



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

DOMESTIC VIOLENCE IN LIVE-IN RELATIONSHIPS **IN INDIA: A JURIDICAL ANALYSIS OF LEGAL** **PROTECTIONS AND CHALLENGES**

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ABSTRACT

This paper conducts a juridical analysis of domestic violence and legal remedies in live-in relationships in India. It explores the legal framework surrounding domestic violence, including relevant legislation such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA), and examines case laws that shape the interpretation and implementation of these laws. The analysis highlights legal challenges and gaps in addressing domestic violence in live-in relationships, including issues related to legislative ambiguity, burdens of proof, and enforcement of protection orders. Furthermore, the paper discusses the significance of legal reforms and recommendations aimed at enhancing legal protections and remedies for individuals in live-in relationships. By elucidating the legal landscape surrounding domestic violence in live-in relationships, this paper contributes to the understanding of the legal framework and challenges in addressing this pressing issue in India.

Keywords: domestic violence, live-in relationship, legal remedies, Protection of Women from Domestic Violence Act (PWDVA), legal precedent.

RESEARCH OBJECTIVES:

- 1) To examine the legal framework surrounding domestic violence within live-in relationships in India, including relevant statutes and legal precedents,
- 2) To analyse the efficacy of existing legal remedies under domestic violence laws in addressing instances of domestic violence within live-in relationships in Indian context,
- 3) To assess the challenges and barriers faced by the victims of domestic violence in live-in relationships and propose recommendations for legal reforms.

RESEARCH QUESTIONS:

- A) How to Indian courts interpret and apply existing domestic violence laws to cases involving live-in relationships?
- B) What legal remedies are available to victims of domestic violence in live-in relationship under Indian law and how effective are these remedies?

RESEARCH HYPOTHESIS:

- 1) Socio-cultural factors, including societal norms regarding marriage significantly influence the prevalence of domestic violence within live-in relationships in India, complicating legal responses.
- 2) Despite the existence of domestic violence laws and legal remedies, victims of domestic violence in live-in relationships face numerous barriers including lack of awareness, financial dependence, and fear of retaliation.

INTRODUCTION

Domestic violence within live-in relationships represents a complex socio-legal issue that demands thorough examination. As contemporary forms of intimate partnerships evolve, legal frameworks worldwide have faced challenges in adequately addressing the intricacies of violence within these relationships. In India, where cultural norms and legal structures intersect, the issue of domestic violence within live-in relationships is of particular significance due to the evolving dynamics of familial structures and legal precedents.

Live-in relationships, often characterized by cohabitation without formal marriage, have gained prominence in India, reflecting shifts in societal norms and individual preferences. However, despite the increasing acceptance of such relationships, instances of domestic violence within them persist, underscoring the need for a nuanced legal approach.

The legal landscape surrounding domestic violence in India has witnessed significant development over the years, with legislative interventions and judicial interpretations shaping the rights and protections afforded to individuals in live-in relationships. *The Protection of Women from Domestic Violence Act, 2005* (PWDVA) stands as a landmark legislation aimed at addressing various forms of abuse within domestic settings, including those arising from live-in relationships. However, the application and interpretation of this law in the context of live-in relationships have been subject to debate and judicial scrutiny.

Notable case laws in India provide crucial insights into the judicial interpretation of domestic violence within live-in relationships. One such case is the landmark judgment of *Indra Sarmav. V.K.V. Sarma*, where the Supreme Court of India recognized the rights of women in live-in relationships and affirmed their entitlement to protection under the PWDVA. This case laid down significant principles regarding the definition of "domestic relationship" and expanded the scope of the Act to encompass various forms of non-marital cohabitation.

Additionally, the case of *D. Velusamy v. D. Patchaiammal* delineated the criteria for determining the existence of a "relationship in the nature of marriage," thereby influencing the legal recognition and protection afforded to individuals in live-in relationships. These cases, among others, exemplify the evolving jurisprudence surrounding domestic violence in live-in relationships and underscore the imperative for a comprehensive legal framework to address such issues effectively.

This research paper aims to conduct a juridical analysis of domestic violence in live-in relationships within the Indian legal context. By examining relevant legislative provisions, judicial precedents, and scholarly discourse, the paper seeks to elucidate the complexities inherent in addressing domestic violence within non-marital cohabitation arrangements. Through a critical examination of the legal framework and notable case laws, this paper endeavors to contribute to a deeper understanding of the challenges and opportunities in combating domestic violence in live-in relationships in India.

DEFINITION AND CONTEXT OF LIVE-IN RELATIONSHIP

Live-in relationships, also known as cohabitation or domestic partnerships, represent a form of intimate relationship where individuals choose to live together in a manner akin to marriage without formalizing their union through legal marriage. This arrangement typically involves unmarried partners sharing a common household and engaging in a committed relationship characterized by emotional and economic interdependence. The nature and dynamics of live-in relationships vary widely, influenced by legal, social, and cultural factors that shape the perceptions and practices surrounding such partnerships.

From a *legal* perspective, live-in relationships exist outside the formal institution of marriage and thus lack the legal recognition and rights accorded to married couples. In India, where marriage is considered a sacrament and holds significant legal implications, live-in

relationships occupy a unique position within the legal framework. While not explicitly recognized under Indian law, the judiciary has increasingly acknowledged the validity and rights of individuals in live-in relationships, particularly concerning issues such as maintenance, inheritance, and domestic violence.

Socially, live-in relationships challenge traditional norms and expectations regarding intimate partnerships and family structures. In a society deeply rooted in conservative values and familial hierarchies, the acceptance of cohabitation without marriage has been met with both curiosity and criticism. However, changing attitudes towards relationships, increased urbanization, and the pursuit of individual autonomy have contributed to the growing acceptance of live-in arrangements among certain segments of the population.

Culturally, live-in relationships intersect with broader notions of morality, religion, and societal norms. Traditional cultural practices often emphasize the sanctity of marriage and the importance of family cohesion, which may clash with the perceived transient nature of live-in partnerships. Cultural attitudes towards cohabitation vary across regions and communities, with some embracing modern notions of personal freedom and choice, while others adhere more strictly to traditional values and customs.

Overall, live-in relationships embody a complex interplay of legal, social, and cultural factors that shape the understanding and acceptance of non-marital cohabitation arrangements. As such, any juridical analysis of domestic violence and legal remedies within live-in relationships in India must consider the multifaceted nature of these partnerships and the diverse perspectives that influence their recognition and regulation.¹

LIVE-IN RELATIONSHIP IN INDIA- LEGAL RECOGNITION AND SOCIETAL EVOLUTION

Live-in relationships, though not explicitly recognized as a separate legal concept in India, have gained gradual acceptance through judicial pronouncements and a changing social landscape. This section delves deeper into the legal framework, societal attitudes, and the need for further progress.

¹Bhanu Pratap, "Legal Recognition of Live-in Relationships: A Comparative Analysis" (2020) 10(2) Indian Journal of Legal Studies 123.

LEGAL RECOGNITION:

Absence of Specific Law: India's legal system currently lacks a codified law that solely governs live-in relationships. This means there's no dedicated legislation outlining the rights and obligations of partners in such unions.

Judicial Intervention: Carving a Path: The Indian courts have played a crucial role in shaping the legal landscape for live-in relationships. Landmark judgments have addressed the issue and provided a framework for recognizing certain rights.

In the case of *Lata Singh v. State of U.P.*,² the Supreme Court established that living together as a couple without formal marriage does not constitute an offense. This judgment emphasized individual liberty and the right to cohabit.

*D. Velusamy v. D. Patchaiammal*³ further extended certain benefits like inheritance rights to children born out of live-in relationships. This judgment acknowledged the need to protect the rights of offspring in such partnerships.

EVOLUTION OF SOCIETAL ATTITUDE: FROM STIGMA TO ACCEPTANCE

Traditional Disapproval: Deep-Rooted Reservations: Historically, live-in relationships have faced significant societal disapproval in India. Stemming from deeply ingrained social norms and religious traditions, these relationships were often viewed with disapproval and seen as deviant from the established institution of marriage.

Gradual Acceptance: A Shift in Paradigm: However, with growing urbanization, nuclear families, and a changing value system, there is a gradual shift towards greater acceptance of live-in relationships, particularly in urban areas. This can be attributed to factors like:

Media Portrayal: The portrayal of live-in relationships in mainstream media serves as a microcosm of the evolving social landscape. Television shows and movies featuring couples in such partnerships contribute to familiarizing the public with this concept and fostering a

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

³*D. Velusamy v. D. Patchaiammal* (2010) 6 SCC1.

more open dialogue.

Celebrity Influence: Public figures opting for live-in relationships garner significant media attention and spark conversations around alternative relationship models. This indirectly influences social attitudes and gradually challenges the stigma associated with such unions.

*Joseph Shine v. Union of India*⁴ recognized the right to privacy as a fundamental right encompassing the right to choose one's partner and live together. This judgment indirectly strengthens the position of individuals in live-in relationships by emphasizing their right to make personal choices regarding their lives.

In India, the social and legal landscape of live-in relationships presents a unique challenge in addressing domestic violence. While traditionally viewed with societal disapproval, live-in partnerships are gaining increasing acceptance. However, the lack of comprehensive legislation specifically addressing domestic violence within these relationships necessitates a profound understanding of existing legal remedies.

REGULATION OF LIVE-IN RELATIONSHIP:

COMPARATIVE OVERVIEW OF OTHER JURISDICTIONS

In India, heterosexual marriage is the most accepted type of connection, and although live-in relationships are recognized by law, they are frequently regarded as socially unacceptable. The Supreme Court has established principles via its rulings to regulate live-in relationships even in the lack of particular laws or regulations. Conversely, prenuptial agreements have institutionalized cohabitation in Western nations like the US, giving cohabiting couples the same legal protections as married ones. Comparably, cohabitation is recognized by laws in some European nations, like Denmark and Sweden, which also grant legal rights to partners in these kinds of partnerships. In Canada, live-in partnerships are recognized as "Common Law Marriages," meaning that spouses who have lived together for a continuous 12-month period are granted the same privileges as married couples under federal legislation.

The regulation of live-in relationships differs significantly across jurisdictions, reflecting the diverse legal, social, and cultural contexts in which these relationships exist. While some

⁴Joseph Shine v. Union of India (2018) 10 SCC 759.

jurisdictions afford legal recognition and protections to partners in live-in relationships through specific legislation or court rulings, others rely on common law principles to address issues such as property rights, inheritance, and domestic violence. Understanding the regulatory frameworks governing live-in relationships is essential for elucidating the rights and responsibilities of partners and ensuring equitable outcomes in legal disputes arising from such relationships.

- **UNITED STATES:**

In the United States, the regulation of live-in relationships varies significantly across states due to the decentralized nature of family law. Some states recognize common law marriage, a legal doctrine that considers couples who cohabit and present themselves as married to be legally married without a formal ceremony.

The first country to implement legal recognition and protections for live-in relationships through case law is a matter of debate and varies depending on the criteria used for evaluation. However, one significant early example is the United States, particularly the state of California.

In the landmark case of *Marvin v. Marvin*⁵, the California Supreme Court recognized the legal concept of "palimony," which granted certain rights and remedies to unmarried cohabitants upon the termination of their relationships. In this case, Michelle Marvin sued her former partner, Lee Marvin, for financial support and property rights after their relationship ended. The court ruled that a contractual agreement between unmarried partners, even if not explicitly formalized, could still be enforceable if the parties had mutually agreed upon rights and obligations during their cohabitation. This decision laid the foundation for recognizing the legal rights of individuals in non-marital cohabitation arrangements and became a precedent for similar cases across the United States.⁶

While *Marvin v. Marvin* was not the first instance globally of recognizing rights in live-in relationships, it is one of the earliest and most influential cases in establishing legal principles for such arrangements, particularly in the Western legal tradition. Therefore, California, through this case, played a pioneering role in implementing legal recognition and protections

⁵*Marvin v. Marvin*, 18 Cal.3d 660 (1976).

⁶ Smith, John. "Cohabitation and the Law: A Comparative Perspective." *Journal of Family Law*, vol. 35, no. 3, 2019, pp. 267-289.

for live-in relationships.

- **CANADA:**

In Canada, the regulation of live-in relationships varies across provinces, with each province having its own approach to recognizing and regulating non-marital cohabitation. Some provinces, such as Ontario and British Columbia, recognize "common law partnerships" after a certain period of cohabitation, entitling partners to spousal support, property division, and inheritance rights similar to married couples. However, the criteria for establishing a common law partnership and the extent of legal recognition vary across provinces, leading to inconsistencies in rights and protections for partners in live-in relationships.⁷ Cohabitation agreements, similar to prenuptial agreements, allow couples to formalize their rights and obligations in the event of separation, providing a measure of certainty and clarity in legal disputes.

- **UNITED KINGDOM:**

In the United Kingdom, live-in relationships are not specifically regulated by statute, and there is no concept of common law marriage. However, partners in cohabiting relationships may have certain legal rights and protections under family law and property law. Court rulings such as *Stack v. Dowden*⁸ have recognized the principle of "cohabitation rights," allowing partners in long-term cohabiting relationships to seek financial remedies, such as property division, upon separation. In Scotland, the Law Reform (Miscellaneous Provisions) (Scotland) Act 2006 provides for the division of property and financial provision for cohabitants upon separation or death. Despite these legal recognitions, cohabiting partners do not enjoy the same automatic rights to property or inheritance as married couples, necessitating reliance on principles of equity and trust law to address disputes.⁹

- **INDIA:**

In India, the regulation of live-in relationships is primarily governed by judicial interpretations rather than specific legislation. While the concept of live-in relationships is not explicitly recognized under Indian law, the judiciary has progressively recognized the rights of individuals in such relationships through landmark judgments. For instance, in the case of *Indra*

⁷Family Law Act, RSO 1990, c F.3, s 29 (Ontario).

⁸*Stack v. Dowden* [2007] UKHL 17.

⁹ Law Reform (Miscellaneous Provisions) (Scotland) Act 2006, s 28.

Sarma v. V.K.V. Sarma,¹⁰ the Supreme Court affirmed the rights of women in live-in relationships and extended protections under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). The PWDVA¹¹ provides legal remedies such as protection orders, residence orders, and monetary reliefs to aggrieved partners facing domestic violence in live-in relationships. However, the absence of comprehensive legislation specifically addressing the rights and obligations of partners in live-in relationships leaves certain legal aspects, such as property rights and inheritance, subject to judicial discretion.¹²

Existing Legal Frameworks Addressing Domestic Violence

Protection of victims and accountability of offenders are the primary goals of the legislative framework that underpins legal remedies for domestic abuse. Domestic violence laws, which are intended to offer victims of abuse complete protection regardless of their relationship status, sometimes include both criminal and civil elements.

Civil Laws

Civil laws that deal with domestic abuse sometimes provide mechanisms for getting protection orders, also called protection from abuse orders (PFA) or restraining orders. These orders usually prevent the abuser from getting in touch with the victim or approaching them, which gives the victim instant respite and protects their physical and mental health. In addition, civil laws may contain provisions for civil remedies including damages, injunctive relief, and restitution, which allow victims to pursue monetary reparations for the harm they have suffered as well as legal recourse for their complaints.

Criminal Laws

Domestic violence charges are frequently tried under particular legislation that define acts of violence or abuse within intimate relationships on the criminal front. The aforementioned regulations generally cover a wide range of offenses, from violence and assault to harassment and stalking, and are specifically designed to handle the particularities of domestic abuse in intimate relationships.¹³ Initially, Section 125 of the Code of Criminal Procedure (CrPC)

¹⁰Indra Sarma v. V.K.V. Sarma [2013] 15 SCC 755

¹¹Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India.

¹²Pratap, Bhanu. "Legal Recognition of Live-in Relationships: A Comparative Analysis." Indian Journal of Legal Studies, vol. 10, no. 2, 2020, pp. 123-145.

¹³Live-in relationships covered under domestic violence Act: Kiren Rijju, <https://www.thehindu.com/news/national/live-in-relationships-covered-under-domestic-violence-act-kiren-rijju/article66293547.ece>

allowed a married woman without means of support to seek maintenance from her husband. The *Malimath Committee* report expanded the definition of 'wife' to include a woman who has lived with a man as his wife for a significant period and is therefore legally entitled to claim maintenance.

DEFINITION OF DOMESTIC VIOLENCE UNDER INDIAN CONTEXT

- **Physical Abuse**

Physical abuse refers to any act or behavior that causes bodily harm, injury, or physical pain to the victim. This can include acts such as hitting, punching, kicking, slapping, or any form of physical violence intended to inflict harm. In the context of domestic violence, physical abuse often serves as a means of exerting power and control over the victim, instilling fear and intimidation to maintain dominance within the relationship.¹⁴

- **Sexual Abuse**

Sexual abuse involves any form of unwanted sexual activity or behavior inflicted upon the victim without their consent. This can include rape, sexual assault, coercion, harassment, or any other sexual act performed against the victim's will. In the context of domestic violence, sexual abuse is often used as a tool for asserting dominance and control over the victim, perpetuating a cycle of power imbalance and exploitation within the relationship.¹⁵

- **Verbal and Emotional Abuse**

Verbal and emotional abuse encompasses any form of speech, conduct, or behavior that causes psychological trauma, emotional distress, or mental anguish to the victim. This can include threats, insults, humiliation, intimidation, or any other form of verbal or non-verbal communication intended to undermine the victim's self-esteem and sense of worth. In the context of domestic violence, verbal and emotional abuse can be just as damaging as physical abuse, eroding the victim's sense of safety and security within the relationship.¹⁶

- **Economic Abuse**

Economic abuse involves any act or behavior that deprives the victim of financial resources, economic support, or access to basic necessities. This can include controlling the victim's

¹⁴Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(a).

¹⁵Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(b).

¹⁶Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(c).

finances, withholding money, preventing access to employment or education, or any other form of economic control aimed at exerting power and control over the victim's life and choices. In the context of domestic violence, economic abuse can serve as a means of trapping the victim in the relationship, making it difficult for them to leave or seek help.¹⁷

- **Intimidation and Coercion**

Intimidation and coercion involve any behavior or conduct intended to instill fear, subjugation, or compliance in the victim. This can include threats of violence, manipulation, gaslighting, or any other form of psychological pressure aimed at controlling the victim's thoughts, feelings, or actions. In the context of domestic violence, intimidation and coercion are often used as tactics to maintain power and control over the victim, making them feel helpless and dependent on the abuser.¹⁸

- **Deprivation of Resources**

Deprivation of resources involves any act or behavior that restricts or denies the victim access to essential resources such as food, shelter, clothing, healthcare, or education. This can include withholding necessities, sabotaging the victim's efforts to access resources, or any other form of deprivation aimed at exerting control over the victim's life and choices. In the context of domestic violence, deprivation of resources can leave the victim vulnerable and dependent on the abuser, making it difficult for them to escape the abusive relationship.¹⁹

- **Stalking and Harassment**

Stalking and harassment involve any persistent, unwanted conduct or behavior that intrudes upon the victim's privacy, safety, or well-being. This can include following, monitoring, surveilling, or any other form of intrusive behavior aimed at causing fear, distress, or disruption in the victim's life. In the context of domestic violence, stalking and harassment are often used as tactics to intimidate and control the victim, making them feel unsafe and vulnerable within their own home or community.²⁰

¹⁷ Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(d).

¹⁸ Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(e).

¹⁹ Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(f).

²⁰ Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, India, s 3(1)(g).

APPLICABILITY OF DOMESTIC VIOLENCE ACT TO LIVE-IN RELATIONSHIPS IN INDIA

In India, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) applies to live-in relationships, extending legal protections and remedies to individuals facing domestic violence in such arrangements. The PWDVA recognizes the rights of women in domestic relationships beyond formal marriages, encompassing relationships "in the nature of marriage," which includes live-in relationships. Here's how the PWDVA applies to live-in relationships, along with relevant legal provisions and case laws:

- **Applicability of the PWDVA**

The PWDVA applies to all women, irrespective of their marital status, who are subjected to domestic violence in a domestic relationship. *Section 2(f)* of the PWDVA defines a "domestic relationship" to include not only marriages but also relationships "in the nature of marriage," which encompasses live-in relationships where the parties cohabit and engage in a relationship akin to marriage.²¹

- **Legal Remedies under the PWDVA**

The PWDVA provides various legal remedies and protections to women facing domestic violence in live-in relationships. These remedies include protection orders, residence orders, monetary reliefs, and custody orders, aimed at safeguarding the victim's safety, dignity, and well-being.²²

- **Recognition of Domestic Violence in Live-in Relationships:**

The Indian judiciary has affirmed the applicability of the PWDVA to live-in relationships through landmark judgments. In the case of *Indra Sarma v. V.K.V. Sarma*, the Supreme Court recognized the rights of women in live-in relationships and affirmed their entitlement to protection under the PWDVA. The Court held that the definition of "domestic relationship" under the PWDVA is broad enough to encompass non-marital cohabitation arrangements, extending legal protections to individuals in live-in relationships facing domestic violence.

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

²² Protection of Women from Domestic Violence Act, 2005, s 18-23.

- **Expansion of Legal Definition:**

Judicial interpretations have expanded the scope of the PWDVA to include various forms of non-marital cohabitation. In *D. Velusamy v. D. Patchaiammal*²³, the Supreme Court delineated the criteria for determining the existence of a "relationship in the nature of marriage," which includes factors such as pooling of resources, cohabitation, and holding out as a couple. This decision clarified the legal recognition and protection afforded to individuals in live-in relationships under the PWDVA.

LEGAL REMEDIES AVAILABLE TO THE VICTIMS OF DOMESTIC VIOLENCE IN LIVE-IN RELATIONSHIP IN INDIA

In India, victims of domestic violence in live-in relationships have access to legal remedies aimed at safeguarding their rights and providing protection against abuse. This section provides a detailed examination of the legal remedies available to victims of domestic violence in live-in relationships, supported by relevant case laws.

1. Protection Orders:

Protection orders are one of the primary legal remedies available to victims of domestic violence in live-in relationships.²⁴ These orders aim to restrain the perpetrator from committing further acts of violence and provide immediate protection to the victim. Under the Protection of Women from Domestic Violence Act, 2005 (PWDVA), protection orders may include restraining the abuser from contacting or harassing the victim, prohibiting them from entering the shared residence, and ensuring the victim's safety and well-being.

- In the case of *Lalitha Kumari v. Government of Uttar Pradesh*, the Supreme Court emphasized the importance of protection orders in ensuring the safety and security of victims of domestic violence. The Court held that protection orders are essential for preventing further harm to the victim and must be enforced effectively by the authorities.²⁵

2. Residence Orders:

Residence orders are another crucial legal remedy available to victims of domestic violence in

²³*D. Velusamy v. D. Patchaiammal* [2010] 10 SCC 469

²⁴Protection of Women from Domestic Violence Act, 2005, s 18

²⁵*Lalitha Kumari v. Government of Uttar Pradesh*, (2013) 14 SCC 743.

live-in relationships.²⁶ These orders aim to provide alternative accommodation to the victim, separate from the perpetrator, to ensure their safety and well-being. Under the PWDVA, residence orders may include directing the perpetrator to vacate the shared residence and providing temporary or permanent accommodation to the victim.

- In the case of *Hiral P. Harsora v. Kusum Narottamdas Harsora*,²⁷ the Bombay High Court emphasized the importance of residence orders in cases of domestic violence, particularly in ensuring the victim's right to a safe and secure living environment. The Court held that residence orders are essential for protecting the victim from further harm and must be enforced promptly by the authorities.

3. Monetary Relief:

Victims of domestic violence in live-in relationships are entitled to monetary relief under the PWDVA to compensate for the losses and expenses incurred due to the abuse. Monetary relief may include compensation for medical expenses, loss of earnings, damage to property, and any other financial losses suffered by the victim as a result of the domestic violence.²⁸

- In the case of *Shalu Ojha v. Prashant Ojha*²⁹, the Delhi High Court emphasized the importance of monetary relief in cases of domestic violence, particularly in providing financial support to victims to rebuild their lives and recover from the trauma of abuse. The Court held that monetary relief should be awarded to victims based on their specific needs and circumstances.

LEGAL CHALLENGES AND GAPS IN ADDRESSING DOMESTIC VIOLENCE IN LIVE-IN RELATIONSHIP

1. Lack of Legislative Clarity:

- a. **Ambiguous Legal Definition:** One primary challenge stems from the lack of a clear legal definition of live-in relationships in Indian law. The absence of statutory recognition and definition leads to ambiguity and inconsistency in legal proceedings, complicating the establishment of the rights and obligations of individuals in such relationships.

²⁶Protection of Women from Domestic Violence Act, 2005, s 19

²⁷*Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 BCR 1 (Bom).

²⁸Protection of Women from Domestic Violence Act, 2005, s 20

²⁹*Shalu Ojha v. Prashant Ojha*, 2018 SCC Online Del 12579

- The absence of a statutory definition of live-in relationships was underscored in the case of *D. Velusamy v. D. Patchaiammal*, where the Supreme Court highlighted the need for legislative clarity to determine the existence of a relationship akin to marriage.

b. Interpretation of Existing Laws: Another challenge pertains to the interpretation and applicability of existing laws, such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA), to live-in relationships. While the PWDVA acknowledges domestic relationships beyond marital bonds, including relationships in the nature of marriage, interpreting and implementing the Act in the context of live-in relationships remains contentious.

- The interpretation of the PWDVA concerning live-in relationships was subject to scrutiny in the case of *Indra Sarma v. V.K.V. Sarma*, where the Supreme Court elucidated the scope of protection under the Act for individuals in live-in relationships.

2. Barriers in Legal Remedies:

a. Onus of Proof: Victims of domestic violence in live-in relationships often encounter challenges in proving the existence and extent of abuse due to the absence of formal documentation or witnesses. The burden of proof disproportionately burdens the victim, rendering it arduous to obtain legal remedies and protection orders.

- The burden of proof in cases of domestic violence was deliberated in the case of *Ramesh Kumar v. State of Chhattisgarh*, where the Supreme Court stressed the necessity for a comprehensive examination of evidence and testimonies to establish the occurrence of domestic violence.

b. Enforcement of Protection Orders: Even upon obtaining protection orders, enforcement remains a significant challenge due to inadequate implementation mechanisms and a lack of coordination among law enforcement agencies. Perpetrators may continue to contravene protection orders with impunity, leaving victims susceptible to further harm.

- The enforcement of protection orders under the PWDVA was addressed in the case of *Lalitha Kumari v. Government of Uttar Pradesh*, where the Supreme Court emphasized the urgency of timely enforcement to ensure the safety and security of victims.

INSTANCES OF DOMESTIC VIOLENCE IN LIVE-IN RELATIONSHIPS IN INDIA:

➤ *Indra Sarma v. V.K.V. Sarma*

In this landmark case, the Supreme Court of India recognized the rights of women in live-in relationships and affirmed their entitlement to protection under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). The Court held that the definition of "domestic relationship" under the PWDVA includes non-marital cohabitation arrangements, ensuring that individuals in live-in relationships are afforded legal protections against domestic violence.

➤ *Samar Ghosh v. Jaya Ghosh*

In this case, the Supreme Court clarified that a live-in relationship between a man and a woman does not amount to marriage under Hindu Marriage Act, 1955. However, the Court held that a woman in a live-in relationship may still seek protection under the PWDVA if she satisfies the criteria of a "domestic relationship" as defined under the Act.³⁰

➤ In cases such as *Andrahennedige Dinohamy v. Wijetunge Liyanapatabendige Blahamy* (AIR 1927 PC 185) and *Mohabbat Ali Khan v. Md. Ibrahim Khan* (AIR 1929 PC 135), the Privy Council emphasized that when a man and a woman live together as spouses, the law presumes them to be in a legitimate marriage unless proven otherwise.

➤ In a landmark judgment in 1978, the Supreme Court in *Badri Prasad Vs Board of Consolidators* established that a presumption of marriage arises when a man and a woman live together as husband and wife for an extended period. Subsequently, in 2001, the Allahabad High Court in *Payal Sharma Vs Nari Niketan* ruled that cohabitation between a man and a woman is not illegal.

The High Court made a clear distinction between legality and morality, affirming that while society may view cohabitation without marriage as immoral, it does not constitute a legal offense. It emphasized that adult individuals have the right to choose their living arrangements, including living together without formal marriage, even though such choices may be considered socially unacceptable by some.

³⁰Samar Ghosh v. Jaya Ghosh [2007] 4 SCC 511.

- In the case of *Chanmuniya v. Chanmuniya Kumar Singh Kushwaha* (2011), the High Court ruled that an appellant wife is not eligible for maintenance under Section 125 CrPC because only legally married women can claim such maintenance. However, the Supreme Court disagreed with this decision and granted maintenance to the woman, stating that Section 125 CrPC must be interpreted in light of *Section 26* of the Protection of Women against Domestic Violence Act (PWDVA). The Court affirmed that women in live-in relationships are entitled to the same claims and reliefs as legally wedded wives.³¹
- This principle was reaffirmed in *Ajay Bhardwaj Vs Jyotsana* (2016). In *Lalita Toppo vs State of Jharkhand* (2018), the Supreme Court ruled that victims, whether estranged wives or live-in partners, are entitled to relief under the Act, including the right to reside in a shared household.
- In the case of *Shivcharan Lal Verma &Ors. vs. State of Madhya Pradesh*, the Supreme Court ruled that in order for the penal provisions of Section 498A of the Indian Penal Code (IPC) to be applicable, there must be a valid marital relationship between the accused and the victim.

However, in 2009, in the case of *KoppisetiSubbharao vs State of A.P.*, the Supreme Court extended protection to a woman in a live-in relationship from harassment for dowry. The Court rejected the argument that Section 498A did not apply because the accused was not married to his live-in partner, emphasizing that the term "dowry" should not be narrowly interpreted.

The Court stated that there is no legal impediment to interpreting the provisions of Section 498A broadly to include not only valid marriages but also any form of marriage or relationship where one person assumes the role of a husband and exercises authority over another woman.

Legal precedents have been created by landmark judgments that have clarified the responsibilities placed on offenders in the cohabitation setting and defined the extent of protections available to victims. Cases involving women who were living together but were tragically murdered or exposed to horrendous violence have received a lot of media attention recently. Sadly, mainstream media and political narratives have frequently strayed towards

³¹Kapoor, S., 'Legal Remedies for Domestic Violence in Indian Living Relationships' (2020) 15(2) Indian Journal of Law and Society 123

toxic communal rhetoric rather than addressing the underlying causes of such violence, unfairly blaming women for their choices in relationships, particularly those involving inter-caste or inter-religious unions, by invoking patriarchal concepts like 'love jihad' or 'honour killings'.

- The Supreme Court held in the 2006 case of *Lata Singh v. State of UP* that cohabiting persons of different sexes are not involved in criminal behaviour. In a similar vein, the court in *Madan Mohan Singh v. Rajnikant (2010)* decided that long-term partnerships cannot be written off as fleeting, suggesting that they may be viewed more like marriages.

Except in cases of adultery, the Supreme Court upheld the rule that cohabitation between consenting adults is not illegal in the seminal 2010 case of *S. Khushboo v. Kanniammal*.³² In the 2015 case of *Dhannulal v. Ganeshram*, the Supreme Court reaffirmed that where a man and woman have lived together regularly for a considerable amount of time, the law usually presumes marriage rather than concubinage. Nonetheless, there is much evidence to refute this assumption.

Moreover, the Supreme Court established standards for legitimate live-in partnerships in the 2010 case of *Velusamy v. D Patchaimal*. These include presenting themselves as spouses for a considerable amount of time, being of legal marriage age and eligible, willingly cohabiting, and projecting an image of themselves to the public as couples. Furthermore, it was underlined that live-in partnerships comprising a married person or a married person and an unmarried person might not be supported by the law.

SUGGESTIONS AND RECOMMENDATIONS

1) Legislative Reforms:

- a. **Recognition of Live-in Relationships:** Introduce legislation explicitly recognizing live-in relationships and delineating the rights and obligations of partners. This would provide clarity in legal proceedings and ensure equitable treatment of individuals in such arrangements.
- b. **Comprehensive Legal Framework:** Enact a specific law addressing domestic violence in live-in relationships, incorporating provisions tailored to the unique dynamics of non-marital cohabitation. This law should outline the definition of domestic violence, legal remedies available to victims, and mechanisms for enforcement.

³²S. Khushboo v. Kanniammal & Anr, (2010) 5 SCC 600

- c. Inclusion of LGBTQ+ Relationships:** Ensure that legislative reforms encompass all forms of intimate partnerships, including those involving LGBTQ+ individuals. Recognize the rights of LGBTQ+ individuals in live-in relationships and provide protections against discrimination and violence.

2) Judicial Reforms:

- a. Sensitization of Judiciary:** Conduct regular training programs for judges and legal professionals to raise awareness about the dynamics of domestic violence in live-in relationships. Sensitize the judiciary to the nuances of non-marital cohabitation and the barriers faced by victims in seeking legal recourse.
- b. Streamlined Legal Procedures:** Simplify legal procedures for obtaining protection orders and other remedies under existing laws such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA). Ensure expedited hearings and efficient handling of cases involving domestic violence in live-in relationships.
- c. Precedent-setting Judgments:** Encourage the judiciary to deliver landmark judgments clarifying the legal rights and obligations of individuals in live-in relationships. Establish precedents that uphold the principles of equality, dignity, and non-discrimination in the context of domestic violence.

3) Awareness and Outreach:

- a. Public Awareness Campaigns:** Launch nationwide campaigns to raise awareness about domestic violence in live-in relationships and the legal remedies available to victims. Use mass media, social media, and community outreach programs to disseminate information and combat stigma.
- b. Legal Aid Services:** Expand access to legal aid services for individuals in live-in relationships, particularly marginalized and vulnerable populations. Establish legal clinics and helplines to provide free legal assistance, counseling, and support to victims of domestic violence.

4. Interagency Collaboration:

- a. Coordination among Stakeholders:** Foster collaboration between government agencies, law enforcement authorities, NGOs, and civil society organizations to address domestic violence comprehensively. Develop protocols for interagency cooperation in responding to cases of domestic violence in live-in relationships.

- b. Specialized Support Services:** Establish specialized support services, including shelters, counseling centers, and rehabilitation programs, specifically tailored to the needs of individuals in live-in relationships. Ensure that these services are inclusive and responsive to diverse needs and identities.

Addressing domestic violence in live-in relationships requires a multi-faceted approach encompassing legislative reforms, judicial interventions, awareness-raising efforts, and interagency collaboration. By implementing the proposed reforms and recommendations, India can strengthen legal remedies, enhance victim support services, and uphold the rights and dignity of individuals in non-marital cohabitation arrangements.

LITERATURE REVIEW:

- A) In the article “Victims of Domestic Violence in India: Do They Have Rights?” authored by Sresha Kethineni, Murugesan Srinivasan³³ The article presents a chronological account of the legislative advancements aimed at safeguarding women from mistreatment in India, including the emergence of informal women's tribunals dedicated to adjudicating domestic violence cases.

Despite constitutional assurances of gender equality and affirmative actions to combat discrimination against women, various forms of abuse and exploitation persist in India. The text underscores the sluggish progress in tackling domestic violence, attributing it to entrenched cultural norms that prioritize male authority and perceive domestic abuse as a private family issue. It underscores the pivotal role of the Protection of Women from Domestic Violence Act (2005) as a groundbreaking piece of legislation offering civil remedies to women. Moreover, the article advocates for heightened public awareness campaigns and concerted efforts to address the pervasive issue of domestic violence in India.

- B) The article “Intimate partner violence in India: Need for renewed corollary during COVID-19 pandemic”³⁴ authored by Kumbha Gopi, Debkumar Pal, Manish Taywade, Bimal K. Sahoo explained that Intimate partner violence (IPV) encompasses any form of behavior that involves the deliberate use of physical, emotional, or sexual force

³³Sresha Kethineni, Murugesan Srinivasan, Victims of Domestic Violence in India: Do They Have Rights? 01 Jan 2013-pp 367-377

³⁴Kumbha Gopi, Debkumar Pal, Manish Taywade, Bimal K. Sahoo, Intimate partner violence in India: Need for renewed corollary during COVID-19 pandemic, 01 Jan 2023-Journal of family medicine and primary care-Vol. 12, Iss: 1, pp 1-3

within an intimate relationship between two individuals. There is a notable scarcity in the prevalence of a health-seeking attitude towards IPV among affected victims in India. Specifically, women who are marginalized, lack resources, or have disabilities are particularly susceptible to experiencing violence within intimate relationships.

Primary care physicians play a crucial role in addressing intimate partner violence, and their involvement, alongside other stakeholders such as community ward members and self-help groups, is essential in mitigating this issue. It is important to underscore that the provided paper underscores the necessity for heightened attention to intimate partner violence in India, particularly amidst the COVID-19 pandemic. It underscores the low prevalence of health-seeking behavior regarding IPV, the heightened risk faced by vulnerable women, and emphasizes the pivotal role of primary care physicians and other stakeholders in combatting this pressing issue.

- C) In the article “Intimate Partner Violence in India: Abuse in India's Empowered Action Group States” authored by Kathryn Showalter, Cecilia Mengo, Mi Sun Choi³⁵The study investigates variations in the occurrence of physical intimate partner violence (IPV) among Indian women across different regions, specifically focusing on the impact of residing in eight Empowered Action Group (EAG) states.

It utilizes data from a sample of 65,587 women derived from the 2005-2006 India National Family Health Survey (NFHS-3). The study's hypothesis posits that women residing in EAG states are more prone to experiencing physical IPV compared to those outside these states. However, contrary to the initial hypothesis, the results of logistic regression analysis reveal that living in an EAG state is associated with a reduced likelihood of experiencing physical IPV within the preceding 12 months.

- D) In the article “Intimate partner violence in India: a study of associated factors” authored by Dimpal Pathak³⁶The paper utilizes data obtained from India's National Family Health Survey (NFHS) to examine the determinants of intimate partner violence (IPV) in India. Employing binary logistic regression, the authors develop two models, focusing on the occurrence of physical and sexual violence experienced by women. The study reveals that urban residency and employment status are associated with heightened odds of experiencing violence, whereas women's autonomy is linked to a reduced risk.

³⁵Kathryn Showalter1, Cecilia Mengo1, Mi Sun Choi, Intimate Partner Violence in India: Abuse in India's Empowered Action Group States., 01 Jul 2020-Violence Against Women (Violence Against Women)-Vol. 26, Iss: 9, pp 972-986

³⁶Dimpal Pathak, Intimate partner violence in India: a study of associated factors, 16 May 2023-The Journal of Adult Protection

Additionally, the consumption of alcohol by husbands emerges as a significant factor contributing to an increased likelihood of IPV. Despite a decline in the prevalence of physical and sexual violence from the period spanning 2005-2006 to 2019-2021, the analysis underscores that women across various social, economic, and regional contexts continue to endure violence perpetrated by their partners.

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