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THE SHADOW MARRIAGES OF INDIA: LEGAL AMBIGUITY, POLITICAL ANXIETY, AND THE RISE OF LIVE-IN COHABITATION

***¹Aastha Sahu, ²Ananta Kumari, ³Mouli Chokroborty, ⁴Dr.Ajay Kumar Shukla**

^{1,2}Student of BA 5th Sem, ³Assistant Professor (Dept. of Political Science), ⁴Professor (Dept. of Hindi) ^{1,2,3,4}Kalinga University, Raipur, Chhattisgarh.

Article Received: 22 October 2025 *Corresponding Author: Aastha Sahu

Article Revised: 10 November 2025 Student of BA 5th Sem Kalinga University, Raipur, Chhattisgarh.

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ABSTRACT

The regulation of intimate partnerships in India reveals tensions between constitutional morality, political interests, and entrenched social norms. Live-in relationships challenge the centrality of marriage and have invited judicial intervention in the absence of legislative clarity. Unregistered marriages, though socially sanctioned, remain legally ambiguous and expose contradictions in India's pluralistic legal system. This paper examines how electoral politics, identity-based mobilisation, judicial activism, and gendered socio-legal dynamics interact to shape the evolving framework for intimate partnerships. Through an analysis of constitutional protections, statutory developments, and landmark judicial decisions, the article argues that India's governance of intimate life is shaped by ideological struggles over modernity, cultural nationalism, and state authority. A comparative discussion of live-in relationships and unregistered customary marriages demonstrates inconsistencies in regulatory priorities. The paper concludes that a coherent, rights-based legal framework addressing both live-in and unregistered marital unions is essential for gender justice and democratic legitimacy.

INTRODUCTION

The transformation of intimate partnerships in India represents a unique point of intersection between law, politics, and socio-cultural change. While marriage continues to dominate as the normative institution regulating sexuality, reproduction, and kinship, alternative forms of relationships especially live-in relationships and unregistered customary marriages are becoming increasingly visible. Live-in relationships, associated with autonomy and urban

modernity, have generated extensive judicial attention (*Khushboo v. Kanniammal*, 2010). In contrast, unregistered marriages continue to thrive particularly in rural and tribal settings, where customary ritual rather than state approval defines marital legitimacy (Pathak, 2018).

These parallel forms of partnership reveal contradictions in India's regulatory framework. Judicial decisions emphasise the centrality of constitutional morality, especially the autonomy and dignity enshrined in Article 21 of the Constitution (Justice K.S. Puttaswamy v. Union of India, 2017). However, legislative bodies remain reticent due to political and cultural pressures. This creates an inconsistent system in which forms of intimacy that deviate from tradition face heightened scrutiny, while customary but undocumented marriages remain politically tolerated despite their legal vulnerabilities. A comparative analysis of these forms of relationships provides insight into how legal recognition functions as a politically negotiated process.

Research Methodology

This study adopts a qualitative research methodology to examine the political and legal regulation of live-in relationships and unregistered marriages in India. Primary legal sources including constitutional provisions, statutory frameworks such as the Protection of Women from Domestic Violence Act (2005) and the Hindu Marriage Act (1955), and landmark judgments like *Khushboo v. Kanniammal* (2010) and *Puttaswamy v. Union of India* (2017) form the core of analysis. A socio-legal approach supplements doctrinal research by examining political debates, public discourse, and cultural narratives surrounding non-marital partnerships. Secondary academic literature helps contextualise how social norms, identity politics, and gendered structures influence legal interpretation. A comparative thematic analysis is used to contrast live-in relationships and unregistered marriages, allowing identification of patterns of legal vulnerability and political resistance. This multi-layered methodology enables a holistic understanding of how law, politics, and culture intersect to shape the governance of intimate life in India.

Literature Review

Existing scholarship highlights marriage as the dominant framework shaping Indian social and legal norms (Uberoi, 1993; Nair, 2006). Researchers such as Agnes (2006) and Pathak (2018) show that women in non-formal unions whether live-in partnerships or unregistered customary marriages face heightened vulnerabilities due to legal ambiguity. Studies on live-in relationships link them to urbanisation, autonomy, and shifting gender roles, provoking

cultural and political anxieties (Desai, 2014; Chatterjee, 1993). Political analyses, including Roy (2013), examine how identity-based mobilisation influences public narratives around intimate autonomy, especially in inter-faith or inter-caste unions. Legal scholars emphasise judicial activism, noting the judiciary's reliance on constitutional morality to protect cohabiting couples (*Khushboo*, 2010; Choudhary, 2020). However, existing research typically treats live-in relationships and unregistered marriages separately. Few studies compare them systematically, leaving a gap this research addresses by situating both within a unified political-legal framework.

Identity, State Legitimacy, and Moral Governance

Live-in relationships challenge the ideological frameworks of conservative cultural nationalism and community-based expectations. Political actors dependent on traditional constituencies resist reforms that may appear to endorse cohabitation outside marriage. Discourses portraying live-in relationships as Westernised, immoral, or culturally subversive shape legislative hesitation (Desai, 2014). At the same time, identity politics especially regarding inter-faith or inter-caste relationships turns intimate partnerships into political battlegrounds, as evidenced by the rhetoric surrounding so-called "love jihad" (Roy, 2013).

Electoral politics, cultural nationalism, and generational divides shape state responses. While younger populations increasingly value autonomy, conservative communities frame non-marital cohabitation as destabilising. Patriarchal political culture reinforces these divisions: women's autonomy in intimate life is often portrayed as requiring state protection, enabling paternalistic regulation (Agnes, 2006). Unregistered marriages, despite significant legal challenges for women, receive little political attention due to their alignment with cultural norms.

Judicial Politics: Constitutional Morality as a Counterweight

In the face of legislative reluctance, Indian courts have emerged as the primary agents shaping rights related to live-in relationships. The Supreme Court has repeatedly affirmed the right of consenting adults to cohabit (*Lata Singh v. State of Uttar Pradesh*, 2006). In *S. Khushboo v. Kanniammal* (2010), the Court clarified that live-in relationships fall within the scope of personal liberty under Article 21. Judicial expansion of the right to privacy in *Justice K.S. Puttaswamy v. Union of India* (2017) further strengthened the constitutional foundation for intimate autonomy.

The Protection of Women from Domestic Violence Act (2005) provides statutory support by recognising “relationships in the nature of marriage” (Indra Sarma v. V.K.V. Sarma, 2013). However, the requirement that live-in partnerships resemble marriage introduces inconsistencies and reinforces heteronormative expectations. At the same time, judicial approaches vary across states. High Courts in conservative regions sometimes deny protection to couples on grounds of morality, revealing how judicial decisions, like legislative action, can be influenced by socio-political environments (Choudhary, 2020).

Legal Framework Governing Live-In and Unregistered Marriages

The constitutional foundation for recognising intimacy lies in Article 21, which guarantees the right to life and personal liberty. Judicial interpretation has expanded these rights to include sexual autonomy, privacy, and freedom of partner choice (Puttaswamy, 2017). The legitimacy of children born from live-in relationships has been upheld (Tulsa v. Durghatiya, 2008), further reinforcing the evolving legal structure.

Key statutory frameworks include the Protection of Women from Domestic Violence Act (2005) and Section 125 of the Criminal Procedure Code (1973), which courts have interpreted to provide maintenance to women in long-term cohabitations. The Hindu Marriage Act (1955) recognises customary marriages even without registration, provided essential ceremonies are proven. This framework, however, places a disproportionate burden on women to produce evidence of rituals, leaving them vulnerable in disputes.

Unregistered customary marriages expose the inconsistency of India's legal system: cultural acceptance often supersedes legal mandates. State enforcement of compulsory registration remains weak despite legislation recommending universal registration. The political sensitivity of interference in religious personal law further complicates legislative reform (Dhanda, 2017).

The Uttarakhand Uniform Civil Code (2024) represents the first comprehensive attempt to regulate both live-in relationships and marriages. While the law seeks to strengthen protections and minimise exploitation, its mandatory registration clause raises concerns regarding privacy and state surveillance (Chatterjee, 1993).

Comparative Analysis: Live-In Cohabitation and Unregistered Marriage

A comparative analysis reveals that both live-in relationships and unregistered marriages involve intimate partnerships lacking full legal recognition. However, political and cultural responses differ significantly. Live-in relationships though constitutionally protected encounter social stigma and inconsistent judicial treatment. Unregistered marriages though culturally legitimate lack clear legal protections, often leaving women in precarious positions (Pathak, 2018).

These inconsistencies illustrate how the state selectively regulates intimate life based on cultural conformity rather than legal coherence. Judicial protections for live-in relationships derive from constitutional morality, whereas political tolerance of unregistered marriages reflects deference to cultural norms. This dual approach produces unequal protections across different forms of partnership, undermining gender justice and equality.

Khap Panchayat Activism in Haryana/UP: A Case Study

Khap panchayats in Haryana and western Uttar Pradesh continue to play a defining role in shaping norms around intimacy, marriage, and family legitimacy. In July 2024, nearly 300 khaps gathered in Jind and demanded an explicit ban on both same-sex marriages and live-in relationships, arguing that such formations disrupt the “Indian cultural order” and weaken kinship structures. They simultaneously asserted that love marriages may be accepted only with parental approval and adherence to traditional gotra-based norms (India Today, 2024). This indicates that culturally sanctioned authority, not legality, constitutes the basis of legitimacy in these regions.

By contrast, unregistered marriages solemnized through customary rituals such as community blessings, village priest ceremonies, or clan affirmation continue to be fully recognized socially. Despite lacking formal registration, such marriages are treated as binding unions and often receive political protection during community disputes or local elections (LawyersClubIndia, 2023). Politicians frequently align with khap decisions to retain dominant caste support, reinforcing the cultural weight of informal marital systems.

At the same time, live-in couples face surveillance, harassment, or even forced separation. Many local leaders publicly condemn live-in relationships as sources of “moral decay,” despite repeated judicial affirmations that consenting adults have the right to cohabit. Thus, recognition is shaped by cultural legitimacy rather than constitutional rights. The political

collaboration between elected representatives and khap networks strengthens stigma against live-ins, framing them as socially corrosive while treating unregistered customary marriages as culturally valid. This case illustrates the clash between community-driven patriarchy and legal modernity, where political actors use tradition to regulate intimate life in ways that favor caste-patrilineal structures.

Sarv Khap Resolutions in Western Uttar Pradesh: Case Study

In November 2025, the Sarv Khap Panchayat in Muzaffarnagar convened a major gathering where leaders from multiple caste-based associations passed eleven resolutions condemning live-in relationships and demanding compulsory parental consent for love marriages. The resolutions framed live-ins as destabilizing to social order and called for state intervention to “protect traditional family structures” (New Indian Express, 2025). This reflects an emerging political strategy in which khaps, alongside sympathetic local politicians, police, and community leaders, seek to regulate intimate behavior by mobilizing cultural legitimacy rather than legal reasoning.

Simultaneously, unregistered customary marriages continue to be socially validated across western Uttar Pradesh. Ritual marriages conducted through the exchange of garlands, simple temple ceremonies, or community acknowledgements are widely accepted. Even without formal registration, these unions are treated as legitimate for purposes of social recognition, kinship integration, and dispute resolution. Existing legal scholarship notes that customary marriages even when legally non-compliant often function as socially binding contracts due to entrenched cultural authority (LawyersClubIndia, 2023). Political actors rarely challenge these institutions because they draw electoral strength from caste-based networks that uphold traditional marriage systems.

However, live-in relationships, despite being legal and protected by judicial precedents, are publicly condemned by political and cultural associations. Couples frequently encounter threats, family pressure, or community sanctions. Women in live-ins are particularly vulnerable to stigma, with political leaders often framing such unions as immoral or “Westernized” disruptions to family honor. The Sarv Khap resolutions thus consolidate a normative hierarchy where customary but unregistered marriages receive cultural endorsement, while live-ins are delegitimized despite their legal validity. This contrast reveals how political-cultural alliances selectively shape intimate citizenship, privileging

tradition over constitutional rights and reinforcing patriarchal authority within rural social structures.

CONCLUSION

Live-in relationships and unregistered marriages together expose contradictions in the legal and political regulation of intimacy in India. While courts have advanced constitutional principles of liberty and privacy, legislative institutions remain hesitant due to cultural and political pressures. The resulting system is fragmented and inconsistent, disproportionately affecting women and children. A unified legal framework that addresses both forms of partnerships is essential for safeguarding constitutional values of dignity, equality, and autonomy.

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