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From Choice To Compliance: Regulating Live-In Relationships In India’s Emerging Legal Order

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Privacy, Criminalisation and the State’s Re-Entry into Intimate Life

For nearly two decades, Indian constitutional law treated live-in relationships as a matter of private choice, legally visible only when protection, not permission, was required. This judicial settlement is now unravelling. Through criminal legislation and civil codification, the State has begun to regulate intimacy itself. The Bharatiya Nyaya Sanhita 2023, the Bharatiya Nagarik Suraksha Sanhita 2023, and Uttarakhand’s Uniform Civil Code together mark a decisive shift from constitutional tolerance to statutory supervision. This article argues that the emerging framework replaces autonomy with audit, recasts relational uncertainty as criminal deceit, and risks transforming personal failure into penal liability. It contends that the contemporary legal response, though framed as protective, revives moral governance through bureaucratic and criminal means, raising fundamental questions about privacy, proportionality, and the constitutional limits of state power.

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I. When the Constitution Chose Not to Intervene

Indian courts did not discover live-in relationships; they chose not to prohibit them. That distinction matters. In Lata Singh v State of Uttar Pradesh, the Supreme Court did not celebrate cohabitation, it merely refused to criminalise it, grounding the freedom of adults to live together in Article 21.[1] The judgment’s restraint was deliberate. The Court recognised that intimacy does not require constitutional approval to exist.

This philosophy was made explicit in S Khushboo v Kanniammal, where the Court warned that criminal law is a blunt instrument for enforcing social morality.[2] The State, the Court held, has no business disciplining consensual adult relationships merely because they offend dominant norms. These decisions established a critical constitutional premise: liberty survives not through endorsement, but through non-interference.

When the Court later extended legal protection to live-in relationships in D Velusamy v D Patchaiammal and Indra Sarma v V K V Sarma, it did so carefully.[3] The category of relationships “in the nature of marriage” was designed as a gateway to welfare, not as a gateway to regulation. No registration was mandated. No disclosure was compelled. Protection was triggered only when vulnerability appeared.

This was not doctrinal indecision; it was constitutional design.

II. From Tolerance to Surveillance: The Uttarakhand Experiment

That design fractured with Uttarakhand’s enactment of the Uniform Civil Code in 2025. For the first time, live-in relationships were transformed from private arrangements into registrable legal events. Couples were required to notify the State of their cohabitation, disclose personal details, and formally record termination. Non-compliance attracted criminal penalties.

This was not mere administration, it was a licensing regime for intimacy.

The State justified this intrusion on protective grounds: preventing abandonment, deception, and exploitation. Yet protection in constitutional law has always been reactive, not pre-emptive. Uttarakhand inverted this logic. It presumed risk at the moment of choice.

The Supreme Court’s decision in Justice K S Puttaswamy (Retd) v Union of India makes clear that decisional autonomy in matters of family and intimacy lies at the core of privacy.? Any restriction must be necessary and proportionate. Mandatory registration fails this test. Less intrusive alternatives, like civil maintenance and domestic violence remedies, already exist.

Faced with constitutional criticism, Uttarakhand has proposed amendments to soften the regime: reduced penalties, narrower information-sharing, procedural safeguards. These changes address severity, not principle. The foundational assumption

remains untouched, that the State may demand advance notice of consensual cohabitation as a condition of legality.

A right that exists only after disclosure is not a right. It is permission.

III. Criminal Law Enters the Relationship: Section 69, Bharatiya Nyaya Sanhita

If the UCC marks administrative surveillance, Section 69 of the Bharatiya Nyaya Sanhita marks penal suspicion. The provision criminalises sexual relations obtained by "deceitful means," including promises of marriage made without intent to fulfil them, punishable by up to ten years' imprisonment.

The problem is not protection against fraud. The problem is how fraud is constructed.

Indian courts have repeatedly held that a failed promise to marry does not, by itself, vitiate consent. In Uday v State of Karnataka and Pramod Suryabhan Pawar v State of Maharashtra, the Supreme Court insisted on proof of dishonest intent at inception.? Emotional uncertainty was not criminal deception.

Section 69 collapses this distinction. It invites courts to retrospectively reconstruct intent at the most uncertain moment of human interaction, the beginning of a relationship. Criminal law, with its demand for certainty and mens rea, is ill-equipped for this task. What emerges instead is a dangerous elasticity: relationship breakdown becomes evidence; regret becomes proof.

In a legal ecosystem already requiring registration of live-in relationships, Section 69 risks converting private relational history into prosecutorial material.

IV. Protection Without Autonomy: A Fragmented Legal Order

Ironically, the welfare architecture that once justified judicial tolerance remains intact. Maintenance under Section 144 of the Bharatiya Nagarik Suraksha Sanhita and remedies under the Protection of Women from Domestic Violence Act 2005 continue to operate without requiring registration or criminal complaint.?

The contradiction is stark. On one track, the law trusts adults enough to protect them without surveillance. On another, it distrusts them enough to demand disclosure and threaten imprisonment.

This is not coherence; it is constitutional schizophrenia.

V. Conclusion: When Liberty Requires Permission

India's evolving legal response to live-in relationships marks a decisive change in constitutional attitude. What was once treated as a matter of private choice, subject to legal intervention only when protection was required, is now increasingly governed by rules that presume risk, demand disclosure, and invite punishment. The shift is subtle but profound: the State no longer merely responds to harm; it regulates intimacy in anticipation of it.

Uttarakhand's proposed amendments soften the edges but leave the blade intact. Section 69 sharpens it further. Together, they signal a return to moral governance, this time in the language of protection.

The constitutional danger lies not merely in overreach, but in precedent. A State that conditions liberty on disclosure today may condition it on conformity tomorrow. Article 21 does not promise safety through surveillance; it promises dignity through restraint. If intimacy must be declared to be protected, and if choice must be justified to avoid punishment, then the Constitution's guarantee of personal liberty becomes procedural rather than principled.

The question this legal moment forces is therefore unavoidable: can a constitutional democracy remain committed to personal freedom while treating intimacy as something to be regulated rather than trusted? If choice must be pre-approved to be protected, and if uncertainty is treated as suspicion, then the promise of constitutional liberty is not expanded, but quietly rewritten.

For more details, write to us at: contact@indialaw.in

References:

1. Lata Singh v State of Uttar Pradesh (2006) 5 SCC 475.
2. S Khushboo v Kanniammal (2010) 5 SCC 600.
3. D Velusamy v D Patchaiammal (2010) 10 SCC 469; 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. Uday v State of Karnataka (2003) 4 SCC 46; Pramod Suryabhan Pawar v State of Maharashtra (2019) 9 SCC 608.

6. Chanmuniya v Virendra Singh Kushwaha (2011) 1 SCC 141; Protection of Women from Domestic Violence Act 2005

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