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## Examining the Insertion of Live-In Relationship in the Uttarakhand Uniform Civil Code: A Comprehensive Analysis

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*The Uniform Civil Code of Uttarakhand<sup>1</sup> became the country's first legislation addressing live-in relationships. Despite a brief mention of domestic relationships in Section 2(f) of the Domestic Violence Act of 2005,<sup>2</sup> the increasing number of people choosing live-in relationships highlights the urgent need for clear laws. The judiciary on various occasions has attempted to clarify various aspects of live-in relationships through judgments, however, its complexities have increased with evolving society hence it necessitates the enactment of a comprehensive statutory law. A significant challenge lies in the overlap of diverse personal laws governing family matters. The Uttarakhand legislation provides a groundbreaking solution by introducing a uniform civil code transcending religious boundaries, thereby resolving the dissimilarity of personal laws. This inclusive approach enables the incorporation of provisions specifically for live-in relationships. Part 3 of Code<sup>3</sup> categorically addresses a live-in relationship; it grants legal recognition after submitting a statement of a live-in relationship to the registrar. It further addresses the legitimacy of children born in such relationships, the procedures to be followed, the power and duties of the registrar, and, lastly, the offenses and punishment. Legal recognition will protect their rights and give them security, but more could have been done rather than just framing specific general provisions. The article deals with the question of the legal validity of the Code with respect to the insertion of live-in relationships*

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<sup>1</sup> Uniform Civil Code of Uttarakhand 2024

<sup>2</sup> Protection of Women from Domestic Violence Act 2005, s 2(f)

<sup>3</sup> Uniform Civil Code of Uttarakhand 2024

*and the judiciary's position on live-in relationships; it further explains the provided sections, its need, and future ramifications and consequences. It also compares the various perspectives on the insertion of live-in relationships in Code<sup>4</sup>.*

**Keywords:** *live-in, Uttarakhand uniform civil code, legal, registrar, legal validity, provisions.*

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## INTRODUCTION

In the dynamic and evolving society characterized by shifting paradigms and structures of traditional institutions like family and community, there has been a noticeable rise in the prevalence and acceptance of live-in relationships. A live-in relationship is a cohabitation of unmarried couples as married couples. This trend is more evident among the urban youth.

In urban society, there is a discernible transition from the traditional joint family system towards the more prevalent nuclear family system. Simultaneously, the concept of marriage, which serves as the base of familial units, is transforming. The youth see live-in relationships as a good option. The general perception among youth is that a live-in relationship is easier and more flexible than a traditional marriage. Hence, it is gaining more popularity. As more couples choose to live together without getting married, there has been a noticeable increase in related crimes. Some argue these crimes happen because the couple isn't married, but that's a narrow view. The focus should be on reducing all types of crimes that can occur in live-in relationships, instead of focusing on marital status. Without proper laws, people in these relationships might not get the justice they deserve. Some folks oppose making laws for live-in relationships because they worry it will make marriage and cohabitation seem the same. But ignoring the crimes happening within these relationships isn't fair either. So, it's crucial to have laws that protect the rights of couples living together. These laws would ensure everyone is treated fairly and that those who commit crimes in live-in relationships are held accountable. The Uttarakhand legislative assembly enacted the Uniform Civil Code of Uttarakhand, which proposes common law on marriage, divorce, land, property, and inheritance for all citizens,

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<sup>4</sup> *Ibid*

irrespective of their religion in the state, excluding the Schedule Tribes.<sup>5</sup>

## IS THE INCLUSION OF LIVE-IN RELATIO RELATIONSHIPS UNDER THE UTTARAKHAND UNIFORM CIVIL CODE LEGALLY VALID?

The legal landscape concerning live-in relationships in India lacks a specific definition or statute. However, a semblance of clarity emerges from Section 2(f) of the Protection of Women from Domestic Violence Act, 2005,<sup>6</sup> which broadly defines a ‘domestic relationship’ as a relationship between two persons who live or lived together in a shared household when they are related by consanguinity, marriage, or through a relationship like marriage, adoption or are family members living together as a joint family.<sup>7</sup> Section 114<sup>8</sup> provides that, ‘The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the ordinary course of natural events, human conduct, and public and private business, about the facts of the particular case.’ Therefore, marital relations can be assumed if a man and woman live together for a long time.<sup>9</sup> Despite this, Indian legislation remains notably silent on the precise legal status of live-in arrangements, resulting in ambiguity. Without explicit legal provisions, the judiciary plays a pivotal role in shaping the discourse surrounding live-in relationships. While such arrangements are not expressly prohibited, their ethical and moral implications often spark societal debates, creating tension between traditional norms and live-in partners. Consequently, the judiciary frequently intervenes in cases involving these relationships, navigating the complexities within Article 21<sup>10</sup>, which discusses the fundamental right to protect life and personal liberty. The judiciary’s perspective on live-in relationships underscores the intricate balance between individual liberties and societal expectations. In the absence of clear legislative guidance from the central government, the state government holds

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<sup>5</sup> ‘Uttarakhand UCC Bill Highlights: ‘Live-in couples in Uttarakhand must register or...’ says UCC’ *Live Mint* (07 February 2024) <<https://www.livemint.com/politics/news/uttarakhand-ucc-bill-live-updates-uniform-civil-code-pushkar-singh-%20dhami-marriage-divorce-land-inheritance-laws-religion-11707193904384.html>> accessed 22 April 2024

<sup>6</sup> Protection of Women from Domestic Violence Act 2005, s 2(f)

<sup>7</sup> *Ibid*

<sup>8</sup> Indian Evidence Act 1872, s 114

<sup>9</sup> Astha Saxena, ‘Live-in relationship and Indian Judiciary’ (*SCC Online*, 23 January 2019)

<<https://www.studocu.com/in/document/kle-university/contract-law/live-in-relationship-and-indian-judiciary-scc-blog/12428065>> accessed 23 April 2024

<sup>10</sup> Constitution of India 1950, art 21

the authority to enact laws addressing live-in relationships. Reflecting this dynamic, the Uttarakhand Legislative Assembly emerged as the first state to pass legislation on this matter, which also established uniform regulations for various communities, excluding Scheduled Tribes, concerning marriage, divorce, inheritance, and live-in relationships. The legislative move signifies a proactive step towards addressing the cavities in the legal framework governing such relationships in India.<sup>11</sup>

### **THE PERSPECTIVE OF THE JUDICIARY REGARDING LIVE-IN RELATIONSHIPS: AN ANALYSIS OF LEGAL INTERPRETATIONS AND RULINGS**

As mentioned earlier, the judiciary has played a significant role in addressing disputes arising from the legislative silence on live-in relationships. Supreme Court and various High Court judgments have provided insights into cohabitation or live-in, which offers clarity when such matters are brought before the Courts. The judicial stance neither explicitly endorses nor strictly prohibits live-in relationships; instead, it focuses on safeguarding the rights of individuals involved in such relationships. In the case of *Badri Prasad v Director of Consolidation*<sup>12</sup>, the Supreme Court validated a 50-year live-in relationship and observed, 'The presumption was rebuttable, but a heavy burden lies on the person who seeks to deprive the relationship of legal origin to prove that no marriage took place. Law leans in favour of legitimacy and frowns upon a bastard.'

In the case of *Payal Sharma v Nari Niketan*,<sup>13</sup> the Allahabad High Court remarked that, a man and a woman, even without getting married, can live together if they wish to.' Noting the distinction between societal morality and legality. Conversely, in the case of *Madam Mohan Singh v Rajni Kant*,<sup>14</sup> the court leaned towards recognizing long-term cohabitation as tantamount to marriage, diverging from the classification of mere live-in agreements. Judicial scrutiny of such relationships, as seen in *Alok Kumar v State*,<sup>15</sup> extends to legal intricacies, such

<sup>11</sup> Ishita Mishra, 'Uttarakhand Assembly 'creates history' by passing Uniform Civil Code: Pushkar Dhami' *The Hindu* (07 February 2024) <<https://www.thehindu.com/news/national/uttarakhand-assembly-passed-the-uniform-civil-code-bill/article67821740.ece>> accessed 24 April 2024

<sup>12</sup> *Badri Prasad v Dy Director of Consolidation and Ors* (1978) 3 SCC 527

<sup>13</sup> *Payal Khatra v Nari Niketan* (2001) 4 SCC 728

<sup>14</sup> *Madam Mohan Singh and Ors v Rajni Kant and Anr* (2010) 9 SCC 209

<sup>15</sup> *Alok Kumar v State and Anr* (2010) 3 JCC 2032

as determining the nature of the relationship. Here, the Delhi High Court labelled a scenario where the petitioner maintained a previous marriage while engaging in a live-in relationship devoid of legal entanglements.<sup>16</sup>

In the *Koppiseti Subbharao v State of Andhra Pradesh*,<sup>17</sup> the Supreme Court dismissed the notion that ‘dowry’ is especially attached to marriage. It clarified that a man's request for monetary benefits in a relationship is not exclusive to marriage. It rejected the defendant’s argument that Section 498A<sup>18</sup> did not apply due to lack of legal marriage; the Court emphasized its role in safeguarding women from dowry harassment even within live-in relationships. In *Chanmuniya v Virendra Kumar Singh Kushwaha*,<sup>19</sup> the court addressed the maintenance issue for women in such relationships under Section 125.<sup>20</sup> In cases like *S.P.S Balasubramanyam v Suruttayan*<sup>21</sup> and *Tulsa v Durghatiya*<sup>22</sup>, the Courts addressed the issue of the legitimacy of the children born in live-in partnerships, predominantly ruling in favour of granting legitimacy and inheritance rights, affirmed that such children shouldn’t be considered as illegitimate. These judicial pronouncements illustrate the Court’s commitment to upholding rights and protections for individuals involved in live-in relationships and navigating through legal nuances to ensure fairness and justice in such new-age relationships.

## **A COMPREHENSIVE EXAMINATION OF THE PROVISIONS RELATED TO LIVE-IN RELATIONSHIP IN THE NEW ACT**

Part 3<sup>23</sup> of Uttarakhand’s recently implemented Uniform Civil Code addresses the Live-in relationship from Section 378 to 389<sup>24</sup>. This includes several provisions that provide legal recognition to live-in relationships among adults with certain exceptions such as one partner is married and without consent, it also provides legitimacy to the children born in such relationships. On a critical note, the provisions talk more about the procedures than granting

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<sup>16</sup> *Ibid*

<sup>17</sup> *Koppiseti Subbharao @ Subramaniam v State of Andhra Pradesh* (2009) 12 SCC 331

<sup>18</sup> Indian Penal Code 1860, s 498A

<sup>19</sup> *Chanmuniya v Virendra Kumar Singh Kushwaha and Anr* (2010) 1 SCC 141

<sup>20</sup> Code of Criminal Procedure 1973

<sup>21</sup> *S.P.S Balasubramanyam v Suruttayan* (1993) 1 SCC 460

<sup>22</sup> *Tulsa and Ors v Durghatiya and Anrs* (2008) 4 SCC 520

<sup>23</sup> Uniform Civil Code of Uttarakhand 2024

<sup>24</sup> *Ibid*

protection however giving legality to such relationship, in a way gives them protection but more could have been inserted to make it more inclusive. It further provides the scope of the duties of the registrar and its powers and declares that the government is authorized to implement these provisions.

Commencing with Section 378<sup>25</sup>, this section mandates that live-in partners within the state or residents must submit a statement of their live-in relationship to the Registrar within the jurisdiction. Section 379<sup>26</sup> extends legitimacy to children born within such relationships. The UCC also delineates circumstances wherein live-in relationships are not to be registered in Section 380<sup>27</sup>, categorizing non-eligibility into four classifications: prohibited relationships as defined under clause (d) of sub-section (1) of Section 3<sup>28</sup>, involvement of a married individual, involvement of a minor, and instances of involuntary consent. Section 381<sup>29</sup> outlines the procedural steps for registering live-in relationships, encompassing the submission of a statement to the registrar and summoning partners for cross-verification, culminating in issuing a registration certificate. Section 382<sup>30</sup> introduced a provision for maintaining records of such registrations. Section 383<sup>31</sup> specifies the duties and jurisdiction of registrars, primarily about maintaining registers containing statements of live-in relationships; Section 384<sup>32</sup> mandates that either partner must submit a termination statement to the registrar. Section 385<sup>33</sup> delineates the registrar's duties, including the obligation to forward information to the police for further investigation into the partner's age submitting a termination statement; it is incumbent upon the registrar to notify the other partner and their parents and guardians. Section 386<sup>34</sup> stipulates issuing a notice for the registration of live-in relationships. Section 387<sup>35</sup> outlines provisions concerning offenses occurring within such relationships and their corresponding penalties.

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<sup>25</sup> Uniform Civil Code of Uttarakhand 2024, s 378

<sup>26</sup> Uniform Civil Code of Uttarakhand 2024, s 379

<sup>27</sup> Uniform Civil Code of Uttarakhand 2024, s 380

<sup>28</sup> Uniform Civil Code of Uttarakhand 2024, s 3 (1)(d)

<sup>29</sup> Uniform Civil Code of Uttarakhand 2024, s 381

<sup>30</sup> Uniform Civil Code of Uttarakhand 2024, s 382

<sup>31</sup> Uniform Civil Code of Uttarakhand 2024, s 383

<sup>32</sup> Uniform Civil Code of Uttarakhand 2024, s 384

<sup>33</sup> Uniform Civil Code of Uttarakhand 2024, s 385

<sup>34</sup> Uniform Civil Code of Uttarakhand 2024, s 386

<sup>35</sup> Uniform Civil Code of Uttarakhand 2024, s 387

Moreover, section 388<sup>36</sup> delineates provisions regarding maintenance for women deserted by their partners. Finally, section 389<sup>37</sup> confers upon the state government the authority to establish rules governing the implementation of this part.

### **IS IT NECESSARY TO MAKE REGULATORY LAWS ON LIVE-IN RELATIONSHIP?**

Similar to marriages, offenses like domestic violence, dowry-related issues, and various forms of abuse can occur in live-in relationships. While laws such as the Hindu Marriage Act of 1955<sup>38</sup>, Muslim Personal Law (Shariat) Application Act 1937<sup>39</sup>, and Succession Act 1925<sup>40</sup> existed to safeguard the rights of individuals in marital unions, there is a notable absence of specific statutes offering protection and legal recognition to couples in live-in agreements. Consequently, it becomes imperative to establish rules and regulations governing such relationships, not intending to infringe on the right to freedom and privacy but to safeguard the rights of such couples. Introducing specific legal provisions for live-in partners would ensure the protection of their rights, address the offenses that may arise, and establish a framework for legal recognition. The Courts have legalized live-in relationships through their judgments, and a basic knowledge has developed over the years. However, there remain several unaddressed questions that leave room for discussion.<sup>41</sup> Hence, specific rules and regulations are necessary to govern live-in relationships.

The Uniform Civil Code of Uttarakhand,<sup>42</sup> in Part 3, includes provisions that explicitly address live-in relationships within the state. By registering cohabitations, legal validity is granted, aligning with precedents set by various courts, as outlined in Section 379. Additionally, the statute ensures legitimacy to the children born within these relations and provides maintenance for women abandoned by their partners. Notably, it criminalizes cohabitations without registrations within one month of entering such a relationship, marking a significant milestone

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<sup>36</sup> The Uniform Civil Code of Uttarakhand 2024, s 388

<sup>37</sup> The Uniform Civil Code of Uttarakhand 2024, s 389

<sup>38</sup> The Hindu Marriage Act 1955

<sup>39</sup> The Muslim Personal Law (Shariat) Application Act 1937

<sup>40</sup> The Indian Succession Act 1925

<sup>41</sup> Jheelum Basu and Madhur Sharma, 'Live-in Relationships In India: Legal But Do They Have Enough Safeguards' *Outlook* (21 November 2022) <<https://www.outlookindia.com/national/live-in-relationships-in-india-legal-but-do-they-have-enough-safeguards--news-238838>> accessed 16 April 2024

<sup>42</sup> The Uniform Civil Code of Uttarakhand 2024

as India's first law dedicated to live-in relationships.

On a critical note, the part of the code that provided provisions for live-in relationships cannot be considered as an inclusive part to safeguard the rights of live-in couples entirely, however, it can be considered as a stepping stone and various other states can also enact laws and improve it subsequently. With the growing number of live-in couples in the country, a comprehensive and inclusive statute will benefit the couples in such relationships; it will also reduce the burden of courts because if there are clear provisions, several matters can be solved at a lower level.

Laws have their own effects on society, by granting legal recognition to live-in relationships, there will be a high possibility that the social perception will also change and it will bar people from troubling couples in such relationships.

### **INCLUSION OF LIVE-IN RELATIONSHIP AND ITS RATIONAL AND DEBATE**

Including provisions concerning live-in relationships within the Uniform Civil Code of Uttarakhand,<sup>43</sup> has ignited a significant controversy, drawing attention to the parallels between these provisions and those governing marriage. Individuals opt for live-in relationships rather than marriages for specific reasons, but the mandatory registration resembles a marital relationship. This likeliness becomes particularly evident during the termination process, where partners must provide a statement of separation to the registrar, mirroring aspects of divorce proceedings. The imposition of such legal obligations on live-in couples has become a focal point of debate since integrating live-in relationships into the UCC<sup>44</sup>. Critics argue that these provisions directly infringe upon the right to privacy guaranteed under Article 21 of the Indian Constitution.<sup>45</sup> Many couples opt for cohabitation and want to avoid familial and societal scrutiny, seeking to lead a private life away from prying eyes.

However, the mandatory registration process and subsequent investigation conducted by the registrar and police could inadvertently expose these couples to their families, eroding their

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<sup>43</sup> *Ibid*

<sup>44</sup> *Ibid*

<sup>45</sup> Constitution of India 1950, art 21



privacy. Furthermore, some couples maintain secrecy regarding their cohabitation arrangements from neighbours to avoid unwanted societal interferences and potential conflicts. This desire for privacy underscores the fundamental tension between legal requirements and individual autonomy in personal relationships. The debate surrounding these provisions reflects broader societal discussions about balancing legal recognition and privacy rights in intimate partnerships.

Choosing not to establish provisions for governing live-in partnerships can lead to various offenses going unaddressed, burdening the judiciary as similar issues are repeatedly interpreted and discussed. While concerns for freedom and privacy are valid, the bigger question arises when offenses occur in such cohabitation, and there are no legal guidelines, which hinders justice. The absence of specific laws poses a challenge. Registering live-in relationships can provide legal recognition, safeguarding the rights of those involved. Despite criticism, including a live-in relationship in the UCC is a sensible decision to address the current need and ensure a fair and just legal framework.

### **ANALYZING THE POTENTIAL FUTURE RAMIFICATIONS AND CONSEQUENCES**

Several incidents and offenses have thrust live-in relationships into the spotlight.<sup>46</sup> The absence of legal recognition in family legislation regarding live-in relationships can be seen from two perspectives. Firstly, without statutory rights, couples lack legal protections inherent to formal marriages. Conversely, this lack of legal entanglements grants individuals in such relationships greater autonomy in defining their terms.<sup>47</sup> In some instances, protections boil down to the contours of the live-in relationship – specifically, whether they are similar to marriages.<sup>48</sup> The new provisions of the Uniform Civil Code of Uttarakhand<sup>49</sup> concerning live-in relationships introduce a legal obligation for couples to register their cohabitation within one month. The

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<sup>46</sup> Ananya Singh, 'How Does The Law Protect People in Live-in Relationships?' (*The Swaddle*, 17 February 2023) <<https://www.theswaddle.com/how-does-the-law-protect-people-in-live-in-relationships>> accessed 17 April 2024

<sup>47</sup> Rohit Ray, 'Evolution of The Live-in Relationship In India Vis-A-Vis Personal' (*Live Law*, 14 January 2023) <<https://www.livelaw.in/columns/evolution-of-the-live-in-relationship-in-india-vis-a-vis-personal-law-218948>> accessed 17 April 2024

<sup>48</sup> Singh (n 46)

<sup>49</sup> Uniform Civil Code of Uttarakhand 2024

specific part of this Code aims to safeguard the couples' rights. However, it doesn't impose marital obligations or influence the relationship dynamics; it merely provides legal legitimacy and support. Partners can exit the relationship anytime, with a requisite statement of separation submitted to the registrar.

While the law addresses the contemporary issue of live-in relationships, it falls short in several aspects. One such aspect is the ambiguity surrounding the inheritance rights of children born within these unions despite granting them legal recognition. Additionally, the Code<sup>50</sup> fails to clarify the entitlements of men who may find themselves deserted within such agreements. In such a context of live-in relationships, where partners bear no formal obligations or responsibilities, providing maintenance to women appears contradictory and unjust. Moreover, the absence of provisions for maintenance for male partners further compounds this issue, leaving room for judicial interpretation. Furthermore, specific provisions prioritize the registration process over the rights and concerns of live-in partners themselves. These shortcomings underscore the need for a more comprehensive legal framework that addresses the multifaceted aspects of live-in relationships including inheritance rights, maintenance obligations, and gender equity in terms of maintenance.

## CONCLUSION

The new Code introduces provisions concerning marriage, divorce, succession, and, notably, live-in relationships, marking a milestone as the first statute to acknowledge and legalize such cohabitation explicitly. The Code is solely applicable to Uttarakhand residents; part 3, which addresses the live-in relationship, safeguards the rights of the live-in partners by offering legal validation. In society, such relationships are seen as evil and anti-conventional. Legal recognition promises a safer environment for couples navigating live-in relationships.

Judicial interventions, including directives from the Supreme Court urging Parliament to enact legislation based on the outlined guidelines, underscore the imperative to protect individuals involved in live-in relationships from societal injustices. The complexity of existing personal laws has posed significant challenges, prompting the consideration of options like separate

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<sup>50</sup> *Ibid*

laws such as the Special Marriage Act of 1954<sup>51</sup> or the establishment of a uniform legal framework. Uttarakhand's decision to pursue the latter signifies recognition of the need to regulate live-in relationships in a rapidly evolving social milieu.

While addressing aspects like the legitimacy of children born in such relationships, women's maintenance, and punitive measures for offenses, notable gaps remain, including provisions for men's maintenance and inheritance rights for children born within such relationships. Furthermore, the emphasis on procedural guidelines somewhat ignores the substantive issues inherent to live-in agreements. Despite its limitations, the Code represents a commendable initiative by the state legislature. As Courts navigate ambiguities and inconsistencies, the Code's impact on the legal landscape surrounding live-in relationships will be clarified, ensuring greater clarity and equity in the future.

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<sup>51</sup> The Special Marriage Act 1954