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Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 – info@iledu.in / Chairman@iledu.in



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ADR IN LIVE-IN RELATIONSHIP DISPUTES: NEED FOR LEGAL RECOGNITION**AUTHOR** – ASHALESHA POKHARNIKAR, LL.M STUDENT AT NAVMAL FIRODIA LAW COLLEGE**BEST CITATION** – ASHALESHA POKHARNIKAR, ADR IN LIVE-IN RELATIONSHIP DISPUTES: NEED FOR LEGAL RECOGNITION, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (11) OF 2025, PG. 01-10, APIS – 3920 – 0001 & ISSN – 2583-2344.**Abstract**

The emergence of live-in relationships in India represents a significant shift in social and legal dynamics. Traditionally, family law has been anchored in the institution of marriage, leaving non-marital cohabitation outside its formal framework. However, with changing societal attitudes, courts have cautiously extended limited recognition to live-in partnerships, especially in matters concerning domestic violence, maintenance, and child custody. Despite these developments, the absence of comprehensive legislation has created ambiguity and inconsistency in adjudication.

Disputes arising from live-in relationships often involve highly personal matters such as financial support, property sharing, domestic abuse, or child welfare. Resorting to litigation not only prolongs emotional distress but also exposes partners to public scrutiny, reinforcing stigma. Moreover, adversarial court processes may not always serve the interests of reconciliation, confidentiality, and long-term well-being of the parties involved. This makes conventional litigation an inadequate tool for handling such delicate issues.

Alternative Dispute Resolution (ADR) mechanisms particularly mediation and conciliation offer a constructive pathway for resolving conflicts in live-in relationships. ADR ensures confidentiality, reduces social stigma, and provides quicker, cost-effective, and less adversarial solutions tailored to the needs of the parties. This article argues for the urgent need to accord legal recognition to ADR in live-in relationship disputes, thereby harmonizing personal liberty with social justice and aligning family law with contemporary realities.

Keywords:

Live-in Relationships, Alternative Dispute Resolution (ADR), Mediation, Conciliation, Family Law, Domestic Violence Act, Right to Life and Personal Liberty, Legal Recognition, Social Justice, Confidential Dispute Resolution

I. Introduction

Marriage has long been regarded as the cornerstone of family law in India, deeply rooted in religious, cultural, and social traditions. Until recently, cohabitation outside marriage was both socially unacceptable and legally invisible. However, rapid urbanization, globalization, and changing notions of personal autonomy have gradually altered this outlook. One significant reflection of this change is the increasing

prevalence of live-in relationships, where two adults choose to cohabit without marrying.

The recognition of live-in partnerships has emerged largely through judicial intervention rather than legislation. In *Lata Singh v. State of U.P.* (2006), the Supreme Court upheld the right of consenting adults to live together, affirming personal liberty under Article 21 of the Constitution¹. Similarly, in *Indra Sarma v. V.K.V.*

¹ *Lata Singh v. State of U.P.*, (2006) 5 S.C.C. 475 (India).

Sarma (2013), the Court clarified that women in long-term live-in relationships may claim relief under the Domestic Violence Act. Despite these judicial advances, there remains no codified law governing live-in relationships, resulting in legal uncertainty and inconsistent outcomes.²

Disputes arising in such partnerships often involve issues of maintenance, property rights, domestic abuse, or child custody. Resorting to litigation in these matters can be adversarial, time-consuming, and socially stigmatizing, especially since intimate details are exposed in public forums. In contrast, Alternative Dispute Resolution (ADR) mechanisms such as mediation and conciliation offer confidential, cost-effective, and less confrontational means of resolving sensitive disputes.

The present article examines the evolving legal recognition of live-in relationships in India, identifies the nature of disputes that typically arise, and highlights the potential of ADR as a more suitable mechanism for resolving them. It argues that formal legal recognition of ADR in live-in relationship disputes is necessary to protect individual autonomy, promote access to justice, and ensure that family law keeps pace with contemporary social realities.

II. Historical and Sociological Context of Live-in Relationships in India

The institution of marriage has historically defined family structures in India. Deeply intertwined with religion and social morality, marriage has been seen as both a sacred duty and a legal bond. Within this framework, cohabitation without marriage was traditionally stigmatized, often condemned as immoral or illegitimate. Yet, despite the dominance of marital norms, historical and sociological evidence reveals that non-marital unions have long existed in Indian society, though under varying degrees of acceptance and recognition.

1. Ancient and Traditional Practices

In ancient India, texts and customs indicate the presence of relationships that did not always conform strictly to the formal institution of marriage. The Dharmashastra tradition, for example, spoke of different forms of marriage, some of which were less formal and resembled consensual unions. Mythological accounts also portray relationships outside wedlock, though such narratives were often selectively interpreted by society. In tribal and rural communities, informal unions and partnerships existed as part of customary practices, sometimes accepted as valid even without religious or civil ceremony.

However, as Hindu law became codified and formalized under both colonial and post-colonial frameworks, these customs were largely marginalized. The rise of Victorian morality during British rule reinforced rigid notions of conjugal legitimacy, equating family law with marriage alone. This narrowed the space for alternative domestic arrangements and cemented the stigma attached to non-marital cohabitation.³

2. Colonial Legacy and Legal Invisibility

The colonial legal framework played a decisive role in shaping modern Indian family law. With the introduction of codified statutes such as the Hindu Marriage Act (1955) and the Special Marriage Act (1954)⁴, marriage was positioned as the central legal institution governing personal relations. Relationships outside marriage were largely ignored, with law treating them as void of rights and obligations. Women in non-marital unions, in particular, were rendered vulnerable, lacking any legal claim to maintenance, inheritance, or protection from abuse.

This invisibility reinforced societal prejudice. Live-in partners were often perceived as violating social morality, and such unions were equated with illegitimacy. Children born of such

² Indra Sarma v. V.K.V. Sarma, (2013) 15 S.C.C. 755 (India).

³ P.V. Kane, History of Dharmasāstra vol. II, pt. I, at 223–27 (Bhandarkar Oriental Research Inst., 2d ed. 1974).

⁴ The Hindu Marriage Act, No. 25 of 1955, INDIA CODE; The Special Marriage Act, No. 43 of 1954

relationships were historically disadvantaged, facing restrictions in matters of inheritance until the Supreme Court intervened in *Tulsa v. Durghatiya* (2008), where it upheld the legitimacy of children born of long-term live-in partnerships. Thus, even though live-in relationships existed in practice, they remained on the margins of both law and society.⁵

3. Post-Independence Social Change

India's socio-economic landscape underwent dramatic changes in the post-independence era, especially from the 1990s onwards. Urbanization, increased mobility, women's participation in higher education and the workforce, and exposure to global media and culture began to challenge traditional family structures. For many young people, marriage was no longer the sole acceptable form of partnership. Live-in relationships emerged as an alternative model, particularly in metropolitan areas, where anonymity and liberal attitudes facilitated such arrangements.⁶

This trend reflects not merely a cultural shift but also an assertion of constitutional rights. The right to privacy, autonomy, and personal choice has gained prominence through judicial interpretation, particularly after *Justice K.S. Puttaswamy v. Union of India* (2017), which recognized privacy as a fundamental right. The idea that two adults may freely choose to cohabit without marriage aligns with the broader framework of constitutional morality, which emphasizes individual liberty over traditional notions of social morality.⁷

4. Sociological Challenges and Stigma

Despite these developments, live-in relationships remain socially contentious. In semi-urban and rural areas, such unions are often viewed as illegitimate and immoral. Many couples face threats of violence, family opposition, or social boycott. Reports of so-

called "honour crimes" highlight the risks associated with defying traditional marriage norms. Even in urban spaces, where live-in partnerships are more common, social acceptance remains limited, and women in particular continue to face stigma.⁸

This societal resistance affects the legal treatment of such relationships. Courts often struggle to balance constitutional rights with prevailing social norms. For instance, while the judiciary has granted limited recognition to live-in partnerships under the Domestic Violence Act, judges have also cautioned that casual relationships or "walk-in, walk-out" arrangements cannot claim the same protection. This ambivalence reflects the tension between evolving social practices and entrenched cultural morality.

5. Emerging Need for Legal Framework

The sociological reality of live-in relationships demonstrates that they are no longer isolated or exceptional cases but part of a broader transformation of Indian family structures. Their existence raises pressing questions about the protection of partners especially women and children within such unions. The absence of a legal framework has resulted in fragmented judicial responses, often depending on the facts of each case and the discretion of individual judges.

This uncertainty creates practical difficulties in resolving disputes. Women may find themselves unable to claim maintenance or protection if their relationship does not meet the judicially created standard of being "in the nature of marriage," as articulated in *D. Velusamy v. D. Patchaiammal* (2010). Similarly, disputes regarding shared property, custody of children, or instances of abuse often lack clear procedural guidance. In such a vacuum, reliance on adversarial litigation tends to exacerbate conflict rather than resolve it.⁹

⁵ *Tulsa v. Durghatiya*, (2008) 4 S.C.C. 520 (India).

⁶ Patricia Uberoi, *The Family in India: Beyond the Nuclear versus Joint Debate in Handbook of Indian Sociology* 275, 283–85 (Veena Das ed., Oxford Univ. Press 2004).

⁷ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India)

⁸ Madhu Kishwar, "Sexual Relations in India: The Need for Feminist Intervention," *Manushi*, No. 66, 1991, at 2, 4–6.

⁹ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

III. Constitutional Dimensions of Live-in Relationships

The recognition of live-in relationships in India cannot be understood merely through the lens of family law; it must be situated within the constitutional framework of rights, liberty, and equality. The Constitution of India protects individual autonomy and dignity, while also mandating the State to uphold social justice. The tension between these two principles – personal liberty on one hand and societal morality on the other – lies at the heart of debates concerning live-in relationships. Judicial interventions in recent years have highlighted this tension while gradually carving out a space for the constitutional protection of such unions.

1. Article 21: Right to Life and Personal Liberty

Article 21 of the Constitution guarantees that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Over the years, the Supreme Court has expanded the scope of this provision to include rights essential to a life of dignity, autonomy, and privacy.

In *Lata Singh v. State of U.P.* (2006), the Supreme Court upheld the right of two consenting adults to live together, even without marriage. The Court emphasized that such a choice is protected under Article 21, and interference from families or communities amounts to a violation of fundamental rights¹⁰. Similarly, in *S. Khushboo v. Kanniammal* (2010), the Court observed that living together is a right to life guaranteed under Article 21, even though society may view it unfavorably.¹¹

Further, in *Justice K.S. Puttaswamy v. Union of India* (2017), the nine-judge bench held that privacy is intrinsic to the right to life and liberty. This judgment reinforced that decisions relating to intimate personal relationships fall within the protected sphere of privacy. Live-in relationships, therefore, find strong

constitutional grounding in the principles of decisional autonomy, freedom of choice, and personal dignity.

2. Article 19: Freedom of Expression and Association

Article 19(1)(a) guarantees freedom of expression, while Article 19(1)(c) protects the right to form associations. Together, these provisions encompass the liberty of individuals to choose how to express themselves and with whom to associate in their personal lives. Cohabiting with a partner, even outside marriage, can be understood as an exercise of these freedoms.

While restrictions may be imposed under Article 19(2) and 19(4) on grounds of public morality, the judiciary has repeatedly emphasized that constitutional morality must prevail over societal morality. In *Navtej Singh Johar v. Union of India* (2018), which decriminalized same-sex relationships, the Supreme Court explicitly noted that private consensual intimacy cannot be curtailed by invoking societal disapproval.¹² The same logic applies to live-in relationships: the freedom to choose a partner and cohabit is an expression of personal liberty and association, protected by Article 19.

3. Article 14: Equality Before Law

The principle of equality enshrined in Article 14 prohibits arbitrary state action and mandates equal treatment of individuals in similar circumstances. In the context of live-in relationships, equality requires that partners in such unions not be discriminated against solely because they have not entered into a formal marriage.

Judicial recognition of this principle can be seen in *Tulsa v. Durghatiya* (2008), where the Supreme Court upheld the rights of children born from long-term live-in relationships, granting them legitimacy for inheritance purposes. Denying such rights would have created unreasonable classification between

¹⁰ *Lata Singh v. State of U.P.*, (2006) 5 S.C.C. 475 (India)

¹¹ *S. Khushboo v. Kanniammal*, (2010) 5 S.C.C. 600 (India).

¹² *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).

children of marital and non-marital unions, violating Article 14¹³. Similarly, extending protection under the Domestic Violence Act to women in live-in partnerships, as recognized in *Indra Sarma v. V.K.V. Sarma* (2013), reflects the principle of substantive equality by safeguarding vulnerable partners against abuse, irrespective of marital status.

4. Constitutional Morality vs. Social Morality

Perhaps the most significant constitutional dimension of live-in relationships lies in the doctrine of constitutional morality. This principle requires that rights and freedoms be judged according to the Constitution, not prevailing societal prejudices. In *Navtej Singh Johar and Joseph Shine v. Union of India* (2018, striking down adultery laws), the Supreme Court emphasized that personal choices regarding intimacy and relationships must be guided by constitutional values of dignity, liberty, and equality, rather than traditional notions of morality.¹⁴

Live-in relationships, though socially stigmatized, fall squarely within the sphere of constitutional morality. Courts have repeatedly faced situations where family or community pressures seek to invalidate such unions. In such cases, judicial protection of live-in couples reaffirms that the Constitution safeguards individual liberty even when it conflicts with majority opinion. This doctrinal shift is critical for ensuring that live-in partners can seek legal remedies without fear of moral judgment.

5. The Directive Principles and Access to Justice

Beyond fundamental rights, Directive Principles of State Policy (DPSPs) also play an important role. Article 39A mandates the State to ensure equal access to justice. For partners in live-in relationships, particularly women who may lack financial independence, access to timely and effective remedies is essential. The traditional

court system, however, often fails to provide quick or sensitive resolutions in such disputes.

Here, ADR mechanisms acquire constitutional significance. By offering affordable, accessible, and confidential forums for dispute resolution, ADR advances the constitutional goal of access to justice. The Supreme Court in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.* (2010) strongly endorsed mediation and conciliation, signaling that ADR is not merely procedural but also a constitutional tool to achieve substantive justice.¹⁵

6. Balancing Rights with Regulation

While constitutional protections support the recognition of live-in relationships, the absence of a statutory framework leaves open questions regarding regulation. For example, should every live-in arrangement be treated as equivalent to marriage for legal purposes? Should casual cohabitation receive the same protection as long-term, stable unions? Courts have attempted to address these questions by distinguishing between relationships “in the nature of marriage” and those that are purely transient.

This judicial balancing act reflects an attempt to harmonize individual liberty with legitimate state interests in maintaining social order. However, the lack of legislative clarity has led to inconsistencies. From a constitutional perspective, the State must not deny protection to individuals simply because they choose a non-marital partnership. At the same time, it is justified in ensuring that legal recognition is not misused to protect exploitative or fraudulent arrangements.

IV. Nature of Disputes in Live-in Relationships and the Role of ADR

The absence of a codified legal framework for live-in relationships in India has resulted in considerable ambiguity when disputes arise. Unlike marital disputes, which are addressed under personal laws and family law statutes,

¹³ *Tulsa v. Durghatiya*, (2008) 4 S.C.C. 520 (India).

¹⁴ *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39 (India).

¹⁵ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.*, (2010) 8 S.C.C. 24 (India).

conflicts in live-in arrangements are often left to judicial discretion. The judiciary has extended partial recognition through case law, but the scope of remedies remains uncertain. This uncertainty makes litigation unpredictable, time-consuming, and emotionally taxing for the parties involved. In such circumstances, Alternative Dispute Resolution (ADR) offers a structured yet flexible mechanism for addressing disputes in a manner that balances rights with sensitivity.

1. Maintenance and Financial Support

One of the most common disputes in live-in partnerships concerns financial support after separation. Women who cohabit without marriage are particularly vulnerable if they are financially dependent on their partners. Unlike wives under the Hindu Adoption and Maintenance Act or Section 125 of the Code of Criminal Procedure (CrPC), live-in partners do not have an explicit statutory right to maintenance.¹⁶

However, the judiciary has attempted to fill this gap. In *D. Velusamy v. D. Patchaiammal* (2010), the Supreme Court held that a woman in a relationship “in the nature of marriage” may claim maintenance under the Domestic Violence Act¹⁷. Similarly, in *Indra Sarma v. V.K.V. Sarma* (2013), the Court clarified factors to distinguish between a marriage-like relationship and casual cohabitation, granting relief to women in the former.

Role of ADR:

Mediation and conciliation are particularly effective for financial disputes in live-in arrangements. Through negotiation, parties can agree on lump-sum settlements, ongoing financial support, or division of assets without adversarial proceedings. Confidentiality in ADR also protects parties from social stigma, while flexible solutions can be crafted beyond the rigid framework of litigation for example,

agreements on educational expenses for children or structured financial assistance for relocation.

2. Domestic Violence and Abuse

Disputes involving abuse or violence within live-in relationships highlight the need for legal remedies beyond marriage. The Protection of Women from Domestic Violence Act, 2005 (DV Act), defines “domestic relationship” broadly to include relationships “in the nature of marriage.” This allows women in live-in arrangements to seek protection orders, residence orders, and maintenance.¹⁸

Despite this statutory inclusion, practical enforcement is difficult. Courts are required to assess whether the live-in relationship resembles a marriage, often leading to lengthy evidentiary disputes. Moreover, victims may hesitate to approach the court due to stigma or fear of publicity.

Role of ADR:

ADR in cases of abuse must be approached with caution. While mediation cannot replace protective remedies under criminal or quasi-criminal statutes, it can play a role in post-violence resolution such as negotiating safe exit arrangements, child custody, or financial settlements. Conciliation, supervised by trained mediators, can reduce hostility while ensuring that the survivor’s rights are not compromised. Hybrid models, where protective orders are issued by courts but subsequent disputes are mediated, may provide a balanced approach.

3. Property and Inheritance Disputes

Property disputes in live-in relationships often arise when partners jointly acquire assets or when questions of inheritance arise upon the death of one partner. In the absence of marriage, the surviving partner has no automatic inheritance rights under succession laws. Courts have recognized property claims in certain circumstances, but the law remains inconsistent. For example, in *Tulsa v. Durghatiya*

¹⁶ Hindu Adoptions and Maintenance Act, No. 78 of 1956, INDIA CODE (1956); Code of Criminal Procedure, No. 2 of 1974, § 125, INDIA CODE (1974).

¹⁷ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

¹⁸ Protection of Women from Domestic Violence Act, No. 43 of 2005, INDIA CODE (2005).

(2008), the Supreme Court legitimized children from long-term live-in relationships for inheritance, but it did not extend inheritance rights to surviving partners themselves.¹⁹

Role of ADR:

Mediation is well-suited for property disputes, as it allows flexible arrangements such as buyouts, co-ownership settlements, or division of assets based on contribution. ADR also facilitates confidential discussions about sensitive financial details, avoiding the adversarial exposure of litigation. In cases involving inheritance disputes with extended family, mediation can help preserve relationships while ensuring equitable distribution.

4. Custody and Guardianship of Children

Perhaps the most sensitive disputes in live-in relationships concern the custody and welfare of children. Children born from such unions are recognized as legitimate under law, ensuring their right to inheritance. However, questions of custody and guardianship often become contentious, particularly in the absence of a marital framework. Litigation in such cases can be deeply traumatic for both parents and children.²⁰

Role of ADR:

Child custody mediation has proven effective worldwide and is increasingly used in India. The focus of ADR in such cases is not on the rights of parents but on the welfare of the child, in line with the *parens patriae* principle. Mediated settlements may involve shared parenting, visitation schedules, or joint decision-making on education and healthcare. Unlike litigation, which often pits parents against each other, mediation encourages cooperative parenting and reduces long-term conflict.

V. The Case for Legal Recognition of ADR in Live-in Relationship Disputes

While the judiciary has progressively extended certain rights to partners in live-in relationships,

the lack of codified legislation continues to create uncertainty. Remedies often depend on whether courts classify a particular relationship as “in the nature of marriage,” leaving many disputes unresolved. In this context, institutionalizing ADR mechanisms for live-in relationship disputes becomes not merely an option but a necessity.

1. Closing the Legal Vacuum

Currently, there is no comprehensive statutory scheme to govern live-in relationships. As a result, disputes are addressed through piecemeal judicial interpretations under statutes such as the Domestic Violence Act, Code of Criminal Procedure, and Indian Evidence Act. This creates inconsistency and unpredictability. Formal recognition of ADR through legislation or judicial rules can provide an alternative pathway, ensuring that partners have access to structured dispute resolution even in the absence of substantive law.

2. Protecting Privacy and Dignity

Disputes arising in live-in arrangements often involve deeply personal issues intimacy, finances, abuse, or child custody. Adjudicating these in open court can lead to public exposure, social stigma, and further victimization. ADR mechanisms such as mediation offer confidentiality, ensuring that sensitive details remain private. Recognizing ADR by law would guarantee enforceability of mediated settlements while protecting the dignity of individuals involved.

3. Promoting Access to Justice

A core constitutional mandate under Article 39A is the provision of equal access to justice.²¹ For financially weaker partners usually women litigation is often inaccessible due to cost, duration, and social barriers. Legal recognition of ADR would institutionalize mediation and conciliation centers, making justice affordable, accessible, and user-friendly. Importantly, it

¹⁹ *Tulsa v. Durghatiya*, (2008) 4 S.C.C. 520 (India).

²⁰ Hindu Marriage Act, No. 25 of 1955, § 16, INDIA CODE (1955)

²¹ INDIA CONST. art. 39A.

would also reduce the burden on overburdened family courts.²²

4. Ensuring Substantive Equality

Women in live-in relationships face greater vulnerabilities, as they often lack legal recognition equivalent to wives. By providing a formal ADR framework, the State can ensure equitable treatment, where women have a platform to negotiate maintenance, custody, or safety without needing to first prove the “marriage-like” nature of their relationship in adversarial proceedings. Recognition of ADR thus furthers substantive equality under Article 14.²³

5. International Perspectives

Globally, several jurisdictions have adopted alternative pathways to resolve disputes arising from non-marital cohabitation. In countries like the United Kingdom and Canada, mediation is routinely used in family disputes regardless of marital status. Legal recognition ensures that agreements reached in ADR are binding and enforceable. India can draw from these models, adapting them to its constitutional framework while respecting cultural sensitivities.²⁴

VI. Challenges and Criticisms of ADR in Live-in Relationship Disputes

While Alternative Dispute Resolution (ADR) presents an attractive framework for resolving disputes arising from live-in relationships, its use is not free from difficulties. The effectiveness of ADR depends on social, legal, and institutional factors, many of which are still underdeveloped in India. Without carefully addressing these challenges, ADR risks becoming a superficial remedy rather than a transformative mechanism.

1. Lack of Legislative Clarity

One of the foremost challenges is the absence of a statutory regime governing live-in

relationships. Unlike marital disputes, which are expressly covered under family law statutes, live-in disputes lack clear recognition. In such a vacuum, referring parties to mediation or conciliation may appear ad hoc, raising questions about the enforceability of outcomes. Without legislative clarity, ADR settlements risk being challenged in courts, undermining their finality and certainty.

2. Power Imbalances Between Partners

ADR presumes that parties negotiate on relatively equal terms. However, in live-in relationships, especially where one partner is financially dependent, significant power asymmetries may exist. Women are often at a disadvantage due to lack of financial independence, social stigma, or emotional vulnerability. If these imbalances are not addressed, ADR may result in coerced settlements rather than fair compromises. Critics argue that without adequate safeguards, ADR could entrench inequalities instead of resolving them.

3. Issues of Domestic Violence

Cases involving abuse or domestic violence present unique challenges. Mediation, which is based on cooperation and compromise, may not be suitable where there is a history of coercion or harm. The Protection of Women from Domestic Violence Act, 2005, provides statutory remedies that cannot be replaced by negotiated settlements. Using ADR in such cases risks trivializing violence or pressuring survivors into unsafe compromises. Thus, while ADR may complement protective measures, it cannot substitute them in situations of violence.

4. Social Stigma and Reluctance to Participate

Live-in relationships continue to face widespread social disapproval in India. This stigma may deter parties from voluntarily approaching ADR forums, fearing exposure or judgment. Moreover, mediators themselves may carry unconscious biases rooted in traditional views of marriage, which can affect the neutrality of the process. Unless ADR

²² S.K. Sharma, Access to Justice in India: The Emerging Paradigm 45–47 (Oxford Univ. Press 2018).

²³ ; Indra Sarma v. V.K.V. Sarma, (2013) 15 S.C.C. 755 (India)

²⁴ John Eekelaar, Family Law and Personal Life (2d ed. Oxford Univ. Press 2017)

mechanisms are made socially acceptable and professionally trained, their legitimacy will remain fragile.

5. Enforceability of Agreements

One of the strengths of ADR is its flexibility; however, this flexibility can also be a weakness if settlements are not legally enforceable. Without statutory backing, mediated agreements may not carry the same weight as judicial decrees. This problem is particularly acute in live-in disputes, where the absence of a recognized legal framework makes enforcement even more uncertain. Critics caution that ADR without enforceability risks producing hollow solutions.

VIII. Conclusion

The rise of live-in relationships in India represents a profound transformation in the understanding of family, intimacy, and personal autonomy. No longer confined to the margins, such relationships are becoming increasingly visible, particularly in urban areas. Yet, the law has struggled to keep pace with these social realities. The absence of codified legislation leaves partners vulnerable to legal uncertainty, inconsistent judicial interpretations, and social stigma. Against this backdrop, the role of Alternative Dispute Resolution (ADR) assumes critical significance.

ADR provides mechanisms that are more adaptable, humane, and efficient compared to traditional litigation. For disputes concerning maintenance, custody, property division, or even interpersonal conflicts, mediation and conciliation offer an avenue for dialogue rather than confrontation. They protect privacy, reduce costs, and allow creative solutions tailored to the unique circumstances of each relationship. By emphasizing cooperation over adversarial strategies, ADR aligns more closely with the sensitive and personal nature of disputes arising in intimate partnerships.

At the same time, this article has highlighted that ADR is not without challenges. Power imbalances, cases of violence, lack of legislative clarity, and social prejudice all pose obstacles

to its effective use. If implemented without safeguards, ADR could risk perpetuating inequalities or undermining judicial protection. Therefore, the integration of ADR into the legal framework governing live-in relationships must be approached with caution, supported by statutory recognition, specialized infrastructure, and gender-sensitive training for mediators.

In conclusion, the need for legal recognition of ADR in live-in relationship disputes is both urgent and undeniable. It promises to safeguard the rights of vulnerable partners, provide access to justice in a cost-effective manner, and reduce the burden on an already strained judiciary. More importantly, it would reflect a forward-looking approach, one that respects individual choice while promoting fairness, equity, and social harmony. As live-in relationships continue to redefine the contours of family life in India, ADR stands out as the most pragmatic and just mechanism to resolve the disputes that inevitably arise.

References

Statutes

- INDIA CONST. (1950).
- Protection of Women from Domestic Violence Act, No. 43 of 2005, INDIA CODE.
- Code of Criminal Procedure, No. 2 of 1974, INDIA CODE.
- Indian Evidence Act, No. 1 of 1872, INDIA CODE.

Case Law

- Lata Singh v. State of U.P., (2006) 5 S.C.C. 475 (India).
- Indra Sarma v. V.K.V. Sarma, (2013) 15 S.C.C. 755 (India).
- D. Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. 469 (India).
- S. Khushboo v. Kanniammal, (2010) 5 S.C.C. 600 (India).
- Tulsa v. Durghatiya, (2008) 4 S.C.C. 520 (India).

Books

- FLAVIA AGNES, Family Law and Constitutional Claims (Oxford Univ. Press 2011).
- PARAS DIWAN, Law of Marriage and Divorce (Universal Law Publishing 2013).
- WERNER MENSKI, Hindu Law: Beyond Tradition and Modernity (Oxford Univ. Press 2003).
- O.P. MALHOTRA & INDRANI GUPTA, The Law and Practice of Arbitration and Conciliation (LexisNexis 3d ed. 2014).

- MADHAVA MENON (ed.), Access to Justice for the Indian Citizen (Oxford Univ. Press 2012).

Articles

- Pratiksha Baxi, Justice is a Secret: Compromise in Rape Trials, 21 Indian J. Gender Stud. 169 (2014).
- S.K. Sharma, Changing Dimensions of Family Law in India, 5 J. Indian L. & Soc'y 73 (2018).

