This period witnessed a noticeable decline in marriage rates and a consistent rise in the average age at first marriage across European states, a trend which has stayed undisputed till date. Concurrently, a distinct form of live-in relationship began to emerge, especially among younger adults, where living together became a conscious decision either as a precursor to marriage or as a substitute for it.<sup>12</sup> This shift mirrors broader changes in social values, gender roles, and attitudes toward long term commitment.

In the US, the shift in the pattern of relationship norms has been particularly peculiar. Prior to the 1970s, cohabitation outside marriage was relatively rare and socially stigmatized. However, by the late 1990s, estimates indicated that between 50 to 60% of couples had been cohabiting before marrying.<sup>13</sup> This trend continued steadily, with data from 1996 showing that more than two-thirds of married couples had lived together prior to their wedding.<sup>14</sup> More recent figures suggest that approximately 75% of marriages are now preceded by cohabitation.<sup>15</sup> At the same time, the proportion of married individuals in the US declined steadily from 55.9% in 1996 to 46.4% in 2023, while the share of cohabiting couples in dual headed family saw an upward trend increasing from 3.7% to 9.1% over the same period.<sup>16</sup> These statistics underscore a broader societal transformation; the decline in early marriage has coincided with and arguably catalyzed the emergence of cohabitation as a normative and socially legitimate pathway to partnership.

## FACTORS INFLUENCING CHANGING TRENDS

The growing prevalence of cohabitation in modern societies is not the result of a singular force but arises from a complex interplay of changing social norms, economic realities, and evolving personal values regarding intimacy and commitment. Among the most significant drivers of this shift is the changing meaning of marriage itself. Where marriage was once

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<sup>9</sup> 49 Ala 9 (1847).

<sup>10</sup> 96 US 76 (1877).

<sup>11</sup> Gordon A Carmichael, ‘Bust After Boom: First Marriage Trends in Australia’ (1978) 24(2) *Demography* 245.

<sup>12</sup> David Popenoe, *Distributing the Nest: Family Change and Decline Modern Societies* (Aldine de Gruyter 1988) 79-82.

<sup>13</sup> Pamela J Smock, Wendy D Manning and Meredith Porter, ‘Everything’s There Except the Marriage: How and Why Poor Mothers put Motherhood Before Marriage’ (2005) 62 *Journal of Marriage and Family* 869.

<sup>14</sup> Larry L Bumpass and H-H Lu, ‘Trends in Cohabitation and Implications for Children’s Family Contexts in the US’ (2000) 54 *Population Studies* 29.

<sup>15</sup> Casey E Copen, Kimberly Daniels and William D Mosher, ‘First Premarital Cohabitation in the US: 2006-10 National Survey of Family Growth’ (National Center for Health Statistics, 2013).

<sup>16</sup> US Census Bureau, ‘America’s Families and Living Arrangements: 2023’

<https://www.census.gov/data/tables/2023/demo/families/cps-2023.html> accessed 27 May 2025.

considered a moral or religious imperative, it is now widely viewed as a matter of personal choice rather than obligation. This change is linked to a broader cultural change, including a reconceptualization of sexuality, now framed around consent rather than marital status.

Another critical factor is the rise of individualism, especially from the mid- 20<sup>th</sup> century onwards. Contemporary culture has increasingly focused its values on autonomy, personal fulfilment, and the freedom to craft one's life path.<sup>17</sup> Marriage, with perceived permanence and social constraints, can appear incompatible with these values. In contrast, cohabitation offers a flexible and less institutionally bound model of partnership, aligning more closely with the ethos of personal liberty.

Historically, cohabitation was often shrouded in taboo and met with strong disapproval particularly in religious and conservative communities where the sanctity of marriage was a dominant moral ideal. Over time, however, social attitudes have liberalized significantly with cohabitation being regarded as a socially legitimate arrangement.<sup>18</sup> Nonetheless, despite this broad shift in societal perception, regional disparities persist. In More conservative or religious settings, cohabiting couples may still encounter stigma and social marginalization.

Overall, the convergence of legal reform, socio- economic shifts, technological innovation, and cultural liberalization has contributed to the normalization of cohabitation in many parts of the world. A concept that was once a marginal and morally contested practice is now increasingly recognized as a mainstream relational choice, though its social acceptance continues to be mediated by cultural, religious and regional contexts.

## GLOBAL PERSPECTIVES

The development and recognition of live- in relationships vary significantly across the globe, reflecting diverse cultural norms, historical trajectories, and legislative responses.

### United States: Trends, Legal Recognition, and Societal Acceptance

Over the last fifty years, the US has experienced a marked increase in rates of cohabitation. As of 2018, roughly 10% of individual aged 18-24 and about 15% of those aged 25-24, as well as adults aged 65 and older, reported living with an unmarried partner.<sup>19</sup> By 2022, the number of cohabiting individuals aged 15 and older had grown approximately by 20 million, a significant rise from 7% in 2012.<sup>20</sup> The demographic population most inclined towards live-in relationship remains the 25-34 age group, with 17% of individuals in that cohort

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<sup>17</sup> Anthony Giddens, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Polity Press 1992).

<sup>18</sup> Andrew J Cherlin, 'The Decentralization of American Marriage' (2004) 66(4) *Journal of Marriage and Family* 848 <https://www.journals.uchicago.edu/doi/10.1086/340778> (accessed 27 May 2025).

<sup>19</sup> US Census Bureau, *America's Families and Living Arrangements: 2018* (US Department of Commerce) <https://www.census.gov/data/tables/2018/demo/families/cps-2018.html> (accessed 27th May 2025)

<sup>20</sup> US Census Bureau, *America's Families and Living Arrangement: 2022* (US Department of Commerce, 2022) <https://www.census.gov/data/tables/2022/demo/families/cps-2022.html> (accessed 27 May 2025).

cohabiting in 2022.<sup>21</sup> This upward trend is paralleled by shifting public attitudes, with nearly 70% Americans considering it acceptable for a couple to live together even if they do not intend on marrying.<sup>22</sup> These figures mirror a broader cultural transition in the US, where cohabitation is no longer seen as a fringe lifestyle choice but rather as a mainstream and socially legitimate form of intimate partnership.

From legal point of view, cohabiting partners in the US generally do not enjoy the same rights and protections as those conferred upon married couples. This disparity is particularly evident in matters involving property division, financial support and inheritance. The legal treatment of property among couples in live-in relationships largely depends on state specific laws and the factual context of the relationship. Unlike spouses, unmarried partners are not typically entitled to equitable distribution upon separation unless they can demonstrate a contractual or equitable interest in the property.<sup>23</sup> Some legal jurisdiction, such as California, has recognized the possibility of support claims between cohabiting couples through a concept called palimony actions.<sup>24</sup> The landmark case *Marvin Vs Marvin* set a precedent by allowing an unmarried partner to seek financial support based on implied or express agreements.<sup>25</sup>

Given the Legal Uncertainties, cohabiting couples are increasingly encouraged to formalize their financial and domestic arrangement through written agreements. These agreements can pre-emptively address issues such as asset ownership, income sharing and responsibilities upon separation, thereby providing a degree of legal predictability in an otherwise unregulated domain.<sup>26</sup>

### **Sweden: A pioneer in cohabitation acceptance**

Sweden is widely recognized as a pioneer in the widespread acceptance and legal recognition of cohabitation, often considered at the forefront of family demographic changes. Cohabitation is prevalent in Nordic countries such as Sweden, Denmark, and Finland. In Sweden, approximately 30% of adults were cohabiting in 2020, reflecting a broader cultural acceptance of non-marital unions.<sup>27</sup>

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<sup>21</sup> Ibid.

<sup>22</sup> Pew Research Center, *Marriage and Cohabitation in the US* (2019) <https://www.pewresearch.org/social-trends/2019/11/06/marriage-and-cohabitation-in-the-u-s/> (accessed 27 May 2025).

<sup>23</sup> Grace Ganz Blumberg, *The Legal Status of Cohabiting Couples: A Reappraisal* (1980) 28(1) *UCLA Law Review* 1, 21-27.

<sup>24</sup> Argyris Mah LLP, 'Everything You Need to Know about California Palimony' (Argyris Mah LLP, 2023) <https://www.argyrismah.com/everything-you-need-to-know-about-california-palimony/> (accessed 27 May 2025).

<sup>25</sup> (1976) 18 Cal 3d 660 (California Supreme Court).

<sup>26</sup> E.A. Gjeltén, 'Creating a Cohabitation Property Agreement' (Nolo, 24 April 2023) <https://www.nolo.com/legal-encyclopedia/free-books/living-together-book/chapter2-5.html> (accessed 27 May 2025).

<sup>27</sup> Stefano Cantalini, Sofi Ohlsson-Wijk and Gunnar Andersson, 'Cohabitation and Marriage Formation in Times of Fertility Decline: The case of Sweden in the Twenty- First Century' (2024) 40 *European Journal of Population* 15.

The legal framework regulating cohabitation in Sweden is primarily governed by the Sambolagen (Cohabitees Act), originally enacted in 1973 and subsequently updated in 1987 and 2003.<sup>28</sup> The legislation defines sambos as two unmarried individuals who live together in a romantic relationship and share a household.<sup>29</sup> The law provides specific legal consequences for such relationships, treating certain assets acquired for joint use as *samboegendom* (joint property). Under the law, joint property includes the common home and household goods purchased for shared use, irrespective of which partner paid for then or holds legal title.<sup>30</sup> Upon termination of the relationship, such property is subject to equal division unless a formal agreement states otherwise.<sup>31</sup> This means that even if one partner solely owns the residence, the other may be entitled to half its value if the property was acquired for common use. However, the law does not automatically cover other assets unless explicitly agreed upon.

Further, cohabitation is widely socially accepted including for raising children outside of marriage. Over half of all births in the country occur outside of marriage, with approximately 84% of these births born to couples who are cohabiting rather than married. This reflects a significant societal normalization of cohabitation as a viable family structure.

### **India: Societal Taboo to Judicial Recognition**

In India, live-in relationships exist within a complex framework shaped by traditional societal norms and the gradual evolution of judicial attitudes. Indian society traditionally regards marriage as a sacred and essential institution, often perceiving cohabitation outside wedlock as morally unacceptable and a challenge to established family values. Consequently, couples living together without formal wedlock have frequently faced social stigma and ostracism.

Nevertheless, the Indian judiciary has progressively acknowledged the legality of live-in relationships, despite the absence of explicit statutory regulation. The Apex court has through its multiple decisions clarified that live-in relationships between consenting adults are lawful and safeguarded under Article 21 of the Constitution<sup>32</sup>, guarding against unwarranted societal intrusion into personal choices. In the case of *Lata Singh vs. State of UP*<sup>33</sup>, the court upheld the right of two consenting adults to cohabit, emphasizing individual freedom. Further in the case of *S. Khushboo vs. Kanniammal*<sup>34</sup>, it was clarified that live-in relationships are not a criminal offence and are a matter of personal choice. Last but not the least, the significant case of *Indra Sarma vs. V.K.V Sarma*,<sup>35</sup> provided a framework to distinguish relationships in

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<sup>28</sup> Swedish Ministry of Justice, *Sambolag* (2003:376).

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> Constitution of India, art 21.

<sup>33</sup> AIR 2006 SC 2522.

<sup>34</sup> (2010) 5 SCC 600.

<sup>35</sup> (2013) 1 SCC 645.



the nature of marriage from casual cohabitation, offering legal backing, particularly for women in long- term arrangement.

While being legally acknowledged, live- in relationships do not carry the same statutory rights and obligations as a marriage. Partner in such arrangements are generally not entitled claims over maintenance, inheritance, or property, unless provision such as joint ownership or a testamentary instrument are in place. However, the Protection of Women from Domestic Violence Act 2005<sup>36</sup>, extends legal protection to women in live- in relationships, particularly in cases involving economic dependency or abuse. Under this Act, women may be granted rights including maintenance, residence and protection orders if the relation is deemed to be in the nature of marriage. Courts evaluate criteria such as the duration of cohabitation, public recognition of the relationship, and financial arrangements when determining where these protections apply.

A particularly progressive development in Indian family law is the legal recognition of children born from live- in relationships. Courts have consistently ruled that such children are legitimate and are entitled to inherit their parent's self- acquired property.<sup>37</sup> This jurisprudence ensures that the absence of a formal marriage does not disadvantage children in terms of legal rights and social status.

Despite these legal advances, the absence of a comprehensive statutory framework leaves several aspects such as distribution of property and long term maintenance, ambiguous and reliant on case specific judicial interpretation. This ongoing reliance on courts underscores the tension between evolving notions of personal liberty and the prevailing cultural norms that continue to favor marital unions.

## CONCLUSION

To conclude, it can be said that, live- in relationships have shifted from being socially marginalized to widely accepted, reflecting broader changes in values, individual autonomy, and delayed marriages. Once seen as taboo, cohabitation now serves various purposes, ranging from trial marriages to long term and often permanent alternatives to marriage. This transformation is shaped by factors such as secularization, economic independence and individualism.

Legally, live- in relationships remains unevenly recognized across countries. Sweden have formal laws protecting live- in partners, the US offer limited rights. In India, despite social resistance, courts have acknowledged live- in relationships under constitutional rights, though statutory safeguards are still limited. As cohabitation becomes more common, legal systems must evolve to ensure fair protections, particularly around property, financial support and child welfare, regardless of marital status.

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<sup>36</sup> *Protection of Women from Domestic Violence Act 2005* (India).

<sup>37</sup> *Revanasiddappa vs. Mallikarjun* (2011) 11 SCC1; *Bharata Matha vs. R Vijaya Renganathan* (2010) 11 SCC 483.