
BETWEEN AFFECTION AND AGREEMENT: A STUDY OF PRENUPTIAL AGREEMENTS

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வருமுன்னர்க் காவாதான் வாழ்க்கை எரிமுன்னர்

வைத்தூறு போலக் கெடும்.

- திருவள்ளுவர்

G.U. Pope's Translation; His joy who guards not against the coming evil day, like straw before the fire shall swiftly consume away.¹

- Thirukkural: 435, The Correction of Faults, Wealth

ABSTRACT

Prenuptial agreements, as pre-marital arrangements regulating the financial rights and obligations of spouses, occupy a legally uncertain position within the Indian framework. While several jurisdictions recognize such agreements as valid instruments of private ordering, their status in India remains contested due to the interplay between contractual principles, personal laws, and public policy. This reflects an inherent tension between the traditional conception of marriage as a sacrosanct institution and the contemporary need for financial clarity and risk management within matrimonial relationships. This study examines the conceptual foundations, contents, and underlying rationale of prenuptial agreements within the framework of the Indian Contract Act, 1872, while analysing their interaction with personal law regimes, including the Hindu Marriage Act, 1955. Particular emphasis is placed on their applicability across religious communities, especially in the context of Muslim marriages, which are inherently contractual in nature. The research further evaluates the enforceability of such agreements in India in light of judicial attitudes and public policy constraints. Adopting a doctrinal approach, the paper conceptualizes prenuptial agreements as instruments of anticipatory financial planning, reflecting a shift towards pragmatic matrimonial governance. It proposes the need for a calibrated legal framework, drawing cautious guidance from models such as the Uniform Premarital Agreement Act, while emphasizing contextual adaptation within India's pluralistic system.

Keywords: Prenuptial agreements, matrimonial law, contractual autonomy, personal laws, public policy, India.

¹ Thiruvalluvar, Thirukkural, Kural 467 (G.U. Pope trans., Oxford University Press).

1. INTRODUCTION

Marriage in India has traditionally been regarded as a social and, in many cases, a sacred institution rather than a purely contractual relationship. However, with changing social realities, increasing financial independence, and a rise in matrimonial disputes, there is a growing need to examine the legal dimensions of marriage beyond its traditional understanding. In this context, prenuptial agreements have emerged as a relevant, though still evolving, concept within the Indian legal system. A prenuptial agreement refers to an arrangement entered by parties prior to marriage, primarily to regulate their financial rights and obligations in the event of divorce or separation. While such agreements are widely recognized in other jurisdictions, their position in India remains uncertain due to the interaction between general contract principles under the Indian Contract Act, 1872 and personal laws such as the Hindu Marriage Act, 1955. In modern practice, individuals often rely on mechanisms such as insurance to manage risks associated with life, health, and property. In a similar sense, prenuptial agreements may be viewed as a legal tool to anticipate and regulate potential financial disputes arising out of marital breakdown. This perspective reflects a shift towards a more pragmatic understanding of marriage, without necessarily undermining its social or cultural significance.

2. ORIGIN AND EVOLUTION OF PRENUPTIAL AGREEMENTS

The origins of prenuptial agreements can be traced to early civil law systems in Europe, particularly between the 16th and 18th centuries, where marriage was closely tied to property and inheritance. In countries such as France, pre-marital arrangements formed part of established matrimonial property regimes, enabling families to regulate ownership and succession prior to marriage.² During the 19th century, under the influence of English common law, a restrictive approach emerged. Courts treated agreements made in contemplation of separation as void for being against public policy, reflecting the prevailing view of marriage as a permanent institution. This position continued into the early 20th century, as seen in *Hyman v. Hyman* (1929).³ A gradual shift began in the mid-20th century (1950s–1970s), driven by social changes, including the increasing acceptance of divorce and the recognition of individual autonomy. By the 1980s, the United States formally recognized prenuptial agreements as

² Mary Ann Glendon, *The Transformation of Family Law* 16–20 (1989)

³ *Hyman v. Hyman*, [1929] A.C. 601 (H.L.) (U.K.).

enforceable through the Uniform Premarital Agreement Act, 1983 marking a significant transition towards contractual regulation of marital finances.⁴

This evolution was further strengthened in the late 20th and early 21st centuries, with courts adopting a more pragmatic approach. A landmark moment came in *Simeone v. Simeone* (1990)⁵, which affirmed contractual autonomy, followed by *Radmacher v. Granatino* (2010), where the UK Supreme Court recognized the enforceability of prenuptial agreements subject to fairness.⁶ In India, the development has been limited and largely post-colonial. While the Indian Contract Act, 1872 provides a contractual basis, judicial hesitation has persisted from the late 19th century (e.g., *Tekait Mon Mohini Jemadai*, 1901) to the present, primarily due to public policy concerns and the traditional understanding of marriage.⁷ Contemporary developments in the 21st century indicate a gradual shift, with prenuptial agreements being considered, though not fully enforced, in matrimonial disputes.

3. MEANING AND NATURE OF PRENUPTIAL AGREEMENTS

Prenuptial agreements have been defined in multiple ways within legal scholarship, reflecting their hybrid character between contract and matrimonial regulation. At a basic level, they are understood as agreements entered prior to marriage to regulate the financial consequences of a potential breakdown. As a scholar notes, “a prenuptial agreement is a contract made in contemplation of marriage which determines the property and financial rights of the parties upon divorce or death.”⁸ From a broader perspective, prenuptial agreements are viewed as instruments of private ordering within family law. According to another formulation, they represent “a mechanism through which individuals can structure their economic relationship in advance, thereby reducing uncertainty and litigation.”⁹ This definition shifts the focus from mere contingency planning to autonomy and efficiency in matrimonial arrangements.

Judicial understanding has also contributed to defining their nature. In *Radmacher v. Granatino* (2010)¹⁰, the UK Supreme Court did not merely address enforceability but implicitly

⁴ Uniform Premarital Agreement Act (1983).

⁵ *Simeone v. Simeone*, 581 A.2d 162 Pa. 1990

⁶ *Radmacher v. Granatino*, [2010] UKSC 42.

⁷ *Tekait Mon Mohini Jemadai v. Basanta Kumar Singh*, (1901) ILR 28 Cal 751.

⁸ Judith T. Younger, *Perspectives on Antenuptial Agreements: An Update*, 8 J. Am. Acad. Matrim. Law. 1992.

⁹ Marsha Garrison, *Love, Money, and the Law: Prenuptial Agreements and the Limits of Private Ordering*, 1998.

¹⁰ *Radmacher v. Granatino*, [2010] UKSC 42 (U.K.)

characterized prenuptial agreements as expressions of individual autonomy that should be respected where freely entered into. Similarly, American jurisprudence, particularly in *Simeone v. Simeone* (1990)¹¹, treated such agreements as ordinary contracts, emphasizing that parties should be bound by their terms absent fraud or duress. Despite this, prenuptial agreements cannot be equated entirely with commercial contracts. As observed in family law scholarship, “agreements made in the context of marriage are inevitably subject to considerations of fairness and public policy that do not ordinarily arise in commercial transactions.”¹² This highlights their dual nature: while grounded in contract law principles, they operate within a domain shaped by social, ethical, and legal constraints. In Indian, this duality becomes more pronounced. Although such agreements may theoretically derive validity from the Indian Contract Act, 1872, their enforceability remains uncertain due to the influence of personal laws and public policy considerations. Consequently, prenuptial agreements in India are often viewed not as strictly binding contracts but as indicative arrangements that may guide judicial determination in matrimonial disputes.

4. CONTENTS AND GROUNDS OF PRENUPTIAL AGREEMENTS

Prenuptial agreements are structured instruments that primarily regulate the financial and proprietary relations of parties entering into marriage. Their contents are generally confined to economic matters, reflecting their core function of pre-determining financial consequences while avoiding intrusion into personal or moral aspects of the marital relationship.¹³

4.1. Contents of Prenuptial Agreements

Typically, prenuptial agreements include provisions relating to:

- Classification and distribution of property, distinguishing between pre-marital and post-marital assets
- Spousal maintenance or alimony, subject to judicial scrutiny
- Allocation of debts and liabilities

¹¹ *Simeone v. Simeone*, 581 A.2d 162 Pa. 1990.

¹² Lynn A. Baker & Robert E. Emery, *When Every Relationship Is Above Average: Perceptions and Expectations of Divorce at the Time of Marriage*, 17 *Law & Hum. Behav.* 439 (1993).

¹³ Homer H. Clark, Jr., *The Law of Domestic Relations in the United States* (2d ed. 1988)

- Protection of business interests and inheritance rights
- Financial disclosure obligations, ensuring transparency between parties

Importantly, such agreements are limited to financial and proprietary matters and do not extend to personal, immoral, or non-enforceable obligations, such as those affecting marital conduct or child custody, which remain subject to judicial determination and public policy constraints.

4.2. Grounds and Procedural Requirements

The validity and enforceability of prenuptial agreements are not determined solely by their content but also by the conditions under which they are framed. Legal systems generally emphasize procedural safeguards to ensure fairness and voluntariness.

1. Free and Informed Consent

A fundamental requirement is that the agreement must be entered into voluntarily, without coercion, undue influence, or misrepresentation. Agreements executed under duress are liable to be invalidated.

2. Full Financial Disclosure

Parties are expected to provide complete and honest disclosure of their assets, liabilities, and financial position, “meaningful consent in premarital agreements depends upon full and fair disclosure of financial circumstances.”¹⁴

3. Independent Legal Advice

The presence of independent legal counsel for both parties strengthens the validity of the agreement, ensuring that each party understands the implications of the terms.

4. Transparency and Fairness

The agreement must be fair at the time of execution and not unconscionable in its operation.

¹⁴ Ira Mark Ellman et al., *Family Law: Cases, Text, Problems* (5th ed. 2010).

Courts may refuse enforcement where the terms are manifestly one-sided.

5. Procedural Regularity

Proper documentation, execution prior to marriage, and clarity of terms are essential to avoid ambiguity and future disputes.

6. Consistency with Law and Public Policy

The agreement must not violate statutory provisions or public policy. In jurisdictions like India, this is assessed in light of principles under the Indian Contract Act, 1872, particularly concerning lawful object and consideration.

5. PRENUPTIAL AGREEMENTS VS STATUTES, CUSTOMS AND PERSONAL LAWS

Prenuptial agreements in India operate within a constrained legal framework in which contractual autonomy is conditioned by statutory mandates, customary practices, and personal law principles. While such agreements may be framed as private arrangements, their enforceability depends on whether they withstand scrutiny under existing legal norms.

At the statutory level, the validity of prenuptial agreements is tested against the Indian Contract Act, 1872, particularly Section 23, which renders agreements void if opposed to public policy.¹⁵ Consequently, any term that seeks to exclude or limit statutory rights especially maintenance under the Hindu Marriage Act, 1955 is liable to be disregarded by courts.¹⁶ Judicial practice has consistently affirmed that private agreements cannot curtail the court's jurisdiction in matrimonial matters, a position reflected as early as *Tekait Mon Mohini Jemadai v. Basanta Kumar Singh* (1901).¹⁷

Customary law further complicates this position. Indian matrimonial relations have historically been governed by community specific norms rather than individualized contracts. While courts may recognize valid customs, such recognition is conditional upon their antiquity, certainty, and reasonableness, and cannot override statutory provisions.¹⁸ Prenuptial agreements, being modern and individualized, therefore derive no independent authority from

¹⁵ Indian Contract Act, 1872

¹⁶ Hindu Marriage Act, 1955

¹⁷ *Tekait Mon Mohini Jemadai v. Basanta Kumar Singh*, (1901) ILR 28 Cal 751 (India)

¹⁸ *M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das*, (2019) 18 SCC 1 (India)

custom and must stand on their own legal validity.

The role of personal laws introduces a structural distinction. Under Hindu law, marriage has traditionally been conceptualized as a sacrament, limiting the scope for contractual stipulation of rights and obligations.¹⁹ In contrast, Muslim law recognizes marriage (nikah) as a civil contract, within which financial stipulations such as mahr are intrinsic.²⁰ However, even within such contractual frameworks, conditions must conform to legal standards and cannot violate public policy or statutory protections.

Within this framework, prenuptial agreements may be better understood not merely as contractual devices but as instruments of **anticipatory financial planning**, analogous in function though not in legal effect to arrangements such as insurance. Like life or health insurance, they seek to allocate risk and provide financial clarity in the event of uncertainty. However, unlike insurance contracts, which operate within a well-defined statutory regime, prenuptial agreements remain subject to overriding judicial control and cannot displace mandatory legal protections.²¹ Accordingly, their legal position in India is best characterized as conditional, they may supplement existing legal frameworks by evidencing intent and financial understanding, but they cannot override statutes, displace customs, or negate personal law principles.

6. SECULAR NATURE VS PERSONAL LAW FRAMEWORK OF PRENUPTIAL AGREEMENTS

The applicability of prenuptial agreements in India raises a fundamental question as to whether they function as secular contractual instruments or remain subject to the framework of personal laws governing marriage. While such agreements derive their theoretical basis from the Indian Contract Act, 1872, their operation is significantly influenced by the nature of marriage as recognized under different religious systems.²² At the same time, their practical relevance can be understood through the specific benefits they offer within each personal law framework, particularly in relation to financial certainty and risk allocation.

Under Hindu law, governed by the Hindu Marriage Act, 1955, marriage is traditionally

¹⁹John D. Mayne, *Treatise on Hindu Law & Usage* (16th ed. 2008).

²⁰Mulla, *Principles of Mohammedan Law* (22nd ed. 2017).

²¹E.J. Graff, *The Prenuptial Agreement: Not Just for the Wealthy*, (2003).

²²Indian Contract Act, 1872

conceptualized as a sacrament, which limits the scope for contractual modification of rights and obligations. However, within this framework, prenuptial agreements may still serve a limited but meaningful function by providing clarity regarding financial expectations, especially in cases involving second marriages, family businesses, or significant pre-marital assets. As noted in scholarly writing, such agreements may operate as “indicative arrangements reflecting intention rather than binding contracts.”²³

In contrast, under Muslim law, marriage (nikah) is inherently contractual, allowing parties to incorporate financial stipulations within the marriage itself. Concepts such as mahr (dower) demonstrate that pre-determined financial arrangements are not foreign to the system.²⁴ Within this structure, prenuptial agreements align more naturally and may enhance existing practices by enabling greater specificity in financial arrangements. This reflects the broader principle that conditions in marriage contracts are valid so long as they are not opposed to law or public policy.²⁵

Under Christian law, governed by the Indian Christian Marriage Act, 1872 and the Divorce Act, 1869, and under Parsi law through the Parsi Marriage and Divorce Act, 1936, marriage is primarily regulated through statutory provisions, with courts exercising discretion in matters of maintenance and financial relief.²⁶ In these systems, prenuptial agreements may not have binding force, but they can still offer practical advantages by reducing uncertainty and potential conflict, particularly in complex financial situations.

Across all personal law systems, a common benefit of prenuptial agreements lies in their role as instruments of anticipatory financial planning, comparable in rationale to mechanisms such as insurance, where parties prepare for uncertain future events. As one commentator observes, “premarital agreements function as private risk-allocation tools in the shadow of legal uncertainty.”²⁷ By addressing financial contingencies in advance, such agreements can reduce litigation and promote transparency, even where final outcomes remain subject to judicial determination. While prenuptial agreements may appear as secular contracts in form, their utility and enforceability vary across personal law frameworks. Their true significance lies not in absolute legal enforceability, but in their ability to provide clarity, predictability, and

²³ Brian H. Bix, *Family Law: Cases, Text, Problems* 192 (6th ed. 2015)

²⁴ Mulla, *Principles of Mohammedan Law* (22nd ed. 2017)

²⁵ Fyzee, *Outlines of Muhammadan Law* (5th ed. 2008).

²⁶ Divorce Act, 1869; Parsi Marriage and Divorce Act, 1936.

²⁷ Katherine B. Silbaugh, *Marriage Contracts and the Constitution*, (1996).

financial preparedness within the limits imposed by law.

7. LEGAL VALIDITY AND ENFORCEABILITY OF PRENUPTIAL AGREEMENTS

The legal validity and enforceability of prenuptial agreements in India remain uncertain, as such agreements are not expressly recognized under matrimonial statutes and must be tested against general principles of contract law. Their validity is primarily examined under the Indian Contract Act, 1872, particularly Section 10, which requires free consent, lawful consideration, and lawful object, and Section 23, which renders agreements void if opposed to public policy.²⁸ While prenuptial agreements may satisfy these formal requirements, their enforceability is significantly restricted when they intersect with matrimonial rights governed by personal laws. A key limitation arises from the principle that statutory rights cannot be waived by private agreement. Under matrimonial statutes such as the Hindu Marriage Act, 1955, provisions relating to maintenance and alimony (Sections 24 and 25) are matters of judicial discretion and cannot be conclusively predetermined by parties. Courts have consistently held that agreements attempting to restrict such rights may not be binding. This position finds early expression in *Tekait Mon Mohini Jemadai v. Basanta Kumar Singh* (1901), where pre-marital arrangements conflicting with legal principles were not readily enforced.²⁹

Indian courts have also emphasized that marriage is not a purely contractual relationship. In *S. Nagalingam v. Sivagami* (2001), the Supreme Court observed that matrimonial relations are governed by personal law and cannot be reduced entirely to contractual obligations.³⁰ Similarly, in *Seema v. Ashwani Kumar* (2006), the Court underscored the importance of statutory regulation of marriage, reinforcing the limited role of private agreements in determining matrimonial rights.³¹ At the same time, courts have not completely disregarded such agreements. In certain cases, prenuptial arrangements have been treated as relevant evidentiary factors reflecting the intention of the parties, particularly in financial matters. This indicates a nuanced approach: while not strictly enforceable as binding contracts, prenuptial agreements may influence judicial determination where they are fair, voluntary, and not contrary to law.

The enforceability of such agreements is further conditioned by procedural safeguards.

²⁸ Indian Contract Act, 1872

²⁹ *Tekait Mon Mohini Jemadai v. Basanta Kumar Singh*, (1901) ILR 28 Cal 751 (India)

³⁰ *S. Nagalingam v. Sivagami*, (2001) 7 SCC 487 (India).

³¹ *Seema v. Ashwani Kumar*, (2006) 2 SCC 578 (India).

Agreements executed without free consent, under duress, or without full disclosure of financial assets are liable to be invalidated. The absence of independent legal advice or the presence of unconscionable terms may also weaken their enforceability, as courts prioritize fairness and equity in matrimonial disputes. Thus, the legal position in India reflects a qualified recognition of prenuptial agreements. They are valid in principle under contract law, but their enforceability is limited by statutory provisions, personal law principles, and considerations of public policy. In practice, they function less as binding contracts and more as persuasive instruments, the weight of which depends on fairness, transparency, and judicial discretion.

8. STRUCTURAL FRAMEWORK FOR A PROPOSED INDIAN PRENUPTIAL AGREEMENT ACT: A COMPARATIVE MODEL

A hypothetical Indian adaptation of a Uniform Premarital Agreement Act model would require a structured statutory framework consisting of clearly defined provisions governing validity, enforcement, and limitations. Drawing from the Uniform Premarital Agreement Act, such a model can be conceptually divided into core “sections” that regulate different aspects of prenuptial agreements while ensuring compatibility with Indian matrimonial law principles.

The first and most essential provision would relate to validity and formation, under which prenuptial agreements would be recognised as legally valid if executed voluntarily, in writing, and prior to marriage. This section would also require that the agreement is supported by full and fair financial disclosure, ensuring that both parties enter the contract with complete knowledge of each other’s financial position. This directly aligns with general contractual principles under the Indian Contract Act, 1872 while addressing concerns of transparency and informed consent.

The second key provision would deal with mandatory procedural safeguards, including independent legal advice for both parties, a reasonable cooling-off period before marriage, and formal execution requirements. This section is crucial in the Indian context, where disparities in bargaining power and social pressure often affect consent. By institutionalising safeguards, the framework would ensure that agreements are not merely formal contracts but genuinely voluntary arrangements.

The third provision would define the permissible scope of agreements, clearly limiting prenuptial contracts to financial and property-related matters. This would include division of

assets, treatment of pre-marital and marital property, debt allocation, and spousal maintenance arrangements. However, matters relating to child custody, personal conduct within marriage, or restrictions on fundamental marital rights would be expressly excluded to maintain alignment with public policy and judicial oversight under Indian family law statutes such as the Hindu Marriage Act, 1955.

The fourth provision would address grounds for judicial review and invalidation, allowing courts to refuse enforcement where the agreement is unconscionable, obtained through fraud, duress, or misrepresentation, or where enforcement would result in manifest injustice. This ensures that while autonomy is respected, judicial discretion remains intact to protect vulnerable parties.

The fifth provision would relate to enforceability and judicial weight, where agreements would not operate as absolute contracts but would carry presumptive validity if procedural and substantive requirements are satisfied. Courts would retain the power to modify or disregard terms that conflict with equity, fairness, or statutory protections. This hybrid enforceability approach is particularly suited to India's plural legal system.

Finally, a separate provision on public policy and personal law compatibility would ensure that the framework operates harmoniously across different religious systems. Rather than replacing personal laws, the model would function as a secular enabling statute that supplements existing matrimonial regimes while respecting their structural differences.

Thus, the proposed Indian framework would not replicate the strict contractual model of the United States but would instead create a balanced statutory structure with layered safeguards, ensuring both autonomy and protection within the institution of marriage.

9. ISSUES AND CHALLENGES

The principal concerns surrounding prenuptial agreements arise not only at the stage of enforcement but also at the time they are entered into and during the subsistence of marriage. At the outset, one of the most significant issues is the question of genuine consent. Although prenuptial agreements are expected to satisfy requirements under the Indian Contract Act, 1872, particularly free consent under Section 14, the realities of social and economic imbalance often raise doubts as to whether such consent is truly voluntary. In many cases, emotional

pressure, family influence, or the proximity of the wedding may create conditions amounting to subtle coercion or undue influence, thereby affecting the legitimacy of the agreement.³² Closely connected to this is the problem of unequal bargaining power. Parties entering into marriage may not stand on equal financial or social footing, leading to agreements that disproportionately favour one side. The absence of mandatory safeguards such as independent legal advice or standardized disclosure mechanisms further aggravates this issue, making it difficult to ensure that both parties fully understand the implications of the terms.³³

Another major concern at the stage of formation is the lack of complete financial disclosure. Prenuptial agreements depend heavily on transparency; however, there is no uniform requirement in India compelling full and honest disclosure of assets and liabilities. This creates the risk of agreements being based on incomplete or misleading information, thereby undermining their fairness and reliability.

In the broader context of marriage, prenuptial agreements raise deeper conceptual and social challenges. One of the most frequently noted concerns is that they may alter the foundational understanding of marriage, shifting it from a relationship based on trust and mutual commitment to one influenced by pre-determined financial outcomes. This perception often leads to the argument that such agreements introduce an element of conditionality into marriage, which may be viewed as inconsistent with its social and cultural character in India. Additionally, there is a concern that prenuptial agreements may encourage a transactional approach to marital relationships, where financial considerations are prioritized over relational aspects. While this may not directly promote dissolution, it can create an underlying framework where the consequences of separation are pre-calculated, potentially affecting the psychological and emotional dimensions of the relationship.

From a legal perspective, another challenge lies in the possibility of unfair or unconscionable outcomes over time. Circumstances at the time of marriage may change significantly such as shifts in financial status, health, or family responsibilities rendering the original terms inequitable. Since prenuptial agreements are static instruments, they may fail to adequately account for such evolving realities.

Further, such agreements may lead to increased litigation rather than reduced disputes,

³² Indian Contract Act, 1872

³³ Ira Mark Ellman et al., *Family Law: Cases, Text, Problems*(5th ed. 2010).

particularly where their validity is contested on grounds of coercion, lack of disclosure, or unfairness. In the absence of clear statutory recognition, courts are required to examine these agreements on a case-by-case basis, which may prolong rather than simplify matrimonial disputes. Thus, the negative dimensions of prenuptial agreements lie in both their formation and their impact on marital relationships. Issues of consent, inequality, and transparency at the initial stage, combined with concerns relating to fairness, social perception, and legal uncertainty within marriage, collectively limit their acceptance and effectiveness in the Indian context.

10. CONCLUSION

Prenuptial agreements, though conceptually rooted in contractual autonomy, occupy an uncertain and evolving position within the Indian legal framework. While they derive theoretical validity from the Indian Contract Act, 1872, their practical enforceability remains limited by the overriding influence of personal laws, statutory protections, and considerations of public policy. The analysis demonstrates that prenuptial agreements are neither wholly alien to Indian law nor fully integrated into it; rather, they exist in a space of qualified recognition.

Across different personal law systems, their acceptance varies significantly. In frameworks such as Muslim law, where marriage itself is contractual, prenuptial arrangements find conceptual support, whereas in systems like Hindu law, where marriage is traditionally viewed as a sacrament, their role remains restricted. In statutory regimes governing Christian and Parsi marriages, judicial discretion continues to prevail over private agreements. This fragmented legal landscape prevents the emergence of a uniform and predictable approach to prenuptial agreements in India. At the same time, their practical utility cannot be ignored. As instruments of anticipatory financial planning, prenuptial agreements enable parties to address uncertainty, allocate financial risks, and promote transparency functions comparable in rationale to mechanisms such as insurance.

However, unlike commercial contracts, they operate within a domain that is deeply influenced by social values, inequality concerns, and the protective orientation of matrimonial law. The issues relating to consent, disclosure, fairness, and societal perception further complicate their acceptance and application. The need is not for unqualified enforcement, but for regulated recognition. A structured legal framework drawing guidance from models such as the Uniform Premarital Agreement Act could provide clarity on validity, scope, and

procedural safeguards, while still preserving the essential protections embedded in personal laws. Such an approach would allow prenuptial agreements to function as supportive instruments rather than overriding mechanisms.

Ultimately, the future of prenuptial agreements in India lies in achieving a balance between contractual freedom and matrimonial justice. When carefully regulated, they can serve as tools of financial prudence and transparency; when left unchecked, they risk undermining the protective framework of family law. Their evolution, therefore, must be guided not only by legal principles but also by sensitivity to the social and institutional character of marriage in India.

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