



Legitimacy and Inheritance Rights of Children Born from Live-In Relationships

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Abstract

The increasing prevalence of live in relationships in contemporary society has raised important legal questions regarding the status and rights of children born from such unions, with special reference to legitimacy and inheritance. Traditionally, Indian Family Law has been structured around the institution of marriage; however, evolving social reality has prompted the judiciary to adopt more infusive and welfare oriented approach. The Supreme Court of India, has, through various judgements, recognised that children should not be discriminated against due to the nature of the relationship of their parents and has extended limited legal protection in appropriate cases. Even with these judicial developments, there is still uncertainty around live-in relationships due to the lack of a defined legal framework, particular when it comes to succession and property rights. In case of self acquired property, the inherent rights are recognised but the rights regarding and ancestral and coparcenary property are still unclear. This study highlights the contradiction and difficulties in guaranteeing consistent protection by critically analysing the current legislative framework, pertinent Court rulings, and its deficiencies. The study comes to the conclusion that comprehensive legislation is desperately needed in India to give children born within live-in relationships a clear, consistent, and effective protection of their rights.

Keywords: live in relationship, inheritance, ancestral property, coparcenary property, legitimacy.



In India, the idea of a family is always changing to mirror larger social and cultural shifts. Marriage has always been seen as the only acceptable foundation for starting a family and becoming a parent. However, this conventional perspective has started to be challenged by the growing acceptance of live-in relationships in modern culture. The increasing prevalence of cohabitation without formal marriage creates serious legal issues, especially with regard to the rights and status of children born out of such relationships. Questions of legitimacy and inheritance continue to be particularly important among these issues.

In the past, children born outside of marriage frequently experience social stigma and were not granted equal legal status, especially when it came to succession and property. However, the judiciary has taken action to rectify disparity over time. In number of significant rulings, the Indian Supreme Court has stressed that children shouldn't suffer because of the nature of the relationship of their parents. In some instances, the court has acknowledged the legitimacy of children born from long-term cohabitation that resembles marriage by applying constitutional principles of equality and dignity.

The legal position is not totally clear or consistent notwithstanding these advancing judicial developments. Laws like the Protection of Women from Domestic Violence Act have provided some protection, but there is still a great deal of uncertainty, especially when it comes to inheritance rights in ancestral and coparcenary property. This ambiguity raises questions about the range of legal rights that these children may have under various statutory and personal laws.

In the light of this, the conflict between evolving social realities and long-standing legal frameworks is highlighted by the question of validity and inheritance rights of children born from cohabiting couples. In order to determine whether the current legal system in contemporary India sufficiently protects the rights and dignity of these children, this article will critically examine judicial interpretations, pertinent legal provisions, and existing gaps.

In India, judicial interpretation, rather than explicit legislative action has primarily shaped the legal position regarding children born from live-in relationships. These relationships lack a thorough legal framework, in contrast to marriage, which is regulated by codified personal laws. The rights and status of these children have thus been significantly shaped by courts, especially the Supreme Court of India.

One of the major developments in this area has been the recognition of live-in relationships that are "in nature of marriage." In *D. Velusamy vs. D. Patchaiammal*¹, the court established specific standards to decide whether a cohabitation can be regarded as comparable to marriage. These include features like social recognition, shared housing, and the tenure of relationship. This classification becomes significant since it affects the legitimacy of children from such unions.

In *Indra Sarma vs. V.K.V. Sarma*², the court reinforced this stance by emphasizing the need to protect vulnerable parties, particularly women and children, while acknowledging that not all live-in relationships would be eligible for legal protection. The ruling emphasized the need for a case-by-case review by highlighting the difficulties and differentiating between casual relationships and stable domestic arrangements.

The judiciary has taken a progressive position on issues of legitimacy. The Indian Supreme Court has ruled time and time again that children born from long-term live-in relationships should not be regarded as illegitimate, especially if the relationship is similar to a legal marriage. This approach is consistent with **Section 16 of the Hindu Marriage Act, 1955**³, which has been construed broadly to safeguard children's rights even though it mainly addresses void and voidable marriages. But inheritance is still a more controversial topic. Although these children's rights to their parents' self acquired property have been granted by courts, their claim for ancestral and coparcenary property is still up for question. The court explained in *Bharath Matha vs. Vijaya Ranganathan*⁴ that children born from non-marital relationships are entitled to inherit their parents' property, but this does not extend to rights in joint family property under Hindu law. This distinction highlights the limits of what courts can achieve without explicit legislative reform.

Therefore, the lack of a consistent legal framework continues to cause ambiguity even though the judiciary has made considerable efforts to lessen discrimination and protect the rights of children born from live-in partnerships. Although progressive, the dependence on court precedents leads to uneven application and emphasizes the pressing need for comprehensive legislation that addresses this changing socio-economic reality.

¹ D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469 (India).

² Indra Sarma v. V.K.V. Sarma, AIR 2014 SC 309 (India).

³ The Hindu Marriage Act, 1955, No. 25 of 1955 (India).

⁴ Bharatha Matha v. R. Vijaya Ranganathan, (2010) 11 SCC 483 (India).



Inheritance rights of children born from live-in relationships

One of the most complicated and hotly contested topics in Indian family law is the inheritance rights of children born out of live-in relationships. Even while legal interpretations have progressively acknowledged the legitimacy of such children, there are still a lot of restrictions and ambiguity surrounding their rights when it comes to succession.

The idea of legitimate birth within a legal marriage is strongly related to inheritance under traditional Hindu law. Nonetheless, courts have made an effort to take a more inclusive stance in light of shifting societal circumstances. In a number of rulings, the Indian Supreme Court has made it clear that children born into situations that resemble marriage shouldn't be denied their rights just because their parents aren't legally married.

Section 16 of the Hindu Marriage Act, 1955, which gives children born from void or voidable marriages validity, is a crucial legal clause that is frequently mentioned in this context. Despite the fact that this clause does not specifically address live-in relationships, courts have, in theoretical terms, protected children against long term live-in relationships. This is a part of a larger movement to put children's rights and welfare ahead of strict legal requirements.

Even with these advancements, there is still a distinct difference between various kinds of property. In general, children born from live-in relationships are eligible to inherit their parents' self-acquired property. This implies that such children maybe entitled to a portion of their parents' personal properties if the parent so desires or if succession rules are in effect. However, their rights become significantly restricted when it comes to ancestral or coparcenary property. ***Bharath Matha vs. R. Vijayrangnathan***, the court held at while such children can inherit from their parents, they do not automatically acquire rights in joint family property governed by the Hindu coparcenary system. This limitation creates a clear disparity when compared to children born within legally recognised marriages.

Another challenge lies in the lack of uniformity across personal laws. Since inheritance in India is still largely covered by religion-based personal laws, the rights of such children may vary depending on the applicable legal system. This further complicates the issue and leads to inconsistent outcomes in different cases.

Critical Analysis and Challenges in the Existing Legal Framework

There are substantial structure gaps and a combination of progressive judicial interpretation in India's legislative framework protecting the rights of children born from live-in couples. The lack of a clear and comprehensive statutory framework continues to create confusion, despite the judiciary's frequent emphasis-especially that of the Supreme Court of India-that children should not be subjected to discrimination because of the nature of their parents' relationship. The system is mostly reliant on case-by-case interpretation because the majority of the legal recognition in this field has arisen through judicial decisions rather than codified laws. Consequently, it is challenging to attend consistency in results. The absence of a clear legal definition of what a "relationship in the nature of marriage is", which creates uncertainty, is another significant obstacle.

Concerns regarding equity and justice are further raised by the fact that, all the codes have usually acknowledged inherited rights in self-acquired property, rights in ancestral or coparcenary property are still unclear and inconsistent. In India, the co-existence of several personal laws create an additional layer of complexity because inheritance laws differ according to religion, which leads to unfair treatment in comparable circumstances. Furthermore, the social shame associated with live-in relationships frequently deters people from exercising their legal rights, which have an impact on how judicial protections are actually put into practice. All things considered, the current framework is inadequate and scattered, underscoring the pressing need for thorough legislative change to guarantee uniformity, clarity and efficient protection of rights.

The key challenges can be explained as follows:

1. No dedicated legislation.

Live-in relationships and the right of their offsprings are not fully governed by a separate legislation in India. Courts rely on existing legislation and interpretations as a result. This raises questions and leaves a lot of problems unsolved.

2. Heavy reliance on judicial interpretation.

Rather than written statues, the majority of regulations in this field are derived from the Supreme Court rulings in India. This implies that the facts of each case determine how the law is applied. Legal results are, therefore, not always consistent or predictable.



3. No clear definition of "relationship in the nature of marriage".

The concept of "relationship in the nature of marriage" is not well defined in law. Although there is no set legal definition for this term, courts have used it. Judges take into account things like social recognition, duration of living together and cohabitation, but the absence of transparency makes decision-making difficult.

4. Inconsistent judicial decisions.

Similar circumstances may be interpreted differently by different courts. Rights may be acknowledged in one situation but denied in another due to minor factual discrepancies. Affected parties become confused and there is less legal clarity as a result of this inconsistency.

5. Unequal Inheritance rights.

Children born out of live-in relationships can inherit their parents' self-acquired property. Their rights to coparcenary or ancestral property, however, are ambiguous or limited. As a result, children are treated differently depending on the marital status of their parents.

6. Social stigma.

In many societal contexts, live-in relationship is still not widely acceptable. People could be reluctant to assert their legal rights as a result. The practical implementation of legal provisions is frequently weakened by social pressure.

7. The gap between society and the law.

Although some rights are acknowledged by courts, society might not completely embrace them. Legal theory and practical application diverge as a result. Because of this, rights are difficult to exercise in practice even though they exist on paper.

8. Variation due to personal laws.

Inheritance laws in India depend on religion, like Hindu, Muslim or Christian personal laws. This means the same situation can lead to different legal outcomes. It creates a lack of uniformity and fairness and legal protection.

9. Need for legislative reforms.

Legislative reforms are necessary. A thorough and unambiguous law on this subject is desperately needed. Rights, obligations and inheritance laws would all be clearly defined by such legislation. Additionally, it would guarantee equal protection for every child and lessen uncertainty.

Some important Case Laws on Live-in Relationships are discussed below:

1. D. Velusamy vs. D. Patchaiammal⁵

This case laid down conditions for recognizing a live-in relationship as "in the nature of marriage." The court stated that things like longevity, shared household and social recognition are important factors. The law may only provide legal protection for these kinds of relationships. It added in establishing the legal threshold for protection in live-in relationships.

2. Indra Sarma vs. V.K.V.Sarma⁶

In this case, the Supreme Court of India observed that not all live in relationships are equal. The court did not cover casual or exploitative relationships, but it did protect women in long-term committed relationships. The ruling also emphasized the importance of legal clarity. It is crucial to comprehend legal protection in non-marital relationships.

⁵ D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469 (India).

⁶ Indra Sarma v. V.K.V. Sarma, AIR 2014 SC 309 (India).



3. *Bharath Matha vs. R. Vijaya Ranganathan*⁷

The court observed that children born out of live-in relationships are deemed legal for certain purposes. However, they are not entitled to ancestral property; rather, they are solely entitled to their parents' property. This case is crucial for limiting inheritance rights. It makes a clear distinction between property rights that are gained by oneself and those that are inherited.

4. *Tulsa & Ors. vs. Durghatiya & Ors.*⁸

The court decided that long-term cohabitation does not result in illegitimate offsprings, which means that children born from long-term cohabitation without marriage, are not illegitimate. The child is considered legitimate if the parents live together as husband and wife for an extended period of time. The rights of such children are significantly supported by this case. It increased protection in accordance with the ideals of Social justice.

5. *Revanasiddappa & Anr. vs. Mallikarjun & Ors.*⁹

The court held that children born from void or voidable marriages are legitimate under Section 16 (1) and 16 (2) of the Hindu Marriage Act, 1955, but they can claim only the property of their parents. This ruling emphasized that children should not suffer due to the relationship issues of their parents. The judgment supported a welfare-based interpretation of law.

6. *Justice K.S. Puttaswamy (Retd.) vs. Union of India & Ors.*¹⁰

In this case the Supreme Court established that privacy is a fundamental right under article 21 of the Indian constitution. The nine-judge bench held that consensual adult relationships in private cannot be criminalised merely due to their private character, which emphasizes personal autonomy, dignity, and liberty as the core constitutional values.

Conclusion

Examining the legal position of children born out of live-in relationships reveals a changing legal system that aims to strike a compromise between changing social realities and conventional family standards. Indian courts, especially the Supreme Court of India, have taken a progressively welfare-oriented stance by acknowledging that children shouldn't face socio-legal disadvantages because of the nature of the relationship of their parents. The concept of legitimacy has been expanded by judicial interpretation in some situations, particularly when the relationship essentially resembles marriage, providing certain safeguards for such children.

Nevertheless, the legal system is still fragmented and lacking in spirit, but the situation is getting better through forward-thinking judicial advancements. Uncertainty persists due to the lack of a thorough and explicit statutory legislation regarding live-in relationships, especially when it comes to inheritance. There is still uncertainty about ancestral or coparcenary property, even though courts have generally allowed inheritance rights of such children in the self acquired property of their parents. An underlying that calls into question the idea of equality before the law is reflected in this duality.

Additionally, the application of legal principles is inconsistent and unpredictable when case-by-case judicial interpretation is used instead of a consistent legislative code. Social stigma associated with live-in relationships makes it more difficult to enforce rights in practice and frequently deters those who are impacted from claiming their legal rights. In this situation, there is still a big difference between social approval and legal acknowledgement.

In the end, the problem emphasizes the critical need for legislative action to provide uniform, gender-neutral, and unambiguous framework governing live-in relationships and the right of the children born from them. In addition to reducing legal ambiguity, such reforms would guarantee the full realisation of the fundamental ideals of equality, dignity and non discrimination. The protection of these children will remain largely dependent on Court's discretion until such clarity is attained, allowing for inconsistency and uncertainty in a field that needs stability and justice.

⁷ *Bharatha Matha v. R. Vijaya Ranganathan*, (2010) 11 SCC 483 (India).

⁸ *Tulsa & Ors. v. Durghatiya & Ors.*, (2008) 4 SCC 520 (India).

⁹ *Revanasiddappa & Anr. v. Mallikarjun & Ors.*, (2023) SCC OnLine SC 1087 (India).

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