



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

## ABOUT WHITE BLACK LEGAL

*White Black Legal – The Law Journal* is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

## AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

# **THE EVOLVING LEGAL FRAMEWORK OF LIVE-IN RELATIONSHIPS IN INDIA: BALANCING AUTONOMY, ACCOUNTABILITY, AND STRUCTURAL ASYMMETRY**

AUTHORED BY - MADHUR KUKREJA  
ADVOCATE: DISTRICT COURT KARNAL

## **ABSTRACT**

Over the past two decades, Indian jurisprudence has undergone a fundamental transformation, transitioning from a strict, marital-centric legal framework toward a dignity-based recognition of non-marital cohabitation. For centuries, Indian family law operated under a rigid, status-centric paradigm wherein ceremonial marriage served as the exclusive prerequisite for legal rights, economic protections, statutory maintenance, child legitimacy, and property allocation. However, the expansive judicial interpretation of Article 21 of the Constitution of India—evolving from a procedural guarantee to a substantive safeguard of dignity, privacy, and decisional autonomy—has compelled a fundamental re-evaluation of intimate adult associations. Landmark rulings, notably *Justice K.S. Puttaswamy (Retd.) v. Union of India* and *Navtej Singh Johar v. Union of India*, firmly established that personal choices regarding companionship and intimate cohabitation fall within a constitutionally protected domain governed by constitutional morality rather than societal disapproval. Consequently, live-in relationships have evolved from sociological anomalies into constitutionally recognized exercises of personal liberty.

Despite this constitutional mandate, the absence of a unified, codifying legislative framework has created a highly fragmented regulatory environment. In the absence of statutory clarity, courts have relied on incremental, case-specific adjudication across civil, criminal, and constitutional domains, leading to doctrinal inconsistencies and legal unpredictability. This paper provides a thorough doctrinal and normative evaluation of the current legal landscape governing non-marital cohabitation in India. It examines the tension between preserving individual autonomy free from state overreach and establishing necessary legal accountability to protect economically vulnerable partners against deceit, desertion, and exploitation.

**Keywords:** Live-in Relationships, Article 21, Constitutional Morality, Decisional Autonomy, PWDVA 2005, Intention at Inception, LGBTQ+ Rights, Structural Asymmetry, Legislative Reform.

## I. INTRODUCTION: THE CHANGING ENVIRONMENT OF INTIMATE RELATIONSHIPS

For centuries, Indian family law operated under a status-centric framework wherein ceremonial marriage served as the sole legal foundation for intimate associations. Formal marital status functioned as a mandatory prerequisite for statutory protections, maintenance, child legitimacy, inheritance, and property allocation. Relationships outside this framework, regardless of their social prevalence or duration, were denied structured remedies, leaving non-marital partners—predominantly women—without institutional safeguards.

Over the past twenty years, constitutional jurisprudence has challenged this rigid paradigm. The expansion of Article 21 of the Constitution of India<sup>1</sup> from a mere procedural guarantee against state action to a substantive protector of individual dignity, privacy, and decisional autonomy—necessitated a re-evaluation of non-marital cohabitation. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*<sup>2</sup>, the Supreme Court formally recognized privacy as an intrinsic facet of personal liberty under Article 21, explicitly extending constitutional protection to personal choices regarding intimate association and companionship. Subsequently, in *Navtej Singh Johar v. Union of India*<sup>3</sup>, the Court established that constitutional morality must supersede social morality, affirming that majoritarian disapproval cannot justify state interference in consensual adult relationships. Consequently, cohabitation in India has evolved from a sociological anomaly into a constitutionally protected reality.

## II. THE FUNDAMENTAL LEGAL CONFLICT: REGULATION VS. AUTONOMY

While constitutional doctrine firmly protects the right of consenting adults to cohabit, translating this liberty into a functional legal system presents significant regulatory challenges. Recognizing autonomy does not automatically resolve underlying questions of criminal

---

<sup>1</sup> Indian Constitution Article 21 ("No person shall be deprived of his life or personal liberty except according to procedure established by law.")

<sup>2</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) 10 SCC 1

<sup>3</sup> *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1

liability, economic dependency, or civil culpability. The current legal landscape operates under an inherent structural tension between two foundational principles:

- **Autonomy:** Preserving the constitutional right of adults to structure their private lives free from unwarranted state interference.
- **Accountability:** Establishing legal safeguards against exploitation, deceit, desertion, and economic vulnerability.

The core regulatory challenge lies not in establishing the legality of live-in relationships—which is constitutionally settled—but in defining when and how legal ramifications attach to them. Key issues requiring resolution include:

1. Determining the legal thresholds for a cohabitative relationship to qualify for statutory protection.
2. Differentiating between fraudulent inducement and the consensual breakdown of a relationship under criminal law.
3. Defining post-separation civil remedies and property division regimes.
4. Harmonizing succession rights and parentage rules for children born out of non-marital unions.

### III. JUDICIAL INTERPRETATION OF "RELATIONSHIPS IN THE NATURE OF MARRIAGE"

In the absence of dedicated, codifying legislation, the judiciary has created specific doctrinal tests to identify legally cognizable cohabitation. A pivotal legislative development was the **Protection of Women from Domestic Violence Act, 2005 (PWDVA)**<sup>4</sup>, which extended protective remedies to women in "relationships in the nature of marriage."

**A. Judicial Standards and Refinements** To operationalize this statutory phrasing, the Supreme Court laid down benchmark criteria in *D. Velusamy v. D. Patchaiammal*<sup>5</sup>:

- The parties must hold themselves out to society as akin to spouses;
- They must be of legal age and eligible to enter into a valid marriage;
- They must have cohabited voluntarily for a significant duration;
- They must have shared a household in a manner resembling a marital union.

<sup>4</sup> Protection of Women from Domestic Violence Act, 2005, § 2(f), No. 43, Acts of Parliament, 2005 (India)

<sup>5</sup> *D. Velusamy v. D. Patchaiammal* (2010) 10 SCC 469

In *Indra Sarma v. V.K.V. Sarma*<sup>6</sup>, the Court further refined these parameters, clarifying that not all cohabitative arrangements qualify for statutory remedies. Informal, fleeting, or ad-hoc arrangements, as well as relationships entered into with knowledge of an existing subsisting marriage, may fall outside the protective scope of the PWDVA.

## **B. Presumptions of Marriage**

Prior to statutory interventions under the PWDVA, judicial approach leaned toward applying legal presumptions to prevent inequity. As demonstrated in *Badri Prasad v. Dy. Director of Consolidation*<sup>7</sup>, courts expressed a willingness to presume a valid marriage in instances of long-term, continuous cohabitation. While motivated by egalitarian considerations, relying on case-specific judicial discretion rather than codified standards has led to divergent rulings among various High Courts, generating persistent legal uncertainty.

## **IV. CRIMINALIZATION AND CONSENT: FALSE PROMISES OF MARRIAGE**

The intersection of criminal law and non-marital cohabitation remains one of the most contentious areas of Indian jurisprudence, particularly regarding prosecutions for rape following the breakdown of a relationship based on an alleged false promise of marriage.

### **A. The "Intention at Inception" Test**

In *Pramod Suryabhan Pawar v. State of Maharashtra*<sup>8</sup>, the Supreme Court sought to resolve this friction by establishing the "intention at inception" doctrine. The Court clarified that consent is vitiated under criminal law only when:

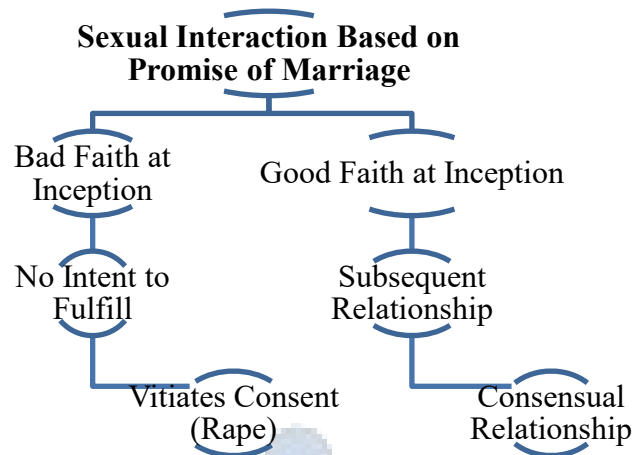
1. The promise to marry was demonstrably false at the time it was made;
2. The maker had no intention of fulfilling the promise from its inception; and
3. The sexual act was directly prompted by reliance on this fraudulent misrepresentation.

---

<sup>6</sup> *Indra Sarma v. V.K.V. Sarma* (2013) 15 SCC 755

<sup>7</sup> *Badri Prasad v. Dy. Director of Consolidation* (1978) 3 SCC 527

<sup>8</sup> *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608



## B. Evidentiary and Substantive Difficulties

Distinguishing a bad-faith fraudulent inducement from a bona fide relationship that subsequently failed requires retrospective evaluation of subjective intent. Courts must rely on circumstantial evidence, including digital communications, relationship length, and contextual conduct.

Over-expansion of criminal liability risks criminalizing consensual intimacy and personal autonomy, whereas under-enforcement risks leaving individuals vulnerable to deceit and exploitation. Adherence to due process, proportionality, and the presumption of innocence is critical when applying criminal remedies to personal relationship breakdowns.

## V. ECONOMIC VULNERABILITY AND CIVIL REPERCUSSIONS

Unlike formal marriage, non-marital cohabitation does not automatically generate comprehensive statutory rights regarding property division, inheritance, or spousal benefits.

| Subject Area                    | Legal Status / Applicable Law                           | Key Judicial / Statutory Mechanism                              |
|---------------------------------|---------------------------------------------------------|-----------------------------------------------------------------|
| <b>Maintenance</b>              | Available subject to judicial threshold tests           | Section 125 CrPC <sup>9</sup> / Section 20 PWDVA, 2005          |
| <b>Property Rights</b>          | No automatic statutory allocation upon separation       | Claims require proof of direct financial contribution or equity |
| <b>Child Legitimacy</b>         | Protected under statutory and welfare frameworks        | Recognized under personal laws & guardianship jurisprudence     |
| <b>Succession / Inheritance</b> | No automatic right of intestate succession for partners | Dependent on explicit testamentary disposition                  |

<sup>9</sup> The Code of Criminal Procedure, 1973 (Act No. 2 of 1974), § 125

While courts have utilized Section 125 of the Code of Criminal Procedure and the PWDVA to grant maintenance to economically dependent partners, these remedies remain contingent on proving that the relationship satisfies the "nature of marriage" test. Economically dependent partners—disproportionately women—face significant evidentiary burdens upon separation in the absence of a codified cohabitation property framework.

## VI. STRUCTURAL ASYMMETRY AND LGBTQ+ COHABITATION

The legal analysis of cohabitation takes on heightened constitutional significance within the context of LGBTQ+ rights. For heterosexual couples, cohabitation functions as an alternative option alongside marriage. For same-sex couples, cohabitation remains the primary legally available framework for intimate association in India.

### A. Decriminalization and the Autonomy Framework

The decision in *Navtej Singh Johar v. Union of India* decriminalized consensual same-sex relations and established that intimate choice forms part of human liberty under Article 21, reading sexual orientation into the protective guarantees of Articles 14, 15, and 19. Subsequent High Court rulings have frequently drawn upon this framework to grant protective orders to cohabiting same-sex couples facing family or societal coercion.

### B. The Limitations of *Supriyo* and Resulting Disparities

Despite these constitutional advances, the Supreme Court in *Supriyo v. Union of India*<sup>10</sup> declined to extend marital status to same-sex couples, ruling that the creation of a legal framework for marriage equality falls within the statutory prerogative of Parliament.

While *Supriyo* protected same-sex couples from state interference and harassment, it left a structural disparity between heterosexual and same-sex unions across several key legal domains:

- **Intestate Succession:** Same-sex partners lack statutory rights to automatic intestate inheritance.
- **Adoption and Guardianship:** Joint adoption rights remain restricted under existing statutory frameworks.
- **Spousal & Administrative Benefits:** Entitlements regarding joint tax filings, insurance nominations, pension benefits, and emergency medical decision-

---

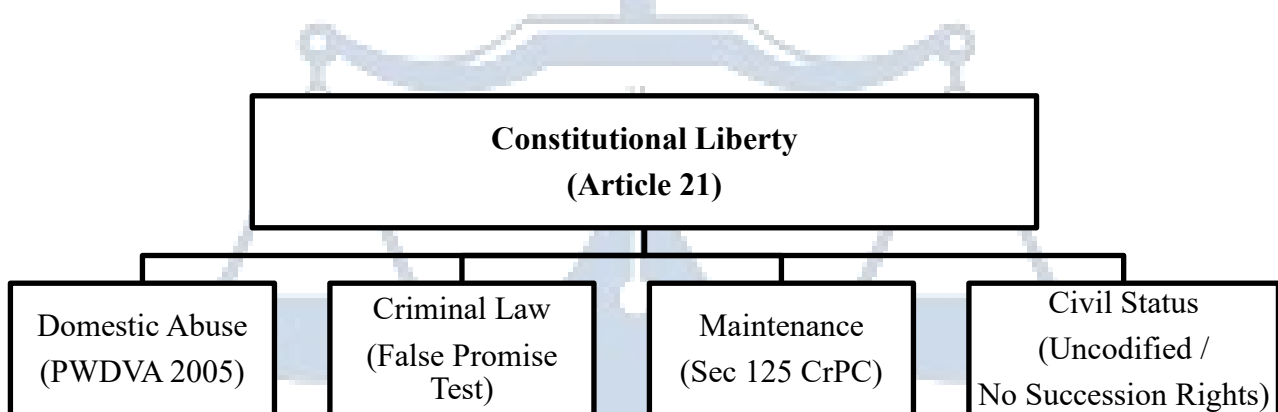
<sup>10</sup> *Supriyo v. Union of India* (2023) INSC 920

making are not automatically conferred.

- **Hierarchy of Intimacy:** The current framework risks creating a legal hierarchy wherein heterosexual marriage occupies the apex, heterosexual cohabitation receives partial statutory protection, and same-sex cohabitation remains restricted to basic negative liberty (freedom from state interference) without positive civil rights.

## VII. LEGISLATIVE FRAGMENTATION AND THE NEED FOR COHERENCE

India's existing legal approach to cohabitation is characterized by incremental, piecemeal judicial interventions across distinct areas of law rather than a cohesive statutory policy framework.



This structural fragmentation creates unpredictable outcomes across different High Court jurisdictions regarding:

- The minimum duration required to qualify for civil protections;
- The evidentiary standards applied to maintenance claims;
- The boundary between criminal deceit and consensual relationship failure.

### Framework for Legislative Reform

To resolve these doctrinal inconsistencies, statutory intervention by Parliament is necessary. Comprehensive legislation should address:

1. **Clear Statutory Definitions:** Establishing objective criteria defining qualifying cohabitative relationships without conflating them entirely with ceremonial marriage.
2. **Financial and Property Remedies:** Codifying fair, post-separation financial relief mechanisms for economically dependent partners.

3. **Evidentiary Principles:** Clarifying standards of proof regarding claims of fraudulent promises of marriage to prevent misuse while maintaining protections against genuine deceit.
4. **Equalizing Civil Rights:** Providing a structured, civil-union style recognition mechanism to bridge the protection gap for LGBTQ+ couples.

## VIII. METHODOLOGICAL LIMITATIONS

To maintain academic clarity, the parameters and constraints of this study are acknowledged:

1. **Doctrinal Methodology:** The analysis relies primarily on statutory texts, constitutional provisions, and reported judicial precedents of the Supreme Court and High Courts. It does not incorporate primary empirical, sociological, or quantitative data.
2. **Scope of Case Law:** Unreported trial court rulings, local dispute settlements, and unreported orders are not comprehensively represented in reported legal databases.
3. **Dynamic Legal Environment:** Indian personal law and criminal jurisprudence undergo continuous development, including statutory transitions (such as the implementation of the *Bharatiya Nyaya Sanhita* replacing the *Indian Penal Code*).
4. **Comparative Analysis:** The comparative observations drawn in this paper are selective, focusing on relevant common-law benchmarks rather than a global comparative survey.

## IX. CONCLUSION

Live-in relationships in India represent a broader constitutional shift toward individual liberty grounded in human dignity. Judicial decisions have moved the legal system away from strict marital status-formalism toward recognizing personal choices in private life. However, relying solely on reactive, case-by-case adjudication has resulted in a fragmented legal environment characterized by lingering doctrinal ambiguity, civil vulnerability, and structural inequalities for non-traditional couples. Achieving legal certainty requires legislative action that preserves individual autonomy, provides structured protections for vulnerable parties, and establishes a coherent framework for intimate associations in modern Indian law.

## REFERENCES

1. *Badri Prasad v. Dy. Director of Consolidation*, (1978) 3 SCC 527.
2. *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.
3. *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.
4. *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
5. *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.
6. *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608.
7. *Supriyo v. Union of India*, 2023 INSC 920.
8. The Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2005).
9. The Code of Criminal Procedure, 1973 (Act No. 2 of 1974), § 125.

