

Protection or Surveillance? Examining the Right to Privacy Under the Mandatory Registration Framework for Live-In Relationships and Criminal Liability for False Promises of Marriage and Deception Under the Bharatiya Nyaya Sanhita, 2023

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Abstract:

The Uniform Civil Code, Uttarakhand, 2024 makes registration of live-in relationships compulsory and penalises non-compliance, while the Bharatiya Nyaya Sanhita, 2023 independently criminalises sexual intercourse obtained by deceitful means or by a false promise of marriage. This article asks whether these two regimes, read together, protect intimate partners or place them under State surveillance. Applying the proportionality framework of *Puttaswamy*, it argues that the protective aims of registration are legitimate but that its design, comprising compulsory disclosure, police intimation, parental notice for those under twenty-one and third-party complaints, fails the necessity and balancing stages. It further argues that Section 69 of the Bharatiya Nyaya Sanhita, as narrowed by the Supreme Court's recent decision in *Kunal Rameshbhai Kalyani*, demands proof of deceit at inception, and that registration records must not become a shortcut for proving or negating that intention. The article concludes with legislative and interpretive reforms.

Keywords: live-in relationships; right to privacy; Uniform Civil Code; Uttarakhand; Section 69 BNS; false promise of marriage; proportionality; surveillance.

I. Introduction

Cohabitation outside marriage, once treated as a social aberration, is now an ordinary feature of Indian urban life. The Supreme Court has held that two consenting adults living together commit no offence,¹ and Parliament has extended limited civil protection to women in a “relationship in the nature of marriage” through the Protection of Women from Domestic Violence Act, 2005.² What the law had not done, until recently, was regulate such relationships directly. Two developments changed that. First, the Uniform Civil Code, Uttarakhand, 2024 (UCC) made registration of live-in relationships compulsory and attached penal consequences to non-compliance.³ Secondly, the Bharatiya Nyaya Sanhita, 2023 (BNS) created, in Section 69, a stand-alone offence of sexual intercourse procured by deceitful means or by a promise of marriage made without any intention of fulfilling it.⁴

Although one is a civil-regulatory scheme and the other a penal provision, both render intimate life legible to the State. Registration does so prospectively, by requiring partners to declare their relationship before any dispute arises. Section 69 does so retrospectively, by asking courts to reconstruct, often years later, what one partner intended when a promise was made. This article asks whether, taken together, these regimes protect vulnerable partners or subject private relationships to surveillance.

The analysis is doctrinal. Part II sets out the constitutional foundations of privacy and intimate autonomy. Part III describes the Uttarakhand framework and the challenges to it. Part IV tests the registration mandate against the proportionality standard. Part V examines criminal liability for false promises and deception under the BNS. Part VI considers how the two regimes interact, and Part VII proposes reforms. The article argues that the protective purposes of both regimes are legitimate, but that the registration mandate as presently designed fails the necessity and balancing stages of proportionality, and that Section 69 must be applied with the inception-based standard the Supreme Court has now articulated.

II. Constitutional Foundations of Intimate Privacy

In *K.S. Puttaswamy v. Union of India*, a nine-judge Bench held that privacy is intrinsic to the right to life and personal liberty under Article 21, protecting bodily integrity, informational self-determination and decisional autonomy, including choices about intimate association.⁵ Any State intrusion must satisfy legality, a legitimate aim and proportionality, a standard the Court later applied in reviewing the Aadhaar scheme.⁶

Later decisions treat the choice of partner as central to this guarantee. In *Shafin Jahan v. Asokan K.M.*, the Court held that the right to choose a life partner lies within Article 21 and that neither family nor State

¹*S. Khushboo v. Kanniammal*, (2010) 5 S.C.C. 600.

²Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005, § 2(f).

³Uniform Civil Code, Uttarakhand, 2024, Act No. 3 of 2024, §§ 378–389.

⁴Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 69.

⁵*K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

⁶*K.S. Puttaswamy v. Union of India*, (2019) 1 S.C.C. 1.

may override it.⁷ *Navtej Singh Johar v. Union of India* and *Joseph Shine v. Union of India* affirmed sexual autonomy and rejected the use of criminal law to enforce social morality in consensual adult relationships.⁸ In *Shakti Vahini v. Union of India* and *Lata Singh v. State of U.P.*, the Court directed the State to protect couples, especially inter-caste and inter-faith couples, from harassment by families and community actors.⁹

Live-in relationships occupy a particular place in this jurisprudence. *S. Khushboo v. Kanniammal* held that living together is not an offence, even if socially disapproved.¹⁰ *D. Velusamy v. D. Patchaiammal* and *Indra Sarma v. V.K.V. Sarma* then identified the features of a relationship in the nature of marriage that attract civil protection, while observing that the legal framework remained incomplete.¹¹ Significantly, none of these decisions made protection depend on prior registration.

Constitutional suspicion of surveillance has a longer lineage. In *Kharak Singh v. State of U.P.*, the Court struck down night-time domiciliary visits as a violation of personal liberty, and in *Gobind v. State of M.P.* it accepted that surveillance regulations could survive only if they served a compelling State interest and were narrowly drawn.¹² *Puttaswamy* overruled *Kharak Singh* to the extent that it denied a fundamental right to privacy,¹³ but the underlying insight, that the State may not casually enter the domestic and intimate sphere, remains central to any review of a scheme that routes information about private cohabitation to the police.

III. The Uttarakhand Registration Framework

Uttarakhand is the first State of independent India to enact a Uniform Civil Code. The Code was passed in February 2024 and brought into force in January 2025.¹⁴ Part 3, comprising Sections 378 to 389, governs live-in relationships.¹⁵

Its core obligation is registration. Partners must submit a statement of their relationship to the Registrar within a prescribed period, reported to be one month, and the duty is reported to extend to Uttarakhand residents cohabiting outside the State.¹⁶ The Registrar conducts an inquiry and may refuse registration on stated grounds, including that a partner is already married or in another relationship, is a minor, falls within

⁷*Shafin Jahan v. Asokan K.M.*, (2018) 16 S.C.C. 368.

⁸*Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1; *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

⁹*Shakti Vahini v. Union of India*, (2018) 7 S.C.C. 192; *Lata Singh v. State of U.P.*, (2006) 5 S.C.C. 475.

¹⁰*Khushboo*, *supra* note 1.

¹¹*D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469; *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755.

¹²*Kharak Singh v. State of U.P.*, A.I.R. 1963 S.C. 1295; *Gobind v. State of M.P.*, (1975) 2 S.C.C. 148.

¹³*Puttaswamy*, *supra* note 5.

¹⁴*Uttarakhand UCC*, Drishti IAS (Mar. 1, 2025), <https://www.drishtiiias.com/state-pcs-current-affairs/uttarakhand-ucc-2>; Uttarakhand Uniform Civil Code undefined.

¹⁵Ravi Singh Chhikara & Vaishali Chauhan, *Uttarakhand's Uniform Civil Code and the Unjustifiable Intrusion of the State*, The Quint, <https://thequint.com/opinion/state-intrusion-analysing-part-3-of-uttarakhand-uniform-civil-code-bill-ucc>.

¹⁶Uttarakhand Uniform Civil Code § 378; *UCC Challenged: Nainital HC Issues Notices to Uttarakhand*, Centre, NewsClick, <https://www.newsclick.in/ucc-challenged-nainital-hc-issues-notices-uttarakhand-centre>.

prohibited degrees, or gave consent through coercion, fraud or misrepresentation, including as to identity.¹⁷ The termination of a relationship must likewise be recorded.¹⁸

Three features are central to the privacy debate. First, the Registrar must forward particulars of each registration to the local police station and, where either partner is under twenty-one, to the parents or guardians.¹⁹ Secondly, the Code is reported to permit any person to complain about the validity of a live-in relationship.²⁰ Thirdly, failure to register and the furnishing of false information attract criminal penalties.²¹ The Code also confers benefits. A child born of a live-in relationship is treated as legitimate, and a woman deserted by her partner may claim maintenance.²²

The scheme was tested early. In July 2024, before the Code was in force, the Uttarakhand High Court granted police protection to an inter-faith live-in couple on condition that they register within forty-eight hours. When the State pointed out that the Code had not been notified, the Court expunged the direction.²³ The episode, though procedurally anomalous, shows how readily registration can become a precondition for State protection. Since commencement, petitions have challenged Section 378 and Part 3 as an invasion of privacy under Article 21, as vague in defining a live-in relationship, and as impermissibly extra-territorial.²⁴ At a hearing in February 2025, the Division Bench reportedly asked how registration could invade the privacy of couples who live openly, while the petitioners warned of surveillance and vigilantism and the State defended the scheme as a regulatory measure to protect women.²⁵ The authors are not aware of a final decision on these challenges as of October 2026.

IV. Testing the Mandate against Proportionality

A. Legality and Legitimate Aim

The mandate rests on a statute, so formal legality is satisfied, although the definition of a live-in relationship has been attacked as vague and the extra-territorial reach of Section 378 raises further

¹⁷Uttarakhand Uniform Civil Code §§ 380–381.

¹⁸Uttarakhand Uniform Civil Code § 384; Chhikara & Chauhan, *supra* note 15.

¹⁹Uttarakhand Uniform Civil Code § 385; Chhikara & Chauhan, *supra* note 15.

²⁰Uttarakhand UCC, *supra* note 14.

²¹Uttarakhand Uniform Civil Code § 387.

²²Uttarakhand Uniform Civil Code §§ 378–389; Chhikara & Chauhan, *supra* note 15.

²³*Register Under UCC Within 48 Hours: Uttarakhand HC Imposes Condition While Granting Police Protection to Inter-Faith Live-In Couple*, Verdictum, <https://www.verdictum.in/court-updates/high-courts/kiran-v-state-of-uttarakhand-live-in-inter-faith-couple-police-protection-registration-ucc-1544719>; *Uttarakhand's Uniform Civil Code Not Yet Implemented: High Court Expunges Direction on Live-In Couple to Mandatorily Register Relationship*, LiveLaw (July 31, 2024), <https://www.livelaw.in/amp/high-court/uttarakhand-high-court/uttarakhands-uniform-civil-code-not-in-operation-high-court-expunges-registration-under-states-ucc-mandate-in-live-in-couple-protection-plea-265183>.

²⁴*UCC Challenged*, *supra* note 16; *PIL in Uttarakhand High Court Challenges State's Uniform Civil Code*, Bar & Bench, <https://www.barandbench.com/news/pil-in-uttarakhand-high-court-challenges-states-uniform-civil-code>.

²⁵*Uttarakhand UCC: How Is Mandatory Registration of "Brazen" Live-In Relationships an Invasion of Privacy, Asks HC*, Vision IAS (Feb. 19, 2025), <https://visionias.in/current-affairs/upsc-daily-news-summary/article/2025-02-19/the-hindu/polity-and-governance/uttarakhand-ucc-how-is-mandatory-registration-of-brazen-live-in-relationships-an-invasion-of-privacy-asks-hc>; Uttarakhand UCC, *supra* note 14.

questions.²⁶ The stated aims, protecting women and children from abandonment and giving certainty of status for maintenance and legitimacy, are legitimate State objectives.²⁷ The difficulty lies in the means. Vagueness compounds the problem because the duty to register is backed by penal sanctions. A person cannot easily know whether a short period of shared accommodation, a long-distance arrangement or a sequence of overnight stays triggers the duty. The Supreme Court itself has cautioned that not every cohabitation amounts to a relationship in the nature of marriage,²⁸ so a statute that attaches liability to an undefined concept leaves ordinary people to guess at the boundary. The extension of the duty to residents who cohabit outside Uttarakhand raises a further difficulty of territorial nexus, which the pending petitions have squarely pleaded.²⁹

B. Rational Connection

A register can supply proof of cohabitation and so ease later claims. But the protective rationale is weaker than it appears. Civil remedies under the 2005 Act and the decided cases do not depend on registration,³⁰ and a penal sanction for non-registration falls on the very partners the scheme claims to protect. A woman abandoned by an unregistered partner may herself be exposed to liability when she seeks relief, which may deter her from approaching the authorities at all.

C. Necessity

Necessity asks whether a less restrictive measure could achieve the aim equally well. At least four design choices fail that test. The first is compulsion. The Supreme Court has accepted that registration of marriages should be compulsory in the interest of certainty, yet has held that non-registration does not invalidate a marriage.³¹ If even marriage is not visited with severe consequences for non-registration, voluntary registration of live-in relationships carrying evidentiary and maintenance benefits would serve the same ends.

The second is police intimation. Nothing in the aims of maintenance or legitimacy requires the investigating authority to hold a database of cohabiting couples. *Shakti Vahini* and *Lata Singh* direct the police to shield couples from family hostility; a mechanism that delivers their address and status to the local station, and to the parents of those under twenty-one, works in the opposite direction.³² Parental notice is hard to justify for legal adults entitled to make their own decisions. The third is open-ended third-party complaint, which invites hostile relatives and moral vigilantes to use the register as an instrument of private enforcement.

²⁶*UCC Challenged*, *supra* note 16.

²⁷*Uttarakhand UCC*, *supra* note 14.

²⁸*Velusamy*, *supra* note 11.

²⁹*UCC Challenged*, *supra* note 16.

³⁰Domestic Violence Act § 2(f); *Indra Sarma*, *supra* note 11.

³¹*Seema v. Ashwani Kumar*, (2006) 2 S.C.C. 578.

³²*Shakti Vahini*, *supra* note 9; *Lata Singh*, *supra* note 9.

The fourth is documentary compulsion. The Aadhaar judgment stressed data minimisation,³³ yet registration of an intimate relationship requires disclosure of identity documents to State officials. The Digital Personal Data Protection Act, 2023 offers limited comfort, since it permits processing by the State without consent for functions under law and allows exemptions for notified instrumentalities.³⁴

D. Balancing

At the balancing stage, the benefits of registration, which are speculative and available by less intrusive means, must be weighed against its costs: stigma, exposure of inter-faith and inter-caste couples to hostile families, a chilling effect on access to protection, and the creation of State records of intimate association. The reported judicial remark that couples who live openly do not preserve privacy to begin with misreads *Puttaswamy*. Privacy protects choices and information about them; it does not depend on secrecy. That a couple is known to its neighbours does not entitle the State to compile and circulate a record of the relationship.³⁵

V. Criminal Liability for False Promises and Deception under the BNS

A. From Rape by Deception to Section 69

Before the BNS, a false promise of marriage was prosecuted as rape under Section 375 of the Indian Penal Code, 1860, read with Section 90, on the theory that consent given under a misconception of fact was no consent. Courts struggled to separate deception from disappointment. *Uday v. State of Karnataka* held that consent given on a promise of marriage is not automatically vitiated, particularly where the parties knew of obstacles to the marriage.³⁶ *Deepak Gulati v. State of Haryana* distinguished a false promise from a breach of promise and required evidence that the accused never intended to marry at the outset.³⁷ *Anurag Soni v. State of Chhattisgarh* sustained a conviction where the intention was false from the start, and *Pramod Suryabhan Pawar v. State of Maharashtra* required that the promise bear immediate relevance to the woman's decision to consent.³⁸

B. Section 69 and the Inception Standard

The BNS separated these cases from rape. Section 69 punishes a person who, by deceitful means or by promising marriage to a woman without any intention of fulfilling the promise, has sexual intercourse with her, where the act does not amount to rape. The punishment extends to ten years and a fine. The Explanation provides that deceitful means include inducement by a false promise of employment or

³³*Puttaswamy (Aadhaar)*, *supra* note 6.

³⁴Digital Personal Data Protection Act, 2023, No. 22 of 2023, §§ 7, 17.

³⁵*Puttaswamy*, *supra* note 5; *Uttarakhand UCC: How Is Mandatory Registration*, *supra* note 25.

³⁶*Uday v. State of Karnataka*, (2003) 4 S.C.C. 46.

³⁷*Deepak Gulati v. State of Haryana*, (2013) 7 S.C.C. 675.

³⁸*Anurag Soni v. State of Chhattisgarh*, (2019) 13 S.C.C. 1; *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 S.C.C. 608.

promotion, and marrying by suppressing identity.³⁹ The provision protects only women, and it sits beside Sections 28 and 63, which continue to govern consent vitiated by misconception of fact.⁴⁰

The Supreme Court has now clarified the standard. In *Kunal Rameshbhai Kalyani v. State of Gujarat*, decided in September 2026, a Bench of Justices Pardiwala and Chandran quashed an FIR under Section 69. The Court held that the statutory language demands the same rigour as the earlier case law: the promise must have been made with no intention of ever fulfilling it. A later refusal to marry, there attributed to the accused's mother's disapproval, indicated good faith rather than deceit.⁴¹

Two structural features of Section 69 deserve comment. First, its second limb protects only a woman who was promised marriage, and so offers no remedy to a man deceived in the same way. That asymmetry is difficult to reconcile with the Court's rejection, in *Joseph Shine*, of a paternalistic view of women as objects of protection rather than autonomous agents.⁴² Secondly, although Section 69 is a lesser offence than rape, its ten-year maximum is severe for conduct that, on the Court's own reading, turns entirely on a state of mind at a past moment that is rarely documented and easily contested.

C. Allied Provisions

Deception in intimate relationships may engage other offences. Section 318, on cheating, applies where a person fraudulently or dishonestly induces another to act in a way that causes or is likely to cause harm to body, mind, reputation or property.⁴³ Section 81 punishes a man who deceitfully induces a woman to believe in a lawful marriage and cohabits with her; Section 82(2) punishes bigamy with concealment of the earlier marriage; and Section 83 penalises a fraudulent marriage ceremony.⁴⁴ Each requires deceit at inception, and each is more precisely aimed at concealed marital status than a general registration regime.

D. The Risk of Misuse

Commentators warn that Section 69 may be used as leverage when long relationships end.⁴⁵ The risk is heightened in live-in settings, where consent flows from sustained companionship rather than a single

³⁹Bharatiya Nyaya Sanhita § 69.

⁴⁰*Id.* §§ 28, 63.

⁴¹*Kunal Rameshbhai Kalyani v. State of Gujarat*, 2026 LiveLaw (SC) 925; Saima Anjum, *Supreme Court Explains S.69 BNS: No Offence of Deceitful Sex by Breach of Genuine Marriage Promise*, LiveLaw (Sept. 10, 2026), <https://www.livelaw.in/top-stories/supreme-court-promise-marry-later-withdrawn-due-mother-objection-section69-bns-549639>.

⁴²*Joseph Shine*, *supra* note 8.

⁴³Bharatiya Nyaya Sanhita § 318.

⁴⁴*Id.* §§ 81–83.

⁴⁵*When Does a Broken Promise to Marry Turn into a Crime?*, LiveLaw (Mar. 2, 2026), <https://www.livelaw.in/amp/articles/broken-promise-crime-consensual-rape-525166>; *Promises, Prejudices and Perils: Unveiling the Complexities of Section 69, Bharatiya Nyaya Sanhita, 2023*, NLIU L. Rev., <https://nliulawreview.nliu.ac.in/promises-prejudices-and-perils-unveiling-the-complexities-of-section-69-bharatiya-nyaya-sanhita-2023/>.

promise. The inception test is the principal safeguard, and courts examining quashing petitions should read the complaint's own averments critically, as *Kunal* did.⁴⁶

VI. Where the Two Regimes Meet

The regimes meet at three points. The first is evidence. A registration statement is a contemporaneous, State-held record of how the partners described their relationship, including marital status and identity. In a later Section 69 prosecution either side may tender it, to show candour about marital status or to show that the parties understood themselves to be cohabiting rather than preparing for marriage. Courts must resist treating either reading as conclusive. A declaration of live-in status is not an admission that no promise of marriage was made, and the absence of registration is not evidence of deceit.

The second is verification. The Registrar's power to refuse registration for fraud or misrepresentation of identity overlaps with the "suppressing identity" limb of the Explanation to Section 69 and could, in principle, prevent some deceptions before they occur.⁴⁷ This is the strongest protective argument for the mandate. But verification works only if the person intending deceit chooses to register, and the safeguard is bypassed by not registering.

The third is transmission. Routing registration particulars to the police places each registered couple within reach of the investigating machinery at the moment a relationship breaks down, when allegations of false promise are most likely to be made. Combined with open-ended third-party complaints, it builds the kind of infrastructure for surveillance against which *Gobind* cautioned.⁴⁸

A fourth, less visible point of contact is deterrence of reporting. A woman who has not registered her relationship and who believes she has been deceived must weigh the prospect of a Section 69 complaint against her own exposure under the registration penalties. Conversely, an accused partner who did register may point to the registrar's scrutiny as proof that the relationship was transparent. Neither consequence was intended by the legislature, and both illustrate how two regimes designed separately can interact to the disadvantage of the very persons each claims to protect. Coordinated reform is therefore preferable to piecemeal judicial correction.

The answer to the question posed in this article is therefore conditional. The objectives of both regimes are protective, and Section 69, read in the strict light of *Kunal*, is a defensible penal response to genuine fraud. The registration mandate, by contrast, protects least those who most need protection and exposes most those who most need privacy: inter-faith and inter-caste couples, young adults, and women in precarious relationships.

VII. Recommendations

1. *Make registration voluntary.* Attach evidentiary presumptions and facilitated maintenance claims to registration, and decriminalise non-registration.

⁴⁶*Kunal Rameshbhai Kalyani*, *supra* note 41.

⁴⁷Uttarakhand Uniform Civil Code § 380; Bharatiya Nyaya Sanhita § 69.

⁴⁸*Gobind*, *supra* note 12.

2. *Remove automatic police intimation and parental notice for adults.* Substitute protective referral to the police only at the couple's request.
3. *Confine standing to complain* to the partners and persons with a direct legal interest, and make the Registrar's decisions appealable.
4. *Adopt data minimisation.* Require only the identity documents strictly necessary, impose purpose limitation and restricted access, and provide for deletion on termination.
5. *Insulate the register from Section 69 proceedings.* Provide that a registration statement is not an admission that no promise of marriage was made and that non-registration raises no adverse inference.
6. *Apply the inception standard strictly.* Courts should require material showing deceit at the time of the promise before a Section 69 prosecution proceeds, following *Kunal*.

VIII. Conclusion

Both regimes respond to a real problem: partners, mostly women, who are left without status, maintenance or remedy when informal relationships end badly or begin in deceit. Section 69, properly confined to deception present at inception, answers that problem without surrendering the distinction between a broken promise and a false one. Compulsory registration, with its police transmission, parental notice and open complaint mechanism, answers it by making private intimacy visible to the State. The Constitution, as read in *Puttaswamy*, asks for protection that does not require surrender of privacy. A voluntary, minimal and confidential register, combined with a disciplined Section 69, would honour that demand; the present design of Part 3 does not.