

Constitutional Morality and Marital Autonomy: A Critical Study of Restitution of Conjugal Rights Under Indian Family Law

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Abstract

Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954 empower courts to decree restitution of conjugal rights, compelling a spouse to return to cohabitation upon withdrawal from the matrimonial home without "reasonable excuse." Critics argue that such decrees amount to state-sanctioned sexual coercion, operating as a judicially enforced violation of bodily autonomy, sexual agency, and the right to refuse intimacy, fundamental dimensions of personal liberty under Article 21 of the Constitution. This paper interrogates whether restitution of conjugal rights, while textually gender-neutral, functions in practice as a patriarchal tool that disproportionately subordinates women, exposing them to conditions of potential marital violence and eroding decisional autonomy in intimate life. The analysis centres on the unresolved doctrinal tension between *T. Sareetha v. T. Venkata Subbaiah* (1983), in which the Andhra Pradesh High Court declared Section 9 unconstitutional as violative of privacy, dignity, and bodily integrity under Articles 14, 19, and 21, and *Saroj Rani v. Sudarshan Kumar* (1984), in which the Supreme Court upheld the provision's constitutional validity by privileging the institution of marriage over individual autonomy and dismissing privacy concerns as insufficiently pressing. Using a doctrinal, constitutional, and feminist methodology, the paper re-examines the *Saroj Rani* reasoning in light of subsequent developments in Article 21 jurisprudence, including the Supreme Court's recognition of privacy as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) and its affirmation of sexual autonomy, dignity, and bodily integrity in *Navtej Singh Johar v. Union of India* (2018) and *Joseph Shine v. Union of India* (2018). The paper argues that mandatory cohabitation decrees, which in effect place indirect but inescapable pressure on sexual relations within the matrimonial home, cannot be meaningfully distinguished from structural sexual coercion, particularly given gendered power imbalances and the persistence of the marital rape exemption in Indian criminal law. It concludes that the constitutional validity of Section 9 and Section 22 is no longer defensible under contemporary understandings of bodily autonomy, dignity, and the right to say no in intimate life, and proposes either striking down these provisions or radically reading them down to eliminate any element of compulsion.

Keywords: Restitution of conjugal rights, bodily autonomy, right to refuse intimacy, Article 21, privacy, Section 9 Hindu Marriage Act, marital rape, sexual coercion, constitutional validity

Research Question

1. Whether the remedy of restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954 violates the constitutional guarantees of bodily autonomy, privacy, dignity, and the right to refuse intimacy under Article 21 of the Constitution of India?

2. Whether the constitutional validity of restitution of conjugal rights, upheld in *Saroj Rani v. Sudarshan Kumar Chadha*, remains sustainable after the evolution of privacy and autonomy jurisprudence in post-*Puttaswamy* India?
3. Whether restitution of conjugal rights, despite being formally gender-neutral, disproportionately affects women by reinforcing patriarchal control and indirect coercion within marriage?

Research Methodology

This research adopts a doctrinal and analytical methodology based on the study of constitutional provisions, statutory laws, and judicial precedents relating to restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954. It examines landmark cases such as *T. Sareetha v. T. Venkata Subbaiah*, *Saroj Rani v. Sudarshan Kumar Chadha*, *Justice K.S. Puttaswamy v. Union of India*, *Navtej Singh Johar v. Union of India*, and *Joseph Shine v. Union of India* to analyse issues relating to privacy, dignity, autonomy, and intimate choice under Article 21. The study also briefly examines comparative developments in English law and relies on secondary sources such as books, journal articles, constitutional commentaries, and Law Commission reports. The research is normative and analytical in nature and does not involve empirical or field-based study.

Research Objectives

The objectives of this study are:

1. To examine whether the remedy of restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954 violates the constitutional guarantees of bodily autonomy, privacy, dignity, and the right to refuse intimacy under Article 21 of the Constitution of India.
2. To analyse the constitutional reasoning adopted in *T. Sareetha v. T. Venkata Subbaiah* and *Saroj Rani v. Sudarshan Kumar Chadha* with respect to marriage, cohabitation, privacy, and individual autonomy.
3. To assess whether the constitutional validity of restitution of conjugal rights remains sustainable considering the expanded interpretation of privacy, dignity, and decisional autonomy in post-*Puttaswamy* jurisprudence.
4. To evaluate whether restitution of conjugal rights, despite being formally gender-neutral, disproportionately affects women by reinforcing patriarchal control and indirect coercion within marriage.

Hypothesis

The constitutional validity of restitution of conjugal rights under Section 9 of the Hindu Marriage Act and Section 22 of the Special Marriage Act has become increasingly untenable in the post-*Puttaswamy* constitutional framework, as judicially enforced cohabitation results in indirect bodily and relational coercion that infringes decisional autonomy, privacy, dignity, and intimate choice under Article 21.

Review of Literature

A. Books

1. Paras Diwan, *Modern Hindu Law*
Relevance: Discusses matrimonial remedies under Hindu law including restitution of conjugal rights, judicial separation, and divorce.

2. Mulla, *Principles of Hindu Law*
Relevance: Explains the historical origin, statutory framework, and essentials of restitution of conjugal rights under Hindu law.
3. Flavia Agnes, *Family Law and Constitutional Claims in India*
Relevance: Analyses constitutional issues surrounding marriage, gender justice, and personal laws in India.
4. Upendra Baxi, *The Indian Supreme Court and Politics*
Relevance: Helps understand constitutional interpretation, judicial activism, and expansion of Article 21 jurisprudence.
5. Gautam Bhatia, *The Transformative Constitution*
Relevance: Examines privacy, dignity, constitutional morality, and transformative constitutionalism under Article 21.

B. Journal Articles

1. **Chatterjee, S.**, “Restitution of Conjugal Rights – An Analysis,” *International Journal of Creative Research Thoughts* (2018).
Relevance: Discusses the concept, essentials, and constitutional criticism of restitution of conjugal rights.
2. “Freedom of Choice in Relationships: A Constitutional Dilemma,” *International Journal of Constitutional Law*.
Relevance: Analyses autonomy, privacy, and constitutional morality in intimate relationships.
3. “The Changing Face of Family Law in India,” *Oxford Journal of Legal Studies*.
Relevance: Explores evolving constitutional understandings of marriage and individual rights.
4. “Privacy and Marriage under Article 21,” *Journal of Indian Law Institute*.
Relevance: Discusses the relationship between privacy jurisprudence and matrimonial laws.
5. “Marriage, Autonomy and Constitutional Morality,” *Harvard Human Rights Journal*.
Relevance: Examines bodily autonomy, dignity, and constitutional protections within marriage.

C. Judicial Decisions / Case Laws

1. T. Sareetha v. T. Venkata Subbaiah
Relevance: Declared Section 9 HMA unconstitutional for violating privacy, dignity, and bodily autonomy.
2. Saroj Rani v. Sudarshan Kumar Chadha
Relevance: Upheld the constitutional validity of restitution of conjugal rights.
3. Justice K.S. Puttaswamy v. Union of India
Relevance: Recognised privacy as a fundamental right under Article 21.
4. Navtej Singh Johar v. Union of India
Relevance: Recognised sexual autonomy and intimate choice as constitutional rights.
5. Joseph Shine v. Union of India
Relevance: Reaffirmed dignity, equality, and autonomy within marriage.
6. Suchita Srivastava v. Chandigarh Administration
Relevance: Recognised reproductive autonomy and bodily integrity under Article 21.

D. Statutory Sources

1. The Hindu Marriage Act, 1955, Section 9 – Restitution of Conjugal Rights
2. The Special Marriage Act, 1954, Section 22 – Restitution of Conjugal Rights

3. The Constitution of India, Articles 14, 19, and 21
4. Matrimonial Proceedings and Property Act, 1970 (England)
Relevance: Abolished restitution of conjugal rights in England.

E. Reports and Commentaries

1. Law Commission of India Reports on Family Law Reforms
Relevance: Discuss family law reforms and constitutional concerns in matrimonial remedies.
2. Constitutional Law Commentaries on Article 21
Relevance: Explain evolving jurisprudence on privacy, dignity, and autonomy.
3. Comparative Family Law Commentaries
Relevance: Examine global developments relating to cohabitation and autonomy in marriage.

F. Websites and Online Sources

1. **SCC Online**
Relevance: Used for accessing Supreme Court and High Court judgments.
2. **Indian Kanoon**
Relevance: Used for case law research and statutory interpretation.
3. **LiveLaw**
Relevance: Used for recent constitutional law developments and commentary.
4. **Bar and Bench**
Relevance: Used for legal analysis and constitutional discussions.
5. **JSTOR**
Relevance: Used for academic journal articles and constitutional scholarship.
6. **HeinOnline**
Relevance: Used for legal journals and comparative constitutional research.

Introduction

Indian constitutional jurisprudence has increasingly moved away from viewing marriage purely as a sacramental or institutional bond and towards recognising it as a site where individual rights to dignity, privacy and bodily autonomy must be protected against both familial and state coercion. Against this evolving backdrop, the remedy of restitution of conjugal rights now codified in Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954 empowers courts to order a spouse who has “withdrawn from the society” of the other without reasonable cause to return to the matrimonial home and resume cohabitation. Although formally framed as a gender-neutral device to preserve the sanctity of marriage, the remedy authorises the state, through judicial decree, to intervene directly in the most intimate sphere of life, raising serious questions about its compatibility with contemporary understandings of personal liberty under Article 21.

The doctrine of restitution of conjugal rights did not originate in Indian personal laws but was transplanted from English ecclesiastical courts into colonial India, where it was progressively extended to Hindu, Muslim and Parsi marital regimes. Historically, such suits were often brought either by abandoned wives seeking access to the marital home and economic support, or by husbands’ intent on compelling wives to return, thereby entrenching pre-existing gendered hierarchies within marriage. In England, however, the remedy came to be seen as obsolete and incompatible with modern conceptions of marital breakdown, and it was ultimately abolished by the Matrimonial Proceedings and Property Act 1970 following critical Law Commission reports. India, by contrast, retained restitution across several personal laws at the time of

codification, despite some legislators denouncing the doctrine as “uncouth, barbarous and vulgar,” and it continues to occupy a central, if contested, place in matrimonial litigation today.

The constitutional status of restitution of conjugal rights came under direct scrutiny in the early 1980s. In *T. Sareetha v. T. Venkata Subbaiah*¹, the Andhra Pradesh High Court struck down Section 9 of the Hindu Marriage Act as unconstitutional, holding that a decree compelling cohabitation amounts to an invasion of mental autonomy, bodily integrity and decisional privacy, and is therefore incompatible with Articles 14, 19 and 21. Within a year, however, the Supreme Court in *Saroj Rani v. Sudarshan Kumar Chadha*² upheld the provision, characterising restitution as a benign, welfare-oriented remedy aimed at promoting reconciliation and matrimonial harmony, and downplaying its intrusive effects on individual rights. This Sareetha–Saroj Rani split produced two competing visions of marriage and state power, one foregrounding individual autonomy within intimate relationships, and the other prioritising the preservation of the institution, which have never been fully reconciled in subsequent doctrine.

Since *Saroj Rani*, Article 21 jurisprudence has undergone a profound transformation. In decisions such as *Justice K.S. Puttaswamy (Retd.) v. Union of India*³, *Navtej Singh Johar v. Union of India*⁴ and *Joseph Shine v. Union of India*, the Supreme Court has recognised a robust right to privacy, sexual autonomy and decisional freedom in matters of intimacy, explicitly grounding these protections in dignity and bodily integrity. At the same time, a pending constitutional challenge in *Ojaswa Pathak v. Union of India*⁵ directly questions the validity of Section 9 HMA, Section 22 SMA and the accompanying enforcement provisions in the Code of Civil Procedure, arguing that court-mandated restitution is inherently coercive and disproportionately burdens women within patriarchal family structures. Against this doctrinal and social backdrop, this paper re-examines restitution of conjugal rights through a constitutional and feminist lens, asking whether mandatory cohabitation decrees are, in substance, indistinguishable from structural sexual and emotional coercion within marriage, and whether the continued constitutional validity of Section 9 and Section 22 is defensible in the post-*Puttaswamy* landscape of bodily autonomy and privacy under Article 21.

Historical Evolution and Concept of Restitution of Conjugal Rights

Historical Development of Conjugal Rights Restitution

Marriage has always held a significant place in Indian society in terms of religion, culture, family honour, and social order. For the longest history of Indian matrimonial laws, it concentrated on safeguarding the marital institution and on maintaining the unity of the family system rather than on safeguarding individual autonomy in marriage. Different matrimonial remedies were formulated as a part of personal legislation at the same time as in the colonial period to this end, the most famous of which was restitution of conjugal rights. The remedy of restitution of conjugal rights is an Old-World remedy that has its roots in English ecclesiastical law, which dealt with marriage disagreements in church courts and the courts had the power to direct spouses to resume cohabitation. The British institutionalized this concept in Indian matrimonial law after colonization and later it was incorporated into statute via Section 9 of the Hindu Marriage Act, 1955 and Section 22 of the Special Marriage Act, 1954. Reclaiming marital rights was originally seen as a kind of legal remedy to save a marriage so marriage would endure and the couple to avoid desertion and

¹ T. Sareetha vs T. Venkata Subbaiah., AIR1983 AP 356

² Saroj Rani v. Sudarshan Kumar, AIR 1984 SC 1562

³ Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others, (2017) 10 SCC 1, AIR 2017 SC 4161

⁴ AIR 2018 SC 4321, (2018) 10 SCC 1

⁵ Writ Petition (Civil) No. 250 of 2019

to settle things up after reconciliation. Marriage was also viewed in courts not as a private relationship between two individuals, but as a social institution which required legal protection. So, by giving the other spouse no excuse of withdrawing from the society of the other, its law has allowed aggrieved spouse to seek judicial relief to put them back together physically and be cohabitable. Restitution of conjugal rights have however become one of the most controversial remedies in Indian family law. Critics began asking whether the State ought to have the power to interfere in an arena as intimate and personal as this. While the remedy also does not directly force sexual relationships, it has been sometimes accused of indirectly mandating to bring reluctant spouses into emotional and physical intimacy. These issues can be worse in a patriarchal society as well, as a lack of equal gender and economic power relationships in addition to a patriarchal society can deter women's ability to make free and independent decisions in marriage. *T. Sareetha v. T. Venkata Subbaiah*⁶ in Andhra Pradesh challenged the Constitutional validity of the restitution of conjugal rights as the right was based on violation of the privacy, dignity and bodily autonomy under Articles 14, 19 and 21, but that was not to be overturned until the Supreme Court in *Saroj Rani v. Sudarshan Kumar Chadha*⁷, found the article to be constitutional and stated that the remedial action had social significance as it preserved the marriage and reconciled the spouses together. To the extent that the court held that the marriage and its sanctity as a family were not contradictory to the value of the individual within an interpersonal context, the two of them had opened the constitutional debate on the protection of marriage as a social institution vs. the protection of individual liberty in personal relationships. In the last few decades, the question of restitution of conjugal rights has been reinforced through the developments in Article 21 jurisprudence by the Supreme Court in *Justice K.S. Puttaswamy v. Union of India*⁸, *Navtej Singh Johar v. Union of India*⁹ and *Joseph Shine v. Union of India*¹⁰. The Court established in these decisions that privacy, dignity, bodily autonomy, sexual autonomy and intimate choice are basic rights of liberty guaranteed by the constitution.

Concept and Essentials of Restitution of Conjugal Rights

A court may order a spouse to return home to join the family and continue in cohabitation with the other spouse if he or she has left the other out in society without any reasonable excuse. The remedy is predicated on the prevailing belief that marriage provides mutual rights and obligations between spouses, such as sharing companionship, residing together, and forming into a consortium. It is that contract of love has been in existence for centuries, and the couple have, therefore, assumed common jurisdiction over their living in the same property, which is legally beneficial for marriage to occur without the other persons finding that they would feel compelled to do without it. Section 9 of the Hindu Marriage Act 1955 mentions that the aggrieved party can take their claim of conjugal rights to the court when either of them withdraws from the society of another spouse without an excuse. There is also a similar clause in Section 22 of the Special Marriage Act, 1954. If the court establishes that the claims made in the petition are correct and there is no basis in law for the parties to refuse relief, it may issue a decree which, in turn, allows the spouses to keep living together. Certain basic requirements need to be met to be awarded a decree of restitution of conjugal rights:

⁶ *T. Sareetha vs T. Venkata Subbaiah.*, AIR1983 AP 356

⁷ *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562

⁸ *Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others*, (2017) 10 SCC 1, AIR 2017 SC 4161

⁹ AIR 2018 SC 4321, (2018) 10 SCC 1

¹⁰ *Joseph Shine v. Union of India*, (2019) 3 SCC 39, AIR 2018 SC 4898, [2018] 11 S.C.R. 765

To obtain the relief of restitution of conjugal rights the aggrieved-on pre-requisite basis need to establish the presence of the following essential ingredients:

1. One of the spouses must have withdrawn from the society of another.
2. The withdrawal must be without any reasonable cause or justification.
3. The aggrieved party (spouse) must file a petition for obtaining the relief of Restitution of Conjugal Rights.
4. The court must be satisfied in the statements made by the petitioner. On establishment of the above-mentioned ingredients, the court will take a cognizance of the case. ¹¹

And the term “withdrawal from society” does not merely refer to being physically separated from the person. It can even consist of the denial of companionship, love, and marital consortium. Moreover, the statute recognizes that a spouse may have enough reasonable reason to live apart cruelty, domestic violence, adultery; and circumstances which make living together unsafe or not reasonable for any couple. Traditionally, the remedy was seen as a kind of accommodation for both parties involved in marriage rather than an attempt to hold out for one at the expense of both. Yet in current constitutional dialogues this idea of restoring conjugal rights is becoming ever more controversial. Opponents contend that judicially prescribed living together might in a way, though indirectly, force unwilling spouses to make emotional or physical contact, which compromises the independence of the individual’s body, his/her privacy, dignity, and freedom of choices in marriage. Feminist theorists have also proposed that the remedy in the gender-neutral-looking way it seems, has had multiple effects on men in the patriarchal setting that systematically disadvantages women through the reinforcement of the expectation of non-compliant and obligatory cohabitation. The notion of restitution of conjugal rights, consequently, is then being viewed via constitutional tenets of privacy, dignity, autonomy, and intimate freedom in India pursuant to Article 21 of Constitution of India.

Constitutional Analysis of Restitution of Conjugal Rights

Restitution of Conjugal Rights and the Right to Privacy under Article 21

The constitutionality of the restitution of conjugal rights has faced mounting attention in the form of challenges on the grounds that it infringes upon the constitutional right to privacy guaranteed under Article 21 of the Constitution of India. Privacy enshrined in the Supreme Court contains decisional autonomy, bodily integrity, dignity and right for intimate personal choice free interference by the State except in cases of need. The court’s decree of restitution of conjugal rights will enable the court to order non-resigning spouses to return to cohabitation and marital companionship and hence allows courts to intervene in marital affairs on a domestic or intimate level. The cause first entered public constitutional debate in *T. Sareetha v. T. Venkata Subbaiah* ¹², in which the Andhra Pradesh High Court has found Section 9 of the Hindu Marriage Act to be unconstitutional pursuant to Article 21 of the Constitution. Justice P.A. Accordingly, a spouse being compelled to return to cohabitation becomes a “savage and barbarous remedy” that infringes on the woman’s right to privacy, bodily autonomy, and human dignity under Articles 14, 19, and 21 of the Constitution. The Court found that the remedy essentially places an unwilling spouse under an enforced intimacy of the state and erodes decisional freedom within marriage. One is T.

¹¹ Chatterjee, S. (2018). *Restitution of conjugal rights – An analysis*. International Journal of Creative Research Thoughts, 6(1), 582–586.

¹² *T. Sareetha vs T. Venkata Subbaiah*, AIR1983 AP 356

Sareetha v. T. Venkata Subbaiah. In *Saroj Rani v. Sudarshan Kumar Chadha*¹³, the Supreme Court in effect upheld the validity of Section 9 HMA's constitution by adopting a more institution-centric approach. Restitution of conjugal rights was considered as a conciliatory remedy by the court to protect marriage and reconciliation, not as an instrument of coercion infringing privacy. The decision highlighted the social value of marriage when it held that the provision was a valid matrimonial provision. *Saroj Rani v. Sudarshan Kumar Chadha*. The constitutional argument on restitution of conjugal rights has come to prominence again following the Supreme Court's recent decision of *Justice K.S. Puttaswamy v. Union of India*, which enshrined privacy as a fundamental right under Article 21. The Court decided that privacy encompasses bodily autonomy, decisional freedom, sexual orientation and intimate personal choices. Given the expansion of this notion of privacy, its critics argue the court-based application of restitution decrees to cohabitation is inconsistent with constitutional protection of intimate autonomy and personal liberty. This remedy is being seen increasingly as allowing the extreme state intrusion into an individual's most intimate life.

Bodily Autonomy, Dignity and Intimate Choice within Marriage

Contemporary constitutional law is becoming more aware that marriage does not nullify a person's basic rights. Bodily autonomy, dignity and intimacy are now seen as essential aspects of liberty. Restorative rights in conjugal relations the constitutional issue now rests on the very idea of the return of conjugal rights and is not confined to cohabitation but also has ramifications into what constitutes consent, freedom of decision and the right against sexual intercourse in marriage. In *Suchita Srivastava v. Chandigarh Administration*, the Supreme Court found that personal freedom under Article 21 includes the freedom to choose one's biological choices and autonomy at the level of self-regulation. *Suchita Srivastava v. Chandigarh Administration* also underwrote that in *Navtej Singh Johar*, the law protects that constitutional order is also moral in *Navtej Singh Johar v. Union of India*. The Court of the State in *Navtej Singh Johar*, also stressed that constitutional morality offers that sexual autonomy and personal decision-making rights protect sexual autonomy and self-respect and personal dignity and, at the same time, individuals' right to engage in personal freedom in intimate relations with other people. The judgment realised that the fundamental choices of intimate decision are both forms of human dignity, as articulated in *Navtej Singh Johar v. Union of India* and part and parcel of human dignity and constitutional dignity. And in *Joseph Shine v. Union of India*¹⁴ the Supreme Court also rejected male superiority and patriarchal ideas of marriage which viewed wives as subservience of their husband and wife, especially women, the case being in the position of 'principles of an obedient wife of the State's and married couple, thus challenging patriarchal understandings of that institution in Indian marriage. The Court emphasized that the fact of marriage does not diminish one's dignity and autonomy and that constitutional rights still apply when married. These developments have profoundly altered how the Constitution sees marriage and individual relationships. Defenders of restitution of conjugal rights contend that while the remedy does not specifically obligate sexual relations, it places pressure on spousal partners unwilling to engage in sexual activity by imposing cohabitation on them. In practice, cohabitation in marriage is often closely linked with expectations of sexual access and companionship. This means that judicially enforced cohabitation in some marriages can erode meaningful consent and compromise bodily self-determination, particularly in cases involving unequal marital arrangements. As for the Indian context, the marital rape exception in

¹³ *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562

¹⁴ *Joseph Shine v. Union of India*, (2019) 3 SCC 39, AIR 2018 SC 4898, [2018] 11 S.C.R. 765

our criminal law continues to restrict the recognition of sexual consent given in marriage. Under such conditions, compelling spouses to continue cohabiting could put vulnerable spouses especially women at risk for emotional, physical, and sexual coercion. The conclusion is that restitution of conjugal rights is fundamentally at odds with constitutionally grounded concepts of autonomy, dignity, and consent in intimate relationships.

Transformative Constitutionalism and Marriage

The Constitution of India is not only a legal document aimed at maintaining existing social constructions but also a form of political empowerment for liberty, equality, and dignity as well as liberty, dignity, and personal autonomy as its main objectives. And that is one of the fundamental principles enshrined in a doctrine known as transformative constitutionalism, one which says the way we interpret certain laws needs to change and adjust to the realities of the social world, and that laws and institutions should reflect constitutional values rather than outdated social norms. The Supreme Court of India has leaned more and more on this doctrine in its recent interpretation of laws pertaining to gender, sexuality, privacy, and personal relationships. Marriage was conventionally understood in the context of Indian society more or less as an arrangement of sociality and institutions with the endpoint of duties, family obligations, and social stability in mind. Matrimonial laws including restitution of conjugal rights were thus framed with marital preservation and not of familial dissolution in mind. This approach meant that individuals' independence within marriage often had a small constitutional recognition because the institution of marriage itself was seen as something which deserved to be protected as the first level of personal freedom and autonomy. But with the passage of constitutional jurisprudence, we now have a more individual approach when it comes to understanding and respecting a marriage - when dignity, privacy, and autonomy are at the core of intimate partnerships. The Supreme Court time and time again stressed that constitutional rights do not evaporate over one's marriage and individuals still retain their autonomy, dignity, and decisiveness in personal and collective relationships. This constitutional shift was most clearly apparent in the decision of a highly influential court the Supreme Court, Justice K.S. Puttaswamy v. Union of India¹⁵, which recognised privacy as a constitutionally guaranteed right under Article 21 and interpreted personal decisions including those on family life, marriage, procreation, and sexual orientation as part of the sphere of constitutional security.

- **Justice K.S. Puttaswamy v. Union of India**

The judgment broadened the context and the definition of Article 21 on the basis that the right to autonomy as exercised through human dignity including bodily autonomy, consensual right of choice, and individual decision making are part of human dignity. Likewise, the Court clarified in Navtej Singh Johar v. Union of India that constitutional morality trumps social morality when dignity and autonomy in individuals are at stake.

- **Navtej Singh Johar v. Union of India¹⁶**

The Court recognized that intimate relationships and personal choices form part of an individual's constitutional identity and cannot be controlled by majoritarian social expectations. Furthermore, in Joseph Shine v. Union of India, the Supreme Court rejected patriarchal notions of marriage that subordinated individual autonomy to institutional control and reaffirmed that marriage does not extinguish constitutional freedoms.

¹⁵ Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others, (2017) 10 SCC 1, AIR 2017 SC 4161

¹⁶ AIR 2018 SC 4321, (2018) 10 SCC 1

- **Joseph Shine v. Union of India.** ¹⁷

In these times, the restitution of conjugal rights is now contested. And they argue that the notion that people should cohabit in court reflects an age-old understanding of marriage organized around marital obligation and an institution's preservation, rather than voluntary cooperation and mutual consent. While that remedy was in the past justifiable as a means by which spouses might achieve reconciliation, in practice all couples have a commitment to their individual choice, and it is this fundamental dignity, personal autonomy and decision in the circumstances which today require that the remedy be made according to and not by legal compulsion. Indeed, transformative constitutionalism necessitates a reconsideration of matrimonial remedies that open the floor to an overly intrusive state in intimate human relationships. A restitution order of conjugal rights gives courts the power to order unwilling spouses to reengage in a cohabitable relationship and to facilitate judicial incursions into what are likely to be highly personal domains of married life. When the post-Puttaswamy constitutional system views it thus, the intervention does not merely violate bodily autonomy, it violates decisional freedom and the constitutional right for an intimate personal life without arbitrary domination. Thus, the restitution of conjugal rights is more than a question of law of the matrimonial realm no longer the province of any other context. It has joined in a wider constitutional debate over the nature of marriage, autonomy, respect for privacy, respect for dignity and the nature of state power vis-a-vis the limitation of state power under Article 21 of the Constitution of India to regulate intimate relations.

Privacy, Bodily Autonomy and Post-Puttaswamy Jurisprudence

Article 21 of the Constitution of India has been re-interpreted and reconfigured over much history. Originally constricted and procedural in nature, Article 21 has developed so far into one of the broadest and most dynamic fundamental rights clauses in the Constitution. By judicial interpretation, the Supreme Court has enlarged the definition of "life" and "personal liberty" to encompass dignity, privacy, bodily autonomy, decisional freedom, sexual autonomy, and intimate choice. This constitutional change has produced a far-reaching transformation in our views on marriage, personal relationships, and state intervention in private life. It is upon the heels of such a development that restitution of conjugal rights has re-energized constitutional relevance. It is also well established that matrimonial laws had its roots in the principles of saving marriage and the social order of a society with less respect to the freedom of individuals in their marriage. That said, modern constitutional jurisprudence has recently come to recognize that marriage does not extinguish constitutional rights and that individuals retain constitutional entitlements to privacy, dignity, and bodily integrity even in a state of union. As a corollary, the growth of Article 21 jurisprudence has caused an array of critical constitutional questions as to how capable the judicially enforceable cohabitation resulting from restitution of conjugal rights can still be considered in line with our contemporary conception of liberty and autonomy.

Right to Privacy and Decisional Autonomy under Article 21

The constitutional protection of privacy as a fundamental right is one of the most significant milestones of Indian constitutional law. In Justice K.S. Puttaswamy v. Union of India¹⁸, a nine-judge bench of the Supreme Court unanimously recognised privacy as an inherent element of the right to life and personal liberty under Article 21. The Court noted that privacy is not confined to physical spaces or secrecy and

¹⁷ *Joseph Shine v. Union of India*, (2019) 3 SCC 39, AIR 2018 SC 4898, [2018] 11 S.C.R. 765

¹⁸ Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others, (2017) 10 SCC 1, AIR 2017 SC 4161

encompasses decisional autonomy, bodily integrity, intimate personal decisions, and the freedom to decide on family life, marriage, sexuality, and relationships without undue interference by the state. Privacy was established as fundamental to human dignity and freedoms. The ruling substantially altered constitutional visions of human relationships, moving away from collective social constraint towards individual autonomy. The Court reiterated ‘the general right of everyone to make intimate and personal decisions which are free from compulsion or interference’. In this manner, Puttaswamy extended the provisions of Article 21 from mere procedural freedom to one that includes privacy, which is a constitutional value central to individual identity and dignity. This is of direct impact on the recovery of right of conjugal union. A restitution decree gives court’s jurisdiction to order unwilling spouses to return to marriage and cohabit. There are those who argue that such judicial intrusion infringes deeply into private matters of marital life and thereby breaches the constitutional respect for decisional autonomy – enshrined in Puttaswamy. While the remedy does not per se demand sex, cohabitation in a marriage generally involves an expectation for emotional and physical intimacy that goes hand in hand with romantic intimacy between the spouses. Thus, judicially enforced cohabitation can indirectly interfere with the freedom of privacy. Moreover, the decision in *Saroj Rani v. Sudarshan Kumar Chadha*¹⁹ was delivered before privacy was recognised as a fundamental right. Contemporary privacy jurisprudence thus throws a critical spotlight on whether restitution of conjugal rights will be legitimate under the expanded parameters of Article 21.

Bodily Autonomy, Sexual Privacy and Intimate Choice

Post-Puttaswamy constitutional architecture has increasingly acknowledged bodily autonomy and sexual privacy as vital components of human dignity and personal liberty. Bodily autonomy is a right of people to exercise control over their own body and decide for themselves about activities such as physical intimacy, relationships, and personal life without coercion or forced participation. In *Suchita Srivastava v. Chandigarh Administration*, the Supreme Court recognised reproductive autonomy within the frame of personal liberties granted under Article 21, and the Court stated that everyone has a right to make reproductive decisions about their body. The Court held that individual autonomy and bodily integrity are key areas of constitutional freedom. Likewise, in *Navtej Singh Johar v. Union of India*, the Supreme Court recognised sexual autonomy and intimate choice as protected constitutional rights. *Navtej Singh Johar v. Union of India* the Court held that intimate relationships and sexual orientation form an essential part of individual identity and dignity. The judgment emphasised that constitutional morality requires protection of individual autonomy even where social morality may disapprove of personal choices. This reasoning was extended further in *Joseph Shine v. Union of India*, where it struck down the offence of adultery under Section 497 of the Indian Penal Code. *Joseph Shine v. Union of India*²⁰ the Court rejected patriarchal assumptions underlying traditional marriage laws and affirmed that marriage does not subordinate one spouse to the control of the other. It recognised that dignity, autonomy, and equality continue to exist within marital relationships. Together they represent a constitutional shift, accepting marriage as a relationship between autonomous individuals rather than a purely institutional arrangement based on marital obligations. Restitution of conjugal rights is therefore, in practice, hard to reconcile with constitutional protections of bodily autonomy and intimate choice. While restitution decrees don't directly require sexual intercourse, opponents say they put legal and emotional pressure on unwilling spouses alike to return to physical and emotional intimacy in marriage. Judicially imposed cohabitation could in this

¹⁹ *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562

²⁰ *Joseph Shine v. Union of India*, (2019) 3 SCC 39, AIR 2018 SC 4898, [2018] 11 S.C.R. 765

way undermine meaningful consent and may impair decisional freedom in intimate relationships. It is especially important in India since the marital rape exception still exists as a part of criminal law. In such cases that compel spouses to return to cohabitation, the individuals can be made to bear vulnerability of emotional, physical, or sexual coercion. As constitutional jurisprudence increasingly favours dignity, autonomy, and consent, the compatibility of restoring conjugal rights with Article 21 remains deeply contested.

Constitutional Transformation of Marriage and Intimate Relationships

Article 21 jurisprudence is evolving in response to a much broader constitutional trajectory in the concept of marriage and intimate relationships. Historically, marriage was primarily considered by legal frameworks to be a social institution, and the State had to preserve it and regulate its rights. Thus, marital remedies, such as restitution of conjugal rights, were justified on the premise that they would protect family stability and avoid desertion. But recent constitutional law is coming to realize that marriage cannot be seen exclusively in the institutional sense. Rather, marriage is conceived as a relationship between individuals who still have their constitutional rights to privacy, dignity, autonomy, and personal liberty. A central factor in this change is the doctrine of transformative constitutionalism. When constitutionalism transforms, laws and institutions must evolve themselves in accordance with constitutional values instead of remaining wedded to old social norms. The Supreme Court has repeated its position consistently: It must be constitutional morality that overrides social morality in cases when fundamental rights are threatened. On the question of marriage, it means that under this constitutional revision legal requirements must guarantee individuals individual autonomy and personal dignity during marriage. In consensual, respectful, and voluntary relationships, values that match these are increasingly being accepted, a growing importance towards a constitutionally appropriate approach to the relationship law (of the type we see in the forms of coercion or forced intimacy). It follows that the constitution must continue to develop to determine the continued status of the restitution of conjugal rights. Historically understood as a mechanism for preservation of marriage and promotion of reconciliation, the remedy nevertheless begs serious consideration considering contemporary constitutional doctrines regarding whether judicially enforced cohabitation conflicts with such rights as privacy, bodily autonomy, dignity, and intimate choice, as contained within Article 21 of the Constitution. This means that the constitutional debate about restitution of conjugal rights is no longer limited to matrimonial law alone. It forms a pillar in a greater constitutional discussion about the relationship between marriage, autonomy, privacy, dignity, and the limits of state intrusion into intimate personal relationships.

Contemporary Challenges to Restitution of Conjugal Rights

The restitution of conjugal rights is now one of the most debated remedies in Indian matrimonial law. Originally the remedy focused upon preserving marriage and encouraging reconciliation. Nonetheless, the constitutional validity and practical importance are increasingly under challenge in contemporary legal discourse. While the debate over the restitution of conjugal rights has not only focused on family law, it also brings up broader, constitutional issues surrounding privacy, dignity, bodily autonomy, and personal liberty, and the ways in which the State can intercede in intimate marital relationships. Indian matrimonial law usually regarded marriage as an institution in need of legal protection if family stability and social order were to be preserved. Courts therefore conceived of cohabitation and consortium as crucial obligations arising from marriage. For this reason, the State was justified in restoring conjugal rights by

upholding the existence of the State's interest if one partner had withdrawn from the society of the other without reasonable cause. But the constitutional thinking of the People of India has changed a lot in a long period of time. Modern constitutional interpretation has come to understand more and more that being married does not relieve someone of basic rights, and that marriage can still afford to preserve their privacy, dignity, bodily autonomy, and freedom of decision in marriage. Accordingly, judicially enforced cohabitation has been widely criticized according to the Constitution. The remedy is also now being considered considering growing constitutional values and modern conceptions of marriage as a matter of consent, autonomy and mutual respect.

Judicial critique and Constitutional concerns

Recovery of conjugal rights was first seriously examined by the judiciary in *T. Sareetha v. T. Venkata Subbaiah* and the Constitutional validity of restitution of marital rights was challenged here. *T. Sareetha v. T. Venkata Subbaiah* Here the Andhra Pradesh High Court struck down Section 9 of the Hindu Marriage Act on the ground that it violated the fundamental rights guaranteed by Articles 14, 19, and 21 of the Constitution. Justice P.A. Choudary held that forcing a spouse to live together constitutes “state interference in the most private and intimate realm of human existence”. “Privacy, bodily autonomy, human dignity and decisional freedom were all violated” because the remedy effectively compelled unwilling spouses to remain in intimate marital relationships, the Court declared. The Court, moreover, accepted that while the restitution of conjugal rights did not outright require sexual intercourse, marriage cohabitation does require emotional and physical closeness. Accordingly, under the rule of law cohabitation may indirectly exert influence on the spouses not to desire sexual intercourse. *T. Sareetha* was a rights-based constitutional decision that placed human dignity and freedom within marriage front and centre. In *Saroj Rani v. Sudarshan Kumar Chadha*²¹ however, the Supreme Court adopted a different attitude. *Saroj Rani v. Sudarshan Kumar Chadha* Section 9 of the Hindu Marriage Act was held to be constitutionally valid by the Supreme Court in this case. The Court considered restitution of conjugal rights as a conciliatory remedy meant to save marriage and bring together spouses, not as a coercive measure. The purpose of the provision, the Court said, was to restore matrimonial harmony and avoid breaking up family relationships. It was also an important constitutional debate created by the diverging decisions of the Supreme Court in *T. Sareetha* and *Saroj Rani*, which remains to this day. On one side of the spectrum is the more traditional institution-centred approach where preservation of marriage is regarded as a significant social goal. The other side is the rights-based constitutionalism that focuses on privacy, worth, freedom, and selfhood of the individuals in marriage. Perhaps the most important constitutional issue in restitution of conjugal rights is to what extent the state should intervene in domestic life, intimate relationships. Critics contend that while the remedy does not itself impose physical intimacy, forcing unwilling spouses back to living together by this means could have the unintended consequence of obstructing personal decisions and meaningful consent. Marriage cohabitation is also the case that they experience emotional comforts and the mutual physical intimacy of a person who shares their physical and emotional sense of one’s own body, and it is difficult to disentangle the remedy altogether from the concepts of bodily autonomy and personal freedom. A further significant issue has to do with the progressive interpretation of Article 21. Eventually Article 21 was extended to incorporate not only the right to life but to dignity, privacy, bodily integrity and decisional freedom. Herein, critics contend, restitution of conjugal rights would encourage excessive state intervention in profoundly intimate matters

²¹ *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562

that involve marriage and intimate relationships. Even more striking is the problem when discussing the constitutional issue along these terms of unequal social and economic realities of marriage. In numerous cases, emotionally or financially bereft spouses may become forced to obey restitution mandates even when they are not actually acting voluntarily. This leaves the remedy open to condemnation for seeking more of marriage preservation than liberty and autonomy of the individual.

Restitution of Conjugal Rights & Modern Privacy Jurisprudence

The evolution of modern privacy jurisprudence on Article 21 has drastically altered constitutional framings of marriage, personal liberty and intimate partnerships. For many years, the Supreme Court has held that there's a right for people to make their intimate personal choices, unburdened by undue interference from the state. These constitutional developments directly relate to issues concerning the restitution of conjugal rights. A key turning point occurred in Justice K.S. Puttaswamy v. Union of India²², where the Supreme Court unanimously declared privacy as a fundamental right under Article 21. The Court ruled on the subject in Justice K.S. Puttaswamy v. Union of India on personal freedom, decisional autonomy, bodily integrity, and intimate choice and personal liberty in matters relating to family life, marriage, sexuality, and relationships. Privacy was acknowledged as indispensable to dignity and individual freedom. The Puttaswamy case transformed constitutional jurisprudence, acknowledging that an individual has an entitlement to control very personal decisions concerning his or her own body and personal relationships. These wider principles of privacy also generate important constitutional issues about whether courts can order unwilling spouses to return to cohabitation using restitution orders. The significance of autonomy and personal choice was further reflected in Navtej Singh Johar v. Union of India. Here too, the Supreme Court determined that intimate relationships and personal choices constitute basic elements of constitutional dignity and personal identity. More important for the Court, the ruling recognized that constitutional morality must prevail over social morality when individual rights are involved in the decision. And likewise, in Joseph Shine v. Union of India²³, the Supreme Court invalidated adultery in accordance with Section 497 of the Indian Penal Code and repudiated customary understandings of marriage framed through control and subservience. The Court stressed that marriage cannot eradicate dignity, privacy, and autonomy and that spouses are also individuals who have human rights guaranteed under the Constitution. Read together, these decisions are indicative of a wider constitutional move away from traditional institution-oriented ways to understand marriage in terms of autonomy. Marriage is seen in an increasingly voluntary way as an individual, human, and voluntary relationship based on respect, consent, companionship, and the choice of all participants and not as a state of law with coercive obligations to cohabit. In this evolving constitutional paradigm, restitution of conjugal rights becomes harder to square with the contemporary constitutional principles of this era. Opponents claim that judicially imposed cohabitation undermines decisional autonomy by permitting courts to order unwanted spouses to stay in an unhappy marriage. While the remedy is historically justified as a means of saving marriage, modern constitutional jurisprudence seeks to strengthen the significance of individual dignity, privacy, and personal liberty.

Comparative and modern perspectives

The comparative legal trajectory between jurisdictions reveals a gradual shift away from marital cohabit-

²² Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others, (2017) 10 SCC 1, AIR 2017 SC 4161

²³ *Joseph Shine v. Union of India*, (2019) 3 SCC 39, AIR 2018 SC 4898, [2018] 11 S.C.R. 765

ation remedies. The remedy of restitution of conjugal rights, developed originally in English ecclesiastical law, which granted the church courts the power to force spouses to return to cohabitation. But the growing recognition of English law that forcing unwilling spouses to live together undermined modern understandings of liberty and marriage. In England, restitution of conjugal rights was abolished with the passage of the Matrimonial Proceedings and Property Act, 1970. The remedy was seen as antiquated, ineffective, and out of step with modern constitutional values of individual freedom and voluntary unions. The abolition was part of a larger change in the law of the family from the protection of marriage by legal compulsion to the principle of autonomy and mutual consent being the bedrock of marriage. Many contemporary constitutional democracies adopt a similar approach, conceiving of marriage not merely as an institution subject to legal obligations and compulsory cohabitation, but as a partnership between equal partners. The contemporary legal systems focus more on:

- dignity,
- privacy,
- equality,
- bodily autonomy,
- and voluntary companionship in marriage.

International human rights principles have progressively come to recognise both individual autonomy and freedom from coercive state intervention as critical elements of human dignity. Across jurisdictions, courts now give more importance to individual liberty and decisional freedom in intimate relationships. Consequently, remedies that require unwilling spouses to continue living together are being seen with constitutional scepticism. The present controversy in favour or against restoration of conjugal rights therefore mirrors the broader shift in our constitutional and family law jurisprudence. For the most part, previous legal systems were concerned with preserving marriage and family continuity. Yet, increasingly, modern constitutional norms are aware that the autonomy, respect for dignity, privacy, individualism, and liberty of spouses must be respected when it comes to marriage too. In India, therefore, the retention of restitution of conjugal rights raises relevant constitutional concerns as to whether, in matrimonial law, preservation of marriage and personal freedom and autonomy remain secondary to the integrity of the institution of marriage. The legitimacy and relevance of judicial cohabitation remain fundamentally problematic and at the core of contemporary constitutional debates as constitutional jurisprudence progresses in strengthening the principles of privacy, dignity, and intimate choice under Article 21.

Conclusion

The constitutional discussion of restitution of conjugal rights is indicative of an ever-evolving Indian constitutional jurisprudence and family law. Marriage was traditionally conceived in India as a social institution which was based on responsibilities, companionship, household stability and safeguarding of social harmony. In this sense, remedies of marriage such as restitution of conjugal rights were introduced with the intention of sustaining marriage and discouraging separation, by demanding the return of the spouses to cohabitation. Such remedies were widely unquestioned for several years, with very little constitutional recognition of individual autonomy in marriage. Yet the constitutional jurisprudence developed under Article 21 had very clearly formed its own understanding of marriage and personal relationships. Contemporary constitutional interpretation is becoming more tolerant of the idea that marriage does not destroy basic rights, and that individuals can continue to have privacy, dignity, bodily autonomy, decisional freedom and personal choice, even in the case of marriage. Judicial decisions in the

likes of Justice K.S. Puttaswamy v. Union of India²⁴, Navtej Singh Johar v. Union of India²⁵ and Joseph Shine v. Union of India have redefined personal liberty and reoriented constitutional views of autonomy and consent in relation to relationships.

In this evolving constitutional terrain, restitution of conjugal rights has been increasingly contentious. While the remedy does not enforce sexual relations, cohabitation enforced by the courts may have a deterrent effect, indirectly forcing spouses into emotional or physical relations. The remedy therefore poses questions of constitutional import about the state's interference in the affairs of a private marriage, and indeed to what extent courts may legitimately intervene in intimate personal relationships. A juxtaposition of T. Sareetha v. T. Venkata Subbaiah and Saroj Rani v. Sudarshan Kumar Chadha²⁶ highlights the remaining constitutional struggle between marriage preserving its status as a social institution and protecting constitutional liberties within marriage.

Moreover, comparative movements in various jurisdictions indicate a slow shift from the judicial enforcement of marital cohabitation as a remedy. Contemporary constitutional democracies are now more likely to privilege consent and choice with respect to mate, rather than legal compulsion, personal autonomy, and moral commitment in marriage. The dissolution of restitution of conjugal rights in England and burgeoning international family law trends show how badly constitutional remedies like these do not jibe with such values now. The study thus concludes that the constitutional validity, the need for restitution of conjugal rights as well as modern relevance will require a serious reconsideration from post-Puttaswamy constitutional law that is now established. While preserving marriage continues to be an important social goal, to establish constitutional morality requires that marriage statutes must also protect individual dignity, privacy and bodily autonomy as well as allow people to make their own decisions. In modern constitutional rhetoric, marriage can no longer be understood only as an institution grounded on enforceable obligations to cohabit but must now instead be redefined as a form of union grounded in consent, autonomy, dignity, and personal choice.

Way Forward

The evolving constitutional conception of marriage and individual liberty also requires a rethinking of the continued existence and extent of restitution of conjugal rights in Indian matrimonial law. The law for intimate relationships also is to adapt with constitutional precepts and social development rather than remain wedded to antiquated constructions of marital domination and forced cohabitation. By accepting privacy, bodily autonomy, dignity, and intimate choice as fundamental elements of constitutional freedom, Indian courts have already drawn on Article 21's legal scope. Matrimonial remedies however, including the restitution of conjugal rights remain rooted on the old, institution-bound basis still placing more importance on the preservation of marital relationships than on the autonomy of individuals. It is, therefore, necessary to offer a balanced legal structure designed to safeguard marital relationships but also personal freedom and decisional autonomy in marriage. There is also a need for legislative and judicial clarity over the discretion of the State in such interpersonal contacts. Modern constitutional jurisprudence is increasingly realizing that a marital relationship should also be based on voluntary companionship, an emotional capacity compatible with the life of the husband or wife and mutual understanding instead of the implementation of cohabitation into law by judicial decree. Therefore, the future development of

²⁴ Justice K.S. Puttaswamy (Retd.) and Others v. Union of India and Others, (2017) 10 SCC 1, AIR 2017 SC 4161

²⁵ AIR 2018 SC 4321, (2018) 10 SCC 1

²⁶ Saroj Rani v. Sudarshan Kumar, AIR 1984 SC 1562

Indian family law would ideally attempt to balance the need for social stability with the constitutional protection of individual autonomy.

Suggestions

1. **Reconsideration of Section 9 HMA and Section 22 SMA:** Parliament should reconsider the continued retention of restitution of conjugal rights in its present form considering evolving constitutional principles relating to privacy, dignity, and bodily autonomy under Article 21.
2. **Reading Down the Provision:** Courts may interpret restitution of conjugal rights narrowly to ensure that the remedy remains purely conciliatory and does not result in indirect coercion or forced cohabitation.
3. **Promotion of Mediation and Counselling:** Instead of judicially enforced cohabitation, greater emphasis should be placed on mediation, counselling, and voluntary reconciliation mechanisms that respect the autonomy and consent of both spouses.
4. **Recognition of Decisional Autonomy within Marriage:** Matrimonial laws should expressly recognise that spouses retain constitutional rights to privacy, dignity, bodily autonomy, and intimate choice even after marriage.
5. **Alignment with Modern Constitutional Values:** Family law reforms should ensure that matrimonial remedies evolve consistently with modern constitutional jurisprudence, particularly post-Puttaswamy developments relating to personal liberty and intimate autonomy.
6. **Comparative Law Reform:** Indian matrimonial law may draw guidance from comparative jurisdictions that have moved away from remedies involving compulsory cohabitation and have adopted rights-based approaches to marriage and family law.