
ACCESS TO JUSTICE FOR PARTNERS IN LIVE-IN RELATIONSHIPS: A CONSTITUTIONAL ANALYSIS UNDER ARTICLES 14, 19, AND 21

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ABSTRACT

The evolution of intimate relationships in India has witnessed a gradual shift from traditional marital frameworks to more fluid and individualized forms of companionship, including live-in relationships. Despite their increasing social prevalence, live-in partnerships continue to occupy an ambiguous legal space, often leaving individuals—particularly women—without adequate legal protection or access to justice. This paper critically examines the constitutional dimensions of access to justice for partners in live-in relationships, focusing on Articles 14, 19, and 21 of the Constitution of India. Through an analysis of judicial precedents, statutory interpretations, and constitutional morality, the study argues that the Indian legal system has progressively recognized live-in relationships but still falls short in ensuring comprehensive protection. The paper concludes with recommendations aimed at bridging the gap between constitutional guarantees and practical accessibility to justice.

Keywords: Live-in relationships, Access to justice, Article 14, Article 19, Article 21, Constitutional morality, Domestic violence, Equality, Personal liberty

1. Introduction

The concept of family and intimate relationships in India has undergone a significant transformation in recent decades, influenced by urbanization, globalization, changing socio-economic conditions, and an increasing emphasis on individual autonomy. Among these evolving forms of relationships, live-in relationships—where two consenting adults cohabit without entering into a formal marriage—have emerged as a notable phenomenon. While such relationships challenge traditional social norms rooted in marriage as a sacrosanct institution, they have gradually received judicial recognition within the Indian legal framework. However, despite this recognition, partners in live-in relationships often face substantial barriers in accessing justice, particularly in matters concerning maintenance, protection from abuse, legitimacy, and social security.

The Indian Constitution, as a transformative document, guarantees fundamental rights that are broad enough to accommodate changing societal realities. Articles 14, 19, and 21 collectively form the cornerstone of individual freedoms, equality, and dignity. These provisions have been expansively interpreted by the judiciary to include the right to choose a partner, cohabit, and live with dignity. In this context, the issue of access to justice for individuals in live-in relationships assumes constitutional significance. Access to justice is not merely the ability to approach courts but encompasses the effective realization of rights and protections guaranteed under the law.¹

The judiciary has played a crucial role in recognizing the legitimacy of live-in relationships. In *S. Khushboo v. Kanniammal*, the Supreme Court held that live-in relationships, though considered immoral by some, are not illegal and fall within the ambit of the right to life under Article 21.² Similarly, in *Lata Singh v. State of Uttar Pradesh*, the Court affirmed that consenting adults have the right to live together without societal interference, thereby reinforcing the constitutional protection of personal liberty.³ These decisions underscore the principle that constitutional morality must prevail over societal morality.

Further, in *D. Velusamy v. D. Patchaiammal*, the Supreme Court attempted to define the contours of a “relationship in the nature of marriage,” thereby extending certain legal

¹ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81

² *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

³ *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475

protections to women in such arrangements.⁴ This position was elaborated in *Indra Sarma v. V.K.V. Sarma*, where the Court acknowledged the complexities involved in determining the nature of live-in relationships and emphasized the need for legislative intervention.⁵ Despite these judicial efforts, the absence of a comprehensive statutory framework results in inconsistent application of rights, thereby limiting effective access to justice.

From a constitutional perspective, Article 14 mandates equality before the law and prohibits arbitrary discrimination, raising questions about the differential treatment of live-in partners vis-à-vis married couples. Article 19 protects individual freedoms, including the right to choose one's partner, while Article 21 guarantees the right to life with dignity, privacy, and autonomy, as affirmed in *Justice K.S. Puttaswamy v. Union of India*.⁶ Together, these provisions create a strong constitutional basis for recognizing and protecting live-in relationships.

This paper seeks to critically examine whether the existing legal and constitutional framework adequately ensures access to justice for partners in live-in relationships. It explores the intersection of constitutional rights, judicial interpretation, and socio-legal realities, highlighting the gaps that persist despite progressive jurisprudence. The study ultimately argues that while the judiciary has made significant strides in recognizing such relationships, a more coherent and comprehensive approach is necessary to fully realize the constitutional promise of justice, equality, and dignity.

2. Conceptual Framework of Live-in Relationships

The notion of live-in relationships, though not expressly defined under Indian statutory law, has been shaped and clarified through judicial interpretation. Broadly understood, a live-in relationship refers to a domestic arrangement wherein two consenting adults cohabit and maintain a relationship akin to marriage without undergoing a formal marital ceremony. This evolving social reality has necessitated the development of a conceptual framework to distinguish legally recognizable relationships from casual or transient associations, particularly in the context of extending legal protection and ensuring access to justice.

The judiciary has played a pivotal role in delineating the contours of live-in relationships. In

⁴ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁵ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁶ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

D. Velusamy v. D. Patchaiammal, the Supreme Court attempted to define a “relationship in the nature of marriage” under the Protection of Women from Domestic Violence Act, 2005 (PWDVA).⁷ The Court laid down essential criteria, including that the couple must hold themselves out to society as being akin to spouses, must be of legal age to marry, must be otherwise qualified to enter into a legal marriage, and must have voluntarily cohabited for a significant period. This judgment was instrumental in excluding relationships that are purely casual, clandestine, or based on commercial arrangements from the ambit of legal protection.

The conceptual framework was further refined in *Indra Sarma v. V.K.V. Sarma*, where the Supreme Court acknowledged the diversity and complexity of live-in relationships.⁸ The Court identified multiple categories of such relationships, including those between unmarried individuals, relationships involving a married partner, and long-term cohabitation resembling marriage. Importantly, the Court emphasized that not all live-in relationships would qualify for protection under the PWDVA, thereby underscoring the necessity of evaluating each case on its specific facts. This case highlighted the tension between social realities and legal formalism, particularly in determining which relationships merit legal recognition.

In addition to defining the nature of these relationships, the judiciary has also addressed their legal consequences. In *Tulsa v. Durghatiya*, the Supreme Court recognized that children born out of prolonged live-in relationships are to be treated as legitimate, thereby safeguarding their inheritance rights.⁹ This recognition is crucial in reinforcing the legal and social legitimacy of such relationships, at least to the extent of protecting the rights of children.

Further, in *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Court adopted a progressive approach by recommending that women in live-in relationships be entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973.¹⁰ The Court stressed the need for a broad and purposive interpretation of the term “wife” to prevent destitution and ensure social justice, particularly for women who are economically vulnerable.

Despite these judicial pronouncements, the conceptual framework remains fragmented due to the absence of comprehensive legislation. The reliance on judicial discretion often leads to

⁷ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁸ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁹ *Tulsa v. Durghatiya*, (2008) 4 SCC 520

¹⁰ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141

inconsistent outcomes, thereby affecting the ability of individuals to effectively access justice. Moreover, the emphasis on factors such as duration of cohabitation and societal recognition may inadvertently exclude certain relationships that do not conform to traditional norms but nonetheless involve emotional and economic interdependence.

From a constitutional standpoint, the recognition of live-in relationships is closely linked to the principles of autonomy, dignity, and equality under Articles 14, 19, and 21. The conceptual framework thus serves not only as a legal classification but also as a means to operationalize constitutional protections in the realm of intimate relationships. However, the existing framework requires greater clarity and coherence to ensure that individuals in such relationships are not left without legal remedies.

3. Access to Justice: A Constitutional Perspective

Access to justice is a foundational principle of any democratic legal system governed by the rule of law. Although not explicitly enumerated as a fundamental right in the Constitution of India, it has been consistently interpreted by the judiciary as an integral component of Articles 14 and 21. In its broadest sense, access to justice encompasses not only the right to approach courts but also the availability of effective remedies, fair procedures, and the enforcement of rights in a meaningful manner.¹¹ In the context of live-in relationships, this principle assumes particular importance, given the absence of a comprehensive statutory framework and the socio-legal challenges faced by individuals in such arrangements.

The Supreme Court has repeatedly emphasized that the right to access justice is implicit in the guarantee of life and personal liberty under Article 21. In *Hussainara Khatoon v. State of Bihar*, the Court recognized that the right to a fair and speedy trial is an essential element of Article 21, thereby laying the foundation for a broader understanding of access to justice.¹² This interpretation was further expanded in *Anita Kushwaha v. Pushap Sudan*, where the Court explicitly held that access to justice is a fundamental right, comprising four essential components: the existence of an adjudicatory mechanism, accessibility to such mechanism, affordability, and the effectiveness of the remedy.¹³

¹¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

¹² *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81

¹³ *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509

Article 14, which guarantees equality before the law and equal protection of the laws, also plays a crucial role in shaping the concept of access to justice. It ensures that individuals in similar circumstances are treated alike and that legal protections are not arbitrarily denied. For partners in live-in relationships, however, the lack of uniform legal recognition often results in differential treatment when compared to married couples, particularly in matters relating to maintenance, inheritance, and social welfare benefits. Such disparities raise concerns regarding substantive equality and the equitable distribution of legal protections.

Furthermore, Article 19 reinforces access to justice by safeguarding individual freedoms, including the right to choose one's partner and to cohabit without undue interference. In *Shafin Jahan v. Asokan K.M.*, the Supreme Court underscored that the right to choose a partner is a fundamental aspect of individual liberty and dignity.¹⁴ This freedom is essential in the context of live-in relationships, as societal stigma and moral policing often act as barriers to individuals seeking legal remedies. Thus, access to justice must also be understood as freedom from external constraints that hinder the exercise of constitutional rights.

In addition, the judiciary has recognized that access to justice must be viewed through the lens of social justice, particularly for vulnerable groups. Women in live-in relationships, for instance, often face economic and social disadvantages, making it difficult for them to assert their rights. In *Delhi Domestic Working Women's Forum v. Union of India*, the Court emphasized the need for a supportive legal framework to ensure that marginalized individuals are able to access justice effectively.¹⁵ This principle is equally applicable to partners in live-in relationships who may lack formal legal recognition.

Despite these constitutional safeguards, practical barriers such as social stigma, lack of awareness, evidentiary challenges, and inconsistent judicial interpretations continue to impede effective access to justice for individuals in live-in relationships. The absence of clear legislative guidelines further exacerbates these issues, leaving much to judicial discretion.

Therefore, a constitutional analysis of access to justice in this context must go beyond formal recognition and address the structural and procedural barriers that hinder the realization of rights. Ensuring meaningful access to justice requires a holistic approach that integrates

¹⁴ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

¹⁵ *Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14

constitutional principles with legislative reforms and judicial sensitivity to evolving social realities.

4. Article 14: Equality Before Law and Equal Protection

Article 14 guarantees equality before the law and equal protection of the laws. It prohibits arbitrary discrimination and mandates that similarly situated individuals be treated alike.

4.1 Applicability to Live-in Relationships

Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws, forming the bedrock of the constitutional commitment to non-arbitrariness and fairness. This provision requires that individuals in similar circumstances be treated alike unless a reasonable classification justifies differential treatment. In the context of live-in relationships, the application of Article 14 raises important questions regarding the extent to which partners in such relationships are entitled to legal protections comparable to those available to married couples.

4.2 Reasonable Classification and Judicial Approach

Article 14 permits reasonable classification, provided it satisfies the twin test of intelligible differentia and a rational nexus with the object sought to be achieved. This doctrine has been central to judicial evaluation of laws affecting diverse social relationships, including live-in partnerships. The absence of explicit statutory recognition for live-in relationships often results in their differential treatment vis-à-vis marriage, raising concerns about the constitutionality of such classification.

The Supreme Court, in *State of West Bengal v. Anwar Ali Sarkar*, laid down that classification must not be arbitrary but based on clear and reasonable distinctions.¹⁶ Applying this principle, the judiciary has attempted to distinguish between mere cohabitation and “relationships in the nature of marriage.” In *D. Velusamy v. D. Patchaiammal*, the Court introduced specific criteria—such as shared household, duration, and social recognition—to identify relationships

¹⁶ *State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75

deserving legal protection.¹⁷ This approach seeks to ensure that only those relationships exhibiting stability and commitment are granted statutory benefits.

Further, in *Indra Sarma v. V.K.V. Sarma*, the Court refined this classification by identifying categories of live-in relationships and cautioning against extending protection to relationships that are purely casual or exploitative.¹⁸ While such judicial classification aims to balance social realities with legal safeguards, it also introduces subjectivity, leading to inconsistent application.

Therefore, although the doctrine of reasonable classification under Article 14 justifies differential treatment, the current judicial approach underscores the need for clearer legislative guidelines to ensure uniformity and fairness in extending legal protections to live-in partners.

5. Article 19: Freedom and Autonomy

Article 19(1)(a) and 19(1)(d) guarantee freedom of expression and movement, which have been interpreted to include the right to choose a partner and cohabit.

5.1 Right to Choose a Partner

Article 19 of the Constitution of India guarantees fundamental freedoms that are essential to individual autonomy, including the freedom of expression and movement under Articles 19(1)(a) and 19(1)(d). These freedoms have been judicially expanded to include the right to choose a partner and to cohabit without unwarranted interference from the State or society. In the context of live-in relationships, this right forms a crucial component of personal liberty and decisional autonomy.

The Supreme Court has consistently upheld the right of consenting adults to choose their partners. In *Lata Singh v. State of Uttar Pradesh*, the Court categorically held that a major woman is free to marry or live with anyone of her choice, and any interference by family members or society is illegal.¹⁹ This principle was further reinforced in *Shafin Jahan v. Asokan*

¹⁷ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

¹⁸ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

¹⁹ *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475

K.M., where the Court emphasized that the choice of a partner lies within the exclusive domain of the individual and is protected under constitutional freedoms.²⁰

Although these decisions are often discussed in the context of marriage, their underlying rationale equally applies to live-in relationships, as both involve the exercise of personal choice in intimate matters. The freedom to enter into a live-in relationship is thus protected under Article 19, read in conjunction with Article 21.

However, societal disapproval and moral policing frequently act as barriers to the exercise of this freedom, thereby indirectly restricting access to justice. The constitutional mandate, therefore, requires that such freedoms be safeguarded not only in theory but also in practice, ensuring that individuals can exercise their right to choose a partner without fear or coercion.

5.2 Social Morality vs Constitutional Morality

The tension between social morality and constitutional morality is a recurring theme in the adjudication of individual freedoms under Article 19. While societal norms in India have traditionally disapproved of non-marital cohabitation, the Constitution prioritizes individual autonomy, dignity, and liberty over majoritarian moral standards. This distinction becomes particularly significant in the context of live-in relationships, where social stigma often conflicts with constitutionally protected freedoms.

The Supreme Court has consistently upheld the primacy of constitutional morality. In *Navtej Singh Johar v. Union of India*, the Court held that constitutional morality must prevail over social morality, especially when the latter seeks to curtail fundamental rights.²¹ Although the case dealt with decriminalization of consensual same-sex relations, its reasoning is equally applicable to live-in relationships, as both involve personal choices in intimate matters.

Similarly, in *S. Khushboo v. Kanniammal*, the Court observed that notions of social morality are inherently subjective and cannot be used to criminalize or stigmatize live-in relationships.²² The Court emphasized that such relationships fall within the ambit of personal liberty and cannot be interfered with merely on the basis of public disapproval.

²⁰ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

²¹ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

²² *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

Furthermore, in *Shakti Vahini v. Union of India*, the Court condemned honour-based violence and reiterated that individual choice in matters of relationships is constitutionally protected.²³ These judgments collectively affirm that societal disapproval cannot override the freedoms guaranteed under Article 19.

6. Article 21: Right to Life and Personal Liberty

Article 21 guarantees the right to life and personal liberty, encompassing dignity, privacy, and autonomy.

6.1 Right to Cohabit

The right to cohabit, though not explicitly mentioned in the Constitution of India, has been judicially recognized as an intrinsic facet of the right to life and personal liberty under Article 21. It reflects the autonomy of individuals to choose their living arrangements and intimate associations without undue interference from the State or society. In the context of live-in relationships, the right to cohabit serves as a foundational principle that legitimizes such unions within the constitutional framework.

The Supreme Court has consistently upheld the right of consenting adults to live together. In *Lata Singh v. State of Uttar Pradesh*, the Court affirmed that two adults are free to live together without interference, irrespective of societal approval, thereby recognizing cohabitation as a legitimate exercise of personal liberty.²⁴ This position was further strengthened in *S. Khushboo v. Kanniammal*, where the Court observed that live-in relationships, though considered unconventional by some, are not illegal and fall within the ambit of Article 21.²⁵

In *Indra Sarma v. V.K.V. Sarma*, the Court acknowledged that live-in relationships are a part of modern social reality and emphasized that such relationships may, in certain circumstances, warrant legal protection, particularly for women under the Protection of Women from Domestic Violence Act, 2005²⁶. The recognition of cohabitation in this context underscores the need to protect individuals from exploitation and abuse within such arrangements.

²³ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192

²⁴ *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475

²⁵ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

²⁶ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

Additionally, the Supreme Court in *Shafin Jahan v. Asokan K.M.* reaffirmed that the choice of a partner and the decision to cohabit lie at the core of individual autonomy and dignity.²⁷ The Court stressed that such decisions are protected under the Constitution and cannot be subjected to external control.

6.2 Right to Privacy and Dignity

The right to privacy and dignity constitutes a core component of Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. Judicial interpretation has significantly expanded the scope of Article 21 to include decisional autonomy in matters of intimate relationships, thereby directly impacting the legal recognition of live-in relationships. Privacy, in this context, encompasses the freedom of individuals to make personal choices regarding companionship, cohabitation, and family life without unwarranted intrusion.

The landmark judgment in *Justice K.S. Puttaswamy v. Union of India* firmly established the right to privacy as a fundamental right intrinsic to life and liberty under Article 21.²⁸ The Court recognized that privacy includes decisional autonomy relating to personal relationships, thus affirming that individuals have the right to choose their partners and the manner in which they wish to live. This principle is particularly relevant for partners in live-in relationships, as it protects their choice from societal and state interference.

Earlier, in *S. Khushboo v. Kanniammal*, the Supreme Court emphasized that notions of morality cannot override an individual's right to privacy and dignity.²⁹ The Court held that consensual cohabitation between adults is not illegal and falls within the domain of personal autonomy. Similarly, in *Navtej Singh Johar v. Union of India*, the Court reiterated that the Constitution safeguards the dignity of individuals in their intimate choices, highlighting that societal disapproval cannot be a ground to curtail fundamental rights.³⁰

Further, in *Shafin Jahan v. Asokan K.M.*, the Court underscored that the right to choose a partner is an essential facet of dignity and autonomy, both of which are protected under Article

²⁷ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

²⁸ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

²⁹ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

³⁰ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

21.³¹ These judgments collectively affirm that live-in relationships are entitled to constitutional protection as an expression of individual identity and freedom.

Despite such progressive jurisprudence, individuals in live-in relationships often face intrusion, stigma, and lack of legal clarity, which undermines their right to privacy and dignity. Therefore, ensuring effective access to justice requires not only recognition of these rights but also their robust enforcement in practice.

7. Judicial Recognition and Legal Protections

The Indian judiciary has played a transformative role in recognizing live-in relationships and extending limited legal protections to partners, particularly women.

7.1 Protection under the Domestic Violence Act

One of the most significant statutory interventions in safeguarding the rights of women in live-in relationships is the Protection of Women from Domestic Violence Act, 2005 (PWDVA). The Act extends protection not only to legally married women but also to those in “relationships in the nature of marriage,” thereby indirectly recognizing certain live-in relationships. This legislative inclusion marks a progressive step towards ensuring access to justice for women who may otherwise remain unprotected due to the absence of formal marital ties.

In *D. Velusamy v. D. Patchaiammal*, the Supreme Court clarified that not all live-in relationships qualify for protection under the Act; only those that satisfy conditions akin to marriage, such as shared household and social recognition, are eligible.³² This restrictive interpretation was further elaborated in *Indra Sarma v. V.K.V. Sarma*, where the Court acknowledged the complexity of such relationships and emphasized the need to assess them on a case-by-case basis.³³ The Court also noted that relationships involving exploitation or casual cohabitation would fall outside the Act’s protective ambit.

Despite these limitations, the judiciary has recognized the PWDVA as a vital tool for providing civil remedies such as residence orders, protection orders, and maintenance. However, the

³¹ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

³² *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

³³ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

absence of a clear statutory definition continues to create ambiguity, often affecting consistent access to justice for women in live-in relationships.

7.2 Maintenance and Financial Rights

Maintenance and financial security constitute one of the most critical aspects of access to justice for partners in live-in relationships, particularly for women who may be economically dependent. Although Indian statutes do not explicitly recognize live-in relationships for maintenance rights, judicial interpretation has progressively expanded the scope of existing provisions to prevent destitution and ensure social justice.

In *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Supreme Court recommended a liberal interpretation of Section 125 of the Code of Criminal Procedure, 1973, suggesting that the term “wife” should include women in relationships akin to marriage so as to extend maintenance benefits.³⁴ This approach reflects the Court’s intent to prioritize substantive justice over rigid legal formalism.

Similarly, in *Badshah v. Urmila Badshah Godse*, the Court held that a man cannot escape maintenance obligations by taking advantage of legal technicalities when he has maintained a relationship resembling marriage.³⁵ The Court emphasized that social justice legislation must be interpreted in a manner that advances the purpose of protecting vulnerable individuals.

However, in *Indra Sarma v. V.K.V. Sarma*, the Court cautioned that not all live-in relationships would qualify for maintenance protection, particularly those involving casual or exploitative arrangements.³⁶ This creates a selective framework that, while protective in intent, often results in inconsistent outcomes.

7.3 Legitimacy of Children

One of the most settled areas of judicial recognition in the context of live-in relationships pertains to the legitimacy and rights of children born from such unions. The Supreme Court of India has consistently adopted a progressive stance to ensure that children are not penalized for

³⁴ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141

³⁵ *Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188

³⁶ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

the nature of their parents' relationship, thereby advancing the constitutional mandate of equality and dignity under Article 21.

In *Tulsa v. Durghatiya*, the Court held that children born out of long-term live-in relationships are presumed to be legitimate, provided the relationship is not "walk-in and walk-out" in nature.³⁷ This presumption is rooted in the principle that social legitimacy should not override the protection of innocent children.

Further, in *Bharata Matha v. R. Vijaya Renganathan*, the Supreme Court reiterated that while such children may not have full coparcenary rights under Hindu law, they are nevertheless entitled to inherit the self-acquired property of their parents.³⁸ This ensures a degree of financial and social security, thereby reducing vulnerability.

Similarly, in *Revanasiddappa v. Mallikarjun*, the Court emphasized that children born from void or voidable relationships are entitled to all rights, except coparcenary rights, and must be treated with dignity under the law.³⁹

These judicial developments reflect a consistent effort to balance social realities with legal principles, ensuring that children in live-in relationships are not denied access to justice or basic rights due to the status of their parents' union.

8. Challenges in Access to Justice

Despite judicial recognition, partners in live-in relationships continue to face significant barriers in accessing justice. The absence of a comprehensive statutory framework leads to legal uncertainty, resulting in inconsistent judicial outcomes. Proving the existence of a "relationship in the nature of marriage" often imposes a heavy evidentiary burden on litigants, particularly women seeking maintenance or protection under the Protection of Women from Domestic Violence Act, 2005.⁴⁰ Social stigma and moral policing further discourage individuals from approaching courts. Additionally, economic dependence and lack of awareness about legal rights exacerbate vulnerability. These structural and societal challenges

³⁷ *Tulsa v. Durghatiya*, (2008) 4 SCC 520

³⁸ *Bharata Matha v. R. Vijaya Renganathan*, (2010) 11 SCC 483

³⁹ *Revanasiddappa v. Mallikarjun*, (2011) 11 SCC 1

⁴⁰ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469; *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

collectively hinder the effective realization of constitutional guarantees under Articles 14, 19, and 21.

8.1 Lack of Legal Recognition

A primary obstacle in ensuring access to justice for partners in live-in relationships is the absence of explicit statutory recognition in Indian law. Unlike marriage, which carries well-defined legal rights and obligations, live-in relationships exist in a grey legal zone, leading to uncertainty in enforcement of rights relating to maintenance, property, and protection from abuse. This lack of recognition often results in inconsistent judicial interpretations and selective application of protective laws.

In *Indra Sarma v. V.K.V. Sarma*, the Supreme Court acknowledged that while certain live-in relationships may be protected under the Protection of Women from Domestic Violence Act, 2005, not all such relationships qualify, thereby limiting legal certainty.⁴¹ Similarly, in *D. Velusamy v. D. Patchaiammal*, the Court laid down restrictive conditions for recognizing a relationship “in the nature of marriage,” further narrowing the scope of protection.⁴²

This fragmented legal approach creates ambiguity and restricts uniform access to justice, particularly for women and economically dependent partners, thereby undermining the constitutional promise of equality and dignity.

8.2 Evidentiary Burden

One of the most significant procedural challenges faced by partners in live-in relationships is the heavy evidentiary burden required to establish the existence of a “relationship in the nature of marriage” for the purpose of claiming legal protections. In the absence of statutory clarity, courts rely on factual indicators such as duration of cohabitation, shared household, social recognition, and financial interdependence. This often places an onerous burden on the claimant, particularly women seeking relief under the Protection of Women from Domestic Violence Act, 2005.

⁴¹ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁴² *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

In *D. Velusamy v. D. Patchaiammal*, the Supreme Court held that mere casual or intermittent relationships do not qualify for protection and emphasized the need for proof of stability and societal recognition.⁴³ Similarly, in *Indra Sarma v. V.K.V. Sarma*, the Court reiterated that each case must be assessed on its facts, thereby increasing judicial discretion but also uncertainty.⁴⁴

Such stringent evidentiary requirements often hinder access to justice, as individuals in vulnerable positions may lack documentary or social proof, thereby limiting the effective enforcement of their constitutional rights.

8.3 Social Stigma

Social stigma remains one of the most pervasive barriers to access to justice for partners in live-in relationships in India. Despite judicial recognition of such relationships as constitutionally protected under Article 21, societal disapproval often discourages individuals—particularly women—from asserting their legal rights. Fear of moral policing, family pressure, and social ostracism frequently prevents aggrieved partners from approaching courts, thereby undermining the effectiveness of legal remedies.

The Supreme Court in *S. Khushboo v. Kanniammal* categorically held that live-in relationships, though viewed unfavourably by sections of society, are not illegal, and that criminal law cannot be used to enforce subjective notions of morality.⁴⁵ Similarly, in *Shafin Jahan v. Asokan K.M.*, the Court emphasized that an individual's choice of partner is a matter of personal liberty and cannot be subjected to societal veto.⁴⁶ These judgments reinforce the principle that constitutional morality must prevail over social morality.

However, in practice, deep-rooted social prejudice continues to operate as an extralegal barrier, limiting the realisation of constitutional rights and restricting meaningful access to justice for partners in live-in relationships.

8.4 Gender Inequality

Gender inequality remains a critical impediment to access to justice for partners in live-in

⁴³ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁴⁴ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁴⁵ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

⁴⁶ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

relationships, disproportionately affecting women who are often economically and socially vulnerable within such arrangements. In the absence of formal marital status, women frequently face difficulties in securing maintenance, residence rights, and protection from domestic abuse, thereby reinforcing structural dependence and inequality. The burden of proving the existence of a “relationship in the nature of marriage” further exacerbates their vulnerability, as evidentiary requirements are often difficult to satisfy.

In *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Supreme Court recognized the necessity of a broad interpretation of maintenance provisions under Section 125 of the Code of Criminal Procedure, 1973, to prevent destitution of women in live-in relationships.⁴⁷ Similarly, in *Badshah v. Urmila Badshah Godse*, the Court held that social justice legislation must be interpreted liberally to protect women from exploitation and technical loopholes.⁴⁸

Despite such progressive rulings, inconsistent application of legal principles continues to disadvantage women, thereby limiting their effective access to justice and undermining substantive equality under Articles 14 and 21.

9. Comparative Jurisprudence

A comparative analysis of legal systems reveals that several jurisdictions have adopted structured frameworks to recognize and regulate live-in or cohabitation relationships, thereby ensuring clearer access to justice compared to the fragmented Indian approach. These jurisdictions generally treat long-term cohabitation as a legally cognizable family form, granting partners defined rights relating to property, maintenance, and succession.

In the United Kingdom, the concept of “cohabitation” is not governed by a single comprehensive statute, but various reforms and judicial developments have provided limited protections. Under the Civil Partnership Act, 2004, same-sex couples gained legal recognition similar to marriage, while courts have also increasingly acknowledged proprietary claims based on constructive trust principles in cases of long-term cohabitation, as seen in *Stack v. Dowden*.⁴⁹ Although the UK does not yet grant full “common law marriage” status, there is a growing recognition of financial remedies for cohabitants upon separation.

⁴⁷ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141

⁴⁸ *Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188

⁴⁹ *Stack v. Dowden*, [2007] UKHL 17

In Australia, the Family Law Act, 1975 provides extensive recognition to “de facto relationships,” explicitly granting partners rights equivalent to married couples in matters of property division, maintenance, and superannuation. Courts determine the existence of such relationships based on factors such as duration, shared residence, and financial interdependence.⁵⁰ This statutory clarity ensures predictable legal outcomes and reduces evidentiary burdens.

Similarly, in Canada, the concept of “common-law partnerships” is recognized under various provincial family laws, providing partners with rights to spousal support and inheritance after a specified period of cohabitation.⁵¹ The Canadian courts have consistently upheld such protections as part of substantive equality under the Canadian Charter of Rights and Freedoms.

Compared to these jurisdictions, India’s reliance on judicial interpretation, particularly under the Protection of Women from Domestic Violence Act, 2005, creates uncertainty and inconsistency. Cases such as *Indra Sarma v. V.K.V. Sarma* highlight the absence of a uniform statutory framework, resulting in selective protection.⁵² Thus, comparative jurisprudence underscores the need for a comprehensive legislative framework in India to ensure predictable and effective access to justice for partners in live-in relationships.

10. Recommendations

10.1 Legislative Framework: To ensure effective access to justice for partners in live-in relationships, there is a pressing need for a comprehensive legislative framework that clearly defines such relationships and their attendant rights and obligations. A codified law should incorporate criteria similar to those judicially evolved in *D. Velusamy v. D. Patchaiammal*, ensuring uniformity in determining “relationships in the nature of marriage.”⁵³ It should also expand protections under the Protection of Women from Domestic Violence Act, 2005, as interpreted in *Indra Sarma v. V.K.V. Sarma*, to reduce judicial discretion and inconsistency.⁵⁴ Such legislation must guarantee rights relating to maintenance, residence, and property, thereby

⁵⁰ Family Law Act 1975 (Cth), Australia

⁵¹ *M. v. H.*, [1999] 2 SCR 3 (Canada)

⁵² *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁵³ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469

⁵⁴ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

strengthening constitutional guarantees under Articles 14, 19, and 21 and ensuring equitable access to justice.

10.2 Uniform Criteria: A uniform set of criteria is essential to reduce judicial inconsistency in determining which live-in relationships qualify for legal protection. Presently, courts rely on fragmented standards, as seen in *D. Velusamy v. D. Patchaiammal*, where factors such as duration of cohabitation and social recognition were considered, and in *Indra Sarma v. V.K.V. Sarma*, where categorisation of relationships led to varying outcomes.⁵⁵ A codified and consistent framework should be established to assess cohabitation, mutual intent, financial interdependence, and shared household, ensuring objective evaluation. This would minimise arbitrariness under Article 14 and enhance predictability in enforcement, thereby strengthening access to justice for partners in live-in relationships.

10.3 Awareness Programs: Effective access to justice for partners in live-in relationships requires targeted legal awareness initiatives to reduce stigma and improve understanding of constitutional rights. Many individuals remain unaware that such relationships are legally protected under Article 21, as affirmed in *S. Khushboo v. Kanniammal*, which held that live-in relationships are not illegal and fall within personal liberty.⁵⁶ Awareness programs should be conducted through legal aid clinics, educational institutions, and community outreach to inform individuals about rights under the Protection of Women from Domestic Violence Act, 2005, as interpreted in *Indra Sarma v. V.K.V. Sarma*.⁵⁷ Such initiatives would empower individuals to assert their rights effectively and reduce barriers to justice arising from misinformation and social prejudice.

10.4 Gender-Sensitive Policies: Gender-sensitive policies are essential to ensure substantive equality and effective access to justice for partners in live-in relationships, particularly women who often face economic dependence and social vulnerability. In *Badshah v. Urmila Badshah Godse*, the Supreme Court emphasized that social justice legislation must be interpreted in a manner that prevents exploitation of women and advances substantive justice.⁵⁸ Similarly, in *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Court advocated a liberal interpretation

⁵⁵ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469; *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁵⁶ *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600

⁵⁷ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁵⁸ *Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188

of maintenance provisions to protect women in relationships akin to marriage.⁵⁹ Building on these principles, policy reforms should prioritise protection against economic abuse, ensure simplified procedures for claiming maintenance and residence rights, and adopt a victim-centric approach. Such measures would strengthen constitutional guarantees under Articles 14 and 21 by promoting equality, dignity, and fairness in intimate relationships.

10.5 Judicial Training: Judicial training is essential to ensure consistent and sensitive adjudication of disputes involving live-in relationships, given the evolving nature of personal relationships in India. Judges must be adequately sensitised to constitutional morality, as emphasized in *Navtej Singh Johar v. Union of India*, where the Supreme Court held that constitutional values must prevail over social morality.⁶⁰ Training should also focus on the liberal interpretation of protective statutes, as seen in *Indra Sarma v. V.K.V. Sarma*, where the Court highlighted the complexities of live-in relationships and the need for nuanced assessment.⁶¹ Such capacity-building would reduce arbitrariness, promote uniform application of law, and enhance access to justice under Articles 14, 19, and 21.

11. Conclusion

The constitutional framework of India, through Articles 14, 19, and 21, provides a robust foundation for protecting individual autonomy, equality, and dignity in matters of intimate relationships. Judicial interpretation has progressively expanded these provisions to recognize live-in relationships as a legitimate social reality, thereby affirming the right to cohabit, choose a partner, and live with dignity. Landmark decisions such as *S. Khushboo v. Kanniammal*, *Shafin Jahan v. Asokan K.M.*, and *Justice K.S. Puttaswamy v. Union of India* collectively establish that personal choices in relationships fall within the protected domain of constitutional liberty.⁶²

Despite this progressive jurisprudence, access to justice for partners in live-in relationships remains uneven and uncertain. The absence of a comprehensive legislative framework, coupled with evidentiary burdens, social stigma, and inconsistent judicial standards, continues to hinder effective enforcement of rights. While statutes such as the Protection of Women from Domestic

⁵⁹ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141

⁶⁰ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

⁶¹ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

⁶² *S. Khushboo v. Kanniammal*, (2010) 5 SCC 600; *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368; *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

Violence Act, 2005 offer partial protection, their limited scope and restrictive interpretation in cases like *Indra Sarma v. V.K.V. Sarma* highlight the need for greater clarity and uniformity.⁶³

Ultimately, ensuring meaningful access to justice requires moving beyond mere judicial recognition to structured legal reform. A balanced approach that integrates constitutional morality with legislative certainty is essential to safeguard vulnerable partners, particularly women, and to uphold the constitutional promise of equality, liberty, and dignity in evolving forms of relationships.

⁶³ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755