

Rights of Progeny Born out of Live-in Relationships in India: A Socio-Legal Analysis

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Abstract

Live-in relationships have emerged as a significant form of intimate partnership in contemporary India, influenced by urbanisation, education, economic independence, migration and changing ideas of autonomy and family. Although Indian law does not confer full matrimonial status on such relationships, courts have increasingly acknowledged their social reality for limited protective purposes. The legal position of children born from such relationships remains complex because issues of parentage, legitimacy, maintenance, custody, guardianship, inheritance, identity and social acceptance are often addressed through scattered statutory provisions and case-specific judicial interpretation. This paper examines the rights of children born from live-in relationships through a socio-legal and constitutional framework. It argues that the child must not suffer any civil, social or economic disadvantage because of the non-marital character of the parents' relationship. The analysis draws upon constitutional guarantees of equality, dignity and child welfare; statutory provisions on maintenance, birth registration, education and guardianship; and judicial developments concerning long cohabitation, legitimacy and inheritance. The paper also integrates feminist jurisprudence by showing how stigma attached to non-marital birth reflects patriarchal control over women's sexuality and family legitimacy. The study concludes that India requires clearer legislative protection so that children born from live-in relationships receive equal recognition, effective maintenance, secure identity documentation, welfare protection and a dignified social status.

Keywords: Live-in relationship, child rights, legitimacy, parentage, inheritance, maintenance, custody, feminist jurisprudence, socio-legal analysis, India.

1. Introduction

The institution of marriage has historically occupied a central place in Indian family law and social life. However, contemporary India has witnessed visible changes in intimate relationships and household structures. Live-in relationships, although still socially contested in many communities, have become part of the wider transformation of family, autonomy and gender relations. Their growth is linked with urban migration, higher education, economic participation of women, delayed marriage and the increasing assertion of individual choice.

A live-in relationship may broadly be understood as a domestic arrangement in which two adults cohabit in an intimate relationship without solemnising a formal marriage. Indian law does not provide a comprehensive statute governing live-in relationships. Nevertheless, limited recognition has been developed through the Protection of Women from Domestic Violence Act, 2005, which refers to a "relationship in the nature of marriage", and through judicial decisions recognising long cohabitation for specific legal consequences.²

The position of children born from such relationships demands a child-centred approach. The child is not responsible for the form of the parents' relationship and must not be denied dignity, care, identity or legal protection. Constitutional morality, equality, dignity and welfare must therefore override social stigma or moral disapproval.

1.1 Changing Family Structures and Constitutional Morality

Indian family forms are no longer confined to the conventional model of a legally married heterosexual couple living with biological children. Single-parent families, blended families, adoptive families, kinship-care arrangements and unmarried partnerships have become part of social reality. The Supreme Court has recognised that atypical family units also deserve legal protection and that family law cannot remain frozen in one traditional model.¹⁵

This shift is relevant to children born from live-in relationships because their rights cannot depend on social approval of their parents' relationship. Constitutional morality requires that state institutions and courts protect vulnerable individuals against stigma, exclusion and arbitrary discrimination. In matters concerning children, the best-interest principle must be treated as the guiding standard.

1.2 Legal Recognition of Live-in Relationships

Live-in relationships are not equivalent to marriage in all legal respects. However, courts have recognised that certain long-term, voluntary and marriage-like cohabiting relationships may attract limited legal consequences. The Domestic Violence Act protects women in domestic relationships, including relationships in the nature of marriage, for the purpose of civil reliefs. At the same time, the Supreme Court has clarified that such limited protection does not amount to full legal recognition of unmarried couples as married spouses.¹⁴

The doctrine of presumption of marriage from long cohabitation has also been used to protect social and property interests where a man and woman have lived together for a considerable period and were treated by society as spouses. This presumption is rebuttable, but it remains important in disputes concerning legitimacy and inheritance of children.¹²

2. Statement of the Problem

Children born from live-in relationships face a layered problem. In theory, Indian constitutional law protects dignity, equality and welfare of every child. In practice, the absence of a clear statutory framework creates uncertainty regarding parentage, legitimacy, maintenance, custody, guardianship, inheritance, birth registration and social acceptance. The child may be subjected to social stigma attached to non-marital birth, while the mother may face economic and evidentiary burdens in proving the relationship and securing legal relief.

The problem becomes more serious where the male partner denies paternity, refuses maintenance, withholds identity documentation or where the extended family contests inheritance. Existing laws provide partial remedies, but they do not directly address the full range of issues arising from children born from live-in relationships. This creates a gap between constitutional ideals and lived realities.

3. Research Objectives

- To examine the legal status of children born from live-in relationships in India.
- To analyse the rights of such children in relation to parentage, legitimacy, maintenance, custody, guardianship, inheritance, identity and education.
- To evaluate the role of Indian courts in protecting the rights and welfare of children born from non-marital relationships.
- To examine the social stigma, gendered burdens and practical challenges faced by such children and their mothers.
- To identify gaps in existing law and suggest reforms for a child-centred and equality-based legal framework.

4. Research Questions

- What is the legal status of children born from live-in relationships in India?
- Are such children entitled to maintenance, custody protection, guardianship, identity documents and inheritance rights?

- How have Indian courts interpreted long cohabitation, parentage and legitimacy in cases relevant to children born outside formal marriage?
- What socio-legal challenges are faced by children born from live-in relationships?
- What statutory and policy reforms are necessary to secure their dignity, welfare and equality?

5. Research Methodology

This study adopts a doctrinal and socio-legal research methodology. The doctrinal component examines constitutional provisions, statutes, judicial decisions and legal principles relating to child rights, live-in relationships, parentage, legitimacy, maintenance and inheritance. The socio-legal component examines how law interacts with stigma, family structures, gender inequality, economic dependence and access to remedies.

Primary sources include the Constitution of India, the Protection of Women from Domestic Violence Act, 2005, the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Guardians and Wards Act, 1890, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Right of Children to Free and Compulsory Education Act, 2009 and the Registration of Births and Deaths Act, 1969 as amended in 2023.^{1, 2, 3, 5, 6, 7, 8, 9}

Secondary sources include books, scholarly articles, commentaries, reports and legal databases. The research is limited to doctrinal and analytical study and does not include field-based empirical research. Its focus is confined to the Indian legal position with selected comparative references.

6. Conceptual and Theoretical Framework

The concept of “legitimacy” has traditionally been tied to lawful marriage. This approach reflects a moral and patriarchal understanding of family, where the child’s legal status was historically linked to the sexual and marital status of the parents. Modern child-rights jurisprudence rejects this logic. A child is an independent rights-bearing person and cannot be penalised for circumstances of birth.

Parentage, rather than marital status, should be the central legal basis for rights. Once biological, legal or acknowledged parentage is established, the child’s claims to maintenance, care, identity, education and welfare should follow. This approach aligns with Article 14 and Article 21 of the Constitution and the best-interest principle recognised in child welfare statutes.^{1, 7}

6.1 Feminist Jurisprudence and the Critique of Legitimacy

A feminist reading of the issue shows that stigma against children born from non-marital relationships is closely connected with the policing of women’s sexuality. Patriarchal family structures often treat marriage as the only legitimate site for sexuality, reproduction and motherhood. As a result, women in live-in relationships and their children may face moral judgment, exclusion and economic insecurity.

Feminist jurisprudence challenges this by shifting attention from moral regulation to substantive equality. The law should not punish the child or the mother because the relationship does not conform to traditional marriage. Instead, it should recognise caregiving, dependence, economic vulnerability and the unequal social burden placed on women. A child-centred approach and a feminist approach therefore support each other: both reject stigma and insist on dignity, care and material protection.

7. Legal Framework in India

The constitutional framework is the foundation for protecting children born from live-in relationships. Article 14 guarantees equality before law and equal protection of laws. Article 15 prohibits discrimination and supports protective measures for vulnerable groups. Article 21 protects life, personal liberty, dignity, privacy and identity. Article 39(f) directs the State to ensure that children develop in conditions of freedom and dignity and are protected against exploitation and moral or material abandonment.¹

The Protection of Women from Domestic Violence Act, 2005 is relevant because it recognises domestic relationships, including relationships in the nature of marriage, for limited protective purposes. It also defines “child” broadly and allows reliefs that may indirectly support children in the shared household.²

Section 16 of the Hindu Marriage Act, 1955 protects children of void and voidable marriages by conferring legitimacy for limited purposes. Although this provision does not expressly cover live-in relationships, it reflects an important principle: children should not be penalised because of defects in the adult relationship.³

Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding broadly to section 125 of the Code of Criminal Procedure, recognises maintenance claims of legitimate and illegitimate minor children who are unable to maintain themselves. This provision is significant because it treats maintenance as a welfare remedy rather than as a reward for marital legitimacy.⁵

The Guardians and Wards Act, 1890 and the Juvenile Justice Act, 2015 emphasise welfare, safety, dignity and best interest of the child. These statutes support the view that custody and guardianship disputes should be resolved on the basis of care, stability and protection rather than social disapproval of the parents’ relationship.^{6, 7}

The Registration of Births and Deaths (Amendment) Act, 2023 strengthens identity rights by recognising reporting of birth in cases involving a single parent or unwed mother. This is particularly important for children born in non-marital settings because birth certificates are linked to schooling, identity documents, welfare schemes and public services.⁹

8. Judicial Approach and Case-Law Analysis

Indian courts have developed protection through several connected doctrines. The first is the presumption of marriage from long cohabitation. In *Badri Prasad and Tulsia*, the Supreme Court recognised that long and continuous cohabitation may raise a presumption of marriage. *Kattukandi Edathil Krishnan* reaffirmed that such presumption is rebuttable but legally significant.^{10, 11, 12}

Supriyo v Union of India is relevant because the Supreme Court acknowledged that unmarried relationships receive limited protection under specific welfare legislation, including the Domestic Violence Act. The case should not be overstated as granting full marital status to unmarried couples. Its relevance lies in recognising the social reality of intimate non-marital relationships while maintaining the limits of statutory recognition.¹⁴

Deepika Singh v Central Administrative Tribunal is important for its recognition of atypical family structures. Although the case concerned maternity leave, its reasoning supports the broader principle that law must respond to changing family realities and should not treat only one family form as legitimate.¹⁵

Revanasiddappa v Mallikarjun must be interpreted carefully. The Supreme Court protected the rights of children born from void or voidable marriages in relation to the property of their parents. The Court did not create an independent right in the property of other coparceners. Therefore, the case supports a child-centred approach but cannot be used to claim unrestricted coparcenary rights for children born outside a valid marriage.¹⁶

Vithoba s/o Senfal Satbhakare v Chandrabhagabai, an order of the Supreme Court dated 28 November 2024, may be used as a supporting authority on the rights of children described as illegitimate in relation to their father’s share, especially after *Revanasiddappa*. However, it should not be presented as a direct live-in relationship case unless the factual matrix clearly shows such a relationship.¹⁷

Rajeshbabu v Muralikrishnan should also be used with caution. It appears to concern proof of parentage, documentary evidence and claims over deposit/nominee-related money after the death of the mother. It should not be cited as a direct authority on live-in relationships. Its limited relevance is evidentiary: birth certificates, school records, oral evidence and conduct may assist in establishing parentage or family status.¹⁸

For custody and welfare principles, the paper now relies on a fully traceable authority, *Gaurav Nagpal v Sumedha Nagpal*, where the Supreme Court reiterated that the welfare of the child is the paramount consideration in custody matters.¹⁹

9. Rights of Children Born from Live-in Relationships

The right to parentage and legal identity is the starting point. A child born from a live-in relationship should have access to birth registration, documentation and legal recognition of parentage where it can be established through records, acknowledgment, DNA evidence or other legally acceptable material.

The right to maintenance follows from the welfare obligation of parents. Where parentage is established, a child should be entitled to financial support irrespective of whether the parents were married. Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is therefore important because it expressly includes legitimate and illegitimate children unable to maintain themselves.⁵

Inheritance remains the most complex area. Revanasiddappa provides a useful child-protective principle in cases of void or voidable marriages, but the extension of such reasoning to live-in relationships depends on proof of parentage and the applicable personal law. A clear statutory framework is needed to avoid inconsistent and prolonged litigation.¹⁶

Custody and guardianship must be guided by welfare, stability, safety, education, emotional development and continuity of care. The parents' non-marital relationship should not itself be treated as a negative factor against the child or the caregiving parent.^{6, 7}

The child's right to education, dignity and non-discrimination is protected by constitutional principles and the Right of Children to Free and Compulsory Education Act, 2009. Schools and public authorities should not deny admission or welfare benefits because the child was born from a non-marital relationship.^{1, 8}

The right to birth registration is essential because it enables access to identity documents, education, passports, welfare schemes and official recognition. The 2023 amendment to the Registration of Births and Deaths Act provides an important statutory basis for recognising birth reporting by a single parent or unwed mother.⁹

10. Socio-Legal Challenges

Children born from live-in relationships may face social stigma attached to non-marital birth. In conservative settings, the stigma may affect schooling, social acceptance, family relations and psychological well-being. The law must therefore operate not merely as a technical system of rights but also as a tool for dignity and social inclusion.

Birth registration and identity documents can become difficult where the male partner denies paternity or refuses to cooperate. These difficulties affect schooling, health care, passport applications, welfare benefits and future legal claims. The availability of single-parent reporting under the amended birth registration law is a useful corrective, but awareness and implementation remain important.

Inheritance disputes often arise when the extended family refuses to recognise the child. Such disputes may involve denial of parentage, challenge to documents or exclusion from property. The issue becomes more complicated where joint family property is involved, because the Supreme Court's protection in Revanasiddappa is carefully limited to the parents' property and does not grant an independent right in other coparceners' shares.¹⁶

Economic vulnerability is another serious challenge. If the male partner refuses responsibility, the child and the mother may face financial hardship. Maintenance proceedings may be delayed by evidentiary disputes, lack of legal aid and social pressure. This demonstrates the gendered nature of the problem: the burden of care, stigma and litigation often falls disproportionately on women.

Lack of legal awareness further weakens access to remedies. Many mothers are unaware of maintenance provisions, birth registration options, legal aid services and custody remedies. Social pressure may also discourage them from approaching courts.

11. Comparative Perspective

Many common law jurisdictions have gradually moved away from the historical doctrine of illegitimacy. The legal trend is to recognise children on the basis of parentage and welfare rather than the marital status of parents. This approach reflects the idea that children should not carry legal disabilities arising from adult relationships.

In Australia, de facto relationships and parentage-based family law principles offer broader recognition of non-marital families. In Canada and New Zealand, modern parentage statutes have also moved toward equality of children irrespective of whether their parents are married. These comparative models suggest that India should adopt a clearer statutory approach to parentage, maintenance, custody, identity and inheritance.

12. Critical Analysis

The main weakness in Indian law is the gap between judicial recognition and legislative silence. Courts have used constitutional values, welfare principles and presumptions of marriage to protect vulnerable children, but these protections are indirect and case-specific. A child's rights should not depend on uncertain litigation about the character of the parents' relationship.

The tension between social morality and child rights is central. Social disapproval of live-in relationships cannot justify denying a child dignity, identity, maintenance or welfare. Feminist jurisprudence also shows that such stigma is not neutral; it often reflects patriarchal control over women's sexuality and motherhood. A rights-based approach must therefore protect both the child and the caregiving mother from social and economic exclusion.

Inheritance law remains underdeveloped. While judicial decisions have taken progressive steps in relation to children of void or voidable marriages, the legal position of children born from live-in relationships requires express statutory clarification. Without this, disputes over parentage and property will continue to produce inconsistent outcomes.

13. Suggestions and Recommendations

First, India should enact clear statutory provisions addressing the rights of children born from live-in relationships. The law should clarify parentage, maintenance, custody, guardianship, birth registration, education, welfare and inheritance after parentage is established.

Second, all children should be treated equally irrespective of the marital status of their parents. The law should expressly state that non-marital birth cannot be used to deny dignity, identity, education, maintenance or welfare benefits.

Third, inheritance rights require careful clarification. The law should recognise the child's right to inherit from the property of both parents once parentage is legally established, while also specifying the limits in relation to joint family or coparcenary property to avoid confusion.

Fourth, birth registration procedures should be simplified for single mothers, disputed parentage and non-marital births. Public authorities should be trained to implement the amended registration framework without moral judgment or procedural obstruction.

Fifth, legal aid, counselling, school sensitisation and public awareness programmes should be strengthened. Social reform is necessary because legal recognition alone cannot remove stigma unless institutions and communities understand the child's independent dignity.

Finally, courts and policy-makers should consistently apply the best-interest principle. The child's welfare, safety, identity and future security must remain superior to moral disapproval of adult relationships.

14. Conclusion

The rights of children born from live-in relationships in India must be understood through a constitutional, child-centred and feminist framework. The law has moved away from rigid moralism in some areas, but the protection remains incomplete. Courts have recognised long cohabitation, atypical family structures and child-protective

interpretations in several cases. However, the absence of comprehensive legislation leaves children dependent on uncertain litigation.

A child born from a live-in relationship should not be treated as socially or legally inferior. The child is entitled to dignity, identity, maintenance, education, care, protection and welfare. The relationship between the parents may raise evidentiary questions, but it should never reduce the child's status as a rights-bearing person.

The way forward is a statutory framework that recognises parentage, protects maintenance and identity, clarifies inheritance, strengthens custody and guardianship standards and removes institutional discrimination. Indian law must stop judging the child through the moral status of the parents and must instead protect every child's equal right to a secure and dignified future.

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