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Can Estoppel Create a Right Where the Law Creates None? Rethinking the Limits of Promissory Estoppel in India

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ABSTRACT

Promissory estoppel began its life in Indian law as a defensive tool: a way to stop someone from going back on a promise once another party had relied on it. Over the last five decades, though, the doctrine has drifted a long way from that starting point. Courts now describe it as capable of grounding an independent claim, of binding the Government even without a contract, and of doing so on facts that would once have seemed to demand a much narrower response. That drift raises a question the case law has never fully answered: if a promise, standing alone, can now support relief, has estoppel quietly turned into something the law never intended it to be, a mechanism for manufacturing rights that the underlying legal framework does not otherwise recognise? This paper argues that it should not, even where recent decisions read as if it already has. It traces the doctrine from its early public-law appearances through Motilal Padampat Sugar Mills and on to Manuelsons Hotels, and it separates two things that judgments tend to blur together: protecting a claimant's reliance on a promise, and creating a substantive entitlement the law does not otherwise confer. The paper's central move is to show that an independent cause of action is not the same thing as an independent legal right: a court can let a promise open the courthouse door without letting it rewrite the statute book. Building on that distinction, and on the limits already recognised in Kasinka Trading and Jit Ram Shiv Kumar, the paper proposes a four-stage test for identifying when estoppel has crossed from reliance protection into rights creation, and closes by arguing that promissory estoppel and legitimate expectation, though related, need to stay conceptually separate if either is to do useful work.

Keywords: Promissory Estoppel, Equitable Estoppel, Legitimate Expectation, Reliance, Detriment, Equity, Rule of Law, Article 14, Administrative Law, Substantive Rights

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I. INTRODUCTION

A. Background

Legal rights, as a general matter, come from law (from statute, from contract, from recognised common-law categories), not from what one person happens to have told another. A promise by itself does not usually create an entitlement. If it did, the entire architecture of contract law, with its rules on consideration and formation, would be unnecessary.

Equity has never been entirely comfortable with that proposition, though. Where a person makes a clear promise, another relies on it, alters their position, and would suffer real unfairness if the promise were withdrawn, courts have long felt the pull to intervene. That intuition is what promissory estoppel formalises: not a rule about what rights exist, but a restraint on how existing rights may be enforced once someone else has reasonably relied on an assurance about them.¹

Stated that way, the doctrine sounds tidy. The difficulty is what happens when the promise in question has nothing behind it: no underlying contract, no statutory entitlement, nothing the promisee could have claimed independently. Can reliance on a bare promise still compel the promisor to deliver on it, even though the law, absent that promise, would have said no? That is the tension this paper sets out to examine.

The stakes are not academic. In Indian public law, government representations shape decisions with real money behind them: where to build a factory, whether to sign a long lease, how to structure a tax position, whether to expand a workforce. Investment decisions, industrial licensing, tax exemptions, subsidies, and regulatory concessions have all, at one point or another, turned on assurances that a government department later tried to walk back. Whether courts should hold the Government to such assurances, and on what basis, is a question with genuine consequences for both private parties and the public exchequer.

There is also a structural reason the Indian courts have found this area difficult to settle. Unlike England, where promissory estoppel developed mainly in private disputes before slowly finding its way into public law, the Indian doctrine grew up almost entirely in cases against the Government. That accident of history means the doctrine has had to answer two questions at once from the very beginning: what does a promise do to private rights generally, and what does a promise do when the promisor is a public authority answerable to statute, to the legislature, and ultimately to the public whose resources it administers? Conflating those two questions, or

¹ See generally *Union of India v. Indo-Afghan Agencies Ltd.*, AIR 1968 SC 718.

answering one while believing it has answered both, is a recurring feature of the case law this paper examines.

B. Statement of the research problem

Indian courts have said, more than once, that promissory estoppel cannot force the Government to act contrary to law or beyond its statutory authority. *Kasinka Trading v. Union of India* put that limitation in plain terms.² Yet the same body of case law has, over time, expanded the doctrine considerably. In *Motilal Padampat Sugar Mills Co. Ltd. v. State of Uttar Pradesh*, the Supreme Court gave promissory estoppel a broad equitable foundation, rejected the idea that it needed a pre-existing contractual relationship to operate at all, and held that it could found a cause of action rather than serve only as a defence.³ Decades later, in *Manuelsons Hotels Pvt. Ltd. v. State of Kerala*, the Court restated that position in categorical terms, holding that under Indian law promissory estoppel can be the basis of an independent cause of action in which detriment need not be proved, it being enough that the promisee has acted upon the representation.⁴

Put those two lines of authority side by side and a genuine problem appears. If promissory estoppel can operate without an existing contract, what stops it from becoming a route to rights the ordinary law simply does not provide? A doctrine designed to prevent unfairness in the exercise of existing rights starts to look, on this reading, like a doctrine capable of generating rights from nothing but an unfulfilled promise.

C. Research questions

This paper works through five connected questions:

1. What is the precise juridical basis of promissory estoppel in Indian law?
2. Is the doctrine only a defence against enforcement of existing rights, or can it independently generate enforceable claims?
3. Can an equitable doctrine create a substantive legal right where the underlying statute, contract, or legal rule creates none?
4. How should courts distinguish between protecting reliance on an existing legal relationship and creating an entirely new legal entitlement?
5. What doctrinal limits ought to govern promissory estoppel's use against both private parties and the State?

² *Kasinka Trading v. Union of India*, (1995) 1 SCC 274.

³ *Motilal Padampat Sugar Mills Co. Ltd. v. State of Uttar Pradesh*, (1979) 2 SCC 409.

⁴ *Manuelsons Hotels Pvt. Ltd. v. State of Kerala*, (2016) 6 SCC 766.

D. Hypothesis

The argument advanced here is that promissory estoppel may legitimately protect reliance on a representation and prevent an inequitable departure from an existing legal or relational framework, but it should not, as a rule, be permitted to create a substantive right that is inconsistent with, prohibited by, or simply unsupported by the underlying law. This is not a call to return to the older, rigid “shield and not sword” formula, which Indian courts have already moved past and, for good reason, are unlikely to revive. The more useful distinction is between protective enforcement of reliance on the one hand and the creation of an entirely new legal entitlement on the other. Working out where that line sits, and what should happen when a case falls close to it, is the paper’s central contribution.

E. Methodology

The paper uses a doctrinal and analytical method, built primarily around Supreme Court judgments, with High Court decisions drawn in where they add something the apex court’s reasoning does not. It also draws on the Indian Contract Act, 1872, the Constitution of India, general administrative-law principles, comparative English and common-law authority, and relevant scholarly commentary.

II. CONCEPTUAL AND JURISPRUDENTIAL FOUNDATIONS

A. Meaning and nature of estoppel

At its core, estoppel stops a person from contradicting a representation, an assumption, or a position that another party has relied upon, where allowing the contradiction now would be unfair. The concept links five things together: a representation, reliance on it, a resulting detriment, an element of inequity if the representation is withdrawn, and (this is the contested part) a legal consequence that follows from all of the above.

B. Estoppel and equity

Promissory estoppel is fundamentally an equitable doctrine, and that lineage matters more than it might first appear. Equity, as traditionally understood, does not destroy legal rights; it intervenes to stop their rigid enforcement where doing so would work an injustice. It softens outcomes. It does not usually manufacture new outcomes the underlying law never contemplated. That distinction goes to the heart of this paper’s argument. If equity exists to soften the consequences of strict legal rights, it is not obvious that the same logic permits it to manufacture rights that strict law never created in the first place. Softening enforcement and

inventing entitlement are different operations, even if a court's language sometimes makes them sound alike.

C. Promissory estoppel distinguished from related doctrines

A brief map helps here. Estoppel by representation of fact concerns reliance on a statement about an existing fact. Promissory estoppel concerns a promise or assurance about future conduct or legal relations. Proprietary estoppel arises where representations about property induce reliance. Estoppel by conduct is the broadest category, covering inconsistent conduct generally. None of these categories does much work on its own for the argument that follows; the point of setting them out is simply to fix promissory estoppel's place among its relatives before moving on.

D. Promissory estoppel and contract

It would simplify matters if promissory estoppel were just contract law by another name, but it is not, and the difference is instructive. Ordinary contract doctrine requires consideration, an intention to create legal relations, and a recognisable process of formation. Promissory estoppel requires none of these. *Motilal Padampat* is important precisely because the Supreme Court treated the doctrine as equitable rather than contractual, a choice that freed it from contract law's formal requirements but also left open a harder question: if promissory estoppel is neither ordinary contract nor ordinary estoppel, what exactly limits the equity it creates? That question runs through the rest of this paper.

III. EVOLUTION OF PROMISSORY ESTOPPEL IN INDIA

A. The pre-1960s position

Before the doctrine took its modern shape, Indian courts followed the English approach fairly closely, treating estoppel as bound up with consideration, representation, reliance, and a fairly cautious form of equitable restraint. There was little suggestion, at that stage, that a promise alone, without more, could bind a public authority.

B. *Union of India v. Indo-Afghan Agencies Ltd.*

That began to change with *Indo-Afghan Agencies*, where the Supreme Court held that a governmental representation, made under an export promotion scheme, could carry legal consequences once exporters had acted on it.⁵ The reasoning in that case became the foundation for much of what followed. It is worth asking, though, what *Indo-Afghan Agencies* actually did. Did it simply stop the Government from departing arbitrarily from an assurance it had given, or

⁵ *Indo-Afghan Agencies*, *supra* note 1.

did it start turning governmental promises generally into enforceable legal expectations? The distinction matters, because the later expansion of the doctrine is often traced back to this case as though it settled the broader question, when in fact it may only have settled the narrower one.

C. Motilal Padampat Sugar Mills Co. Ltd. v. State of Uttar Pradesh

Motilal Padampat is the doctrine's principal case, and for good reason.⁶ A sugar manufacturer had been assured, in writing, by senior state officials that a new industrial unit would receive a three-year sales tax exemption. The company borrowed money and built the plant relying on that assurance. The State then reneged. The Supreme Court held the Government to its promise, treating promissory estoppel as an equitable doctrine capable of operating even without a pre-existing contract, so long as there was a clear and unequivocal promise, an intention that it be acted upon, actual reliance, and a resulting alteration of position that would make it inequitable to allow the promisor to renege. The case is rightly celebrated for extending the doctrine's reach. But extending its reach beyond contractual relationships is not the same as saying it can create substantive rights out of nothing. In *Motilal Padampat*, the company already had every right a private investor would ordinarily have: the right to invest, to build, and to seek exemption under an existing statutory scheme. The promise did not invent a right; it fixed the terms on which an existing statutory power would be exercised, and reliance made it unconscionable for the Government to shift those terms after the fact. That is a meaningfully different situation from one where the underlying law grants nothing at all, and a promise alone is asked to fill the gap.

D. Jit Ram Shiv Kumar v. State of Haryana

Jit Ram Shiv Kumar supplies the limiting principle *Motilal Padampat* leaves open.⁷ There, a municipal committee had granted, and later withdrew, an exemption from octroi duty that it had no statutory authority to grant in the first place. The Supreme Court held that promissory estoppel could not be used to prevent the Government from discharging its statutory functions, and could not bind it where the promise came from an officer acting beyond their authority. Whatever equity a representation might generate, it could not survive the fact that the representation itself was *ultra vires*. This is the case's central relevance to the present argument: authority matters as much as reliance. A promise made without the legal power to make it cannot become binding merely because someone relied on it.

⁶ *Motilal Padampat*, *supra* note 3.

⁷ *Jit Ram Shiv Kumar v. State of Haryana*, (1981) 1 SCC 11.

E. *Union of India v. Godfrey Philips India Ltd.*

Godfrey Philips confirmed something *Jit Ram Shiv Kumar* had already implied and, in the process, cut back some of that earlier decision's more restrictive language.⁸ The Supreme Court reiterated the equitable nature of promissory estoppel and made clear that the doctrine could yield where equity itself demanded it: it is not absolute, and courts retain the discretion to withhold relief where holding the promisor to its word would itself produce an unjust result, for instance through overriding public interest.

F. *Kasinka Trading v. Union of India*

Kasinka Trading is the sharpest counterweight to *Motilal Padampat* in the entire line of authority.⁹ Importers had relied on a customs duty exemption notification, issued under statutory power, only to see it withdrawn before their goods arrived. The Supreme Court held that promissory estoppel could not compel the Government to honour a representation where doing so would be contrary to law, outside the authority of the officer who made it, or where the public interest required a change of policy. Businesses, the Court observed in substance, have to be prepared for shifts of this kind; a statutory power to grant exemptions carries with it the power to withdraw them, and promissory estoppel does not freeze that power in place indefinitely.

G. Later developments

Subsequent cases, including *Shree Sidhbal Steel Ltd. v. State of U.P.*¹⁰ and a run of decisions on tax exemptions, industrial concessions, and policy withdrawals, largely confirm the pattern rather than add much that is new. In most of them, a government body grants a concession under statutory power, a party structures its affairs around the concession, and the government later withdraws or modifies it in the name of revenue, public interest, or a change of policy. Courts asked to intervene tend to return to the same handful of questions each time: was the original representation clear and within the promisor's power, did the claimant genuinely rely on it, and does the public interest asserted for withdrawal actually hold up on the facts, or is it a label attached after the fact to justify a decision made for other reasons? What this run of cases collectively demonstrates is not a doctrine in a state of confusion so much as a doctrine working out, case by case, where reliance-based fairness has to give way to the supremacy of statute. No single decision in this line purports to overturn *Motilal Padampat* or *Kasinka Trading*; instead, each case locates itself somewhere on the spectrum those two judgments define, and the spectrum itself has remained remarkably stable even as individual outcomes have varied

⁸ *Union of India v. Godfrey Philips India Ltd.*, (1985) 4 SCC 369.

⁹ *Kasinka Trading*, *supra* note 2.

¹⁰ *Shree Sidhbal Steel Ltd. v. State of U.P.*, (2011) 3 SCC 193.

with the facts. More recent litigation over long-term industrial concessions and land allotments has kept the same tension alive, in disputes over whether a government body could depart from terms it had earlier indicated to an allottee or licensee. These cases add little in the way of new doctrine, but they confirm that the reliance-versus-statute framework established in the 1980s and 1990s has proved durable enough to answer questions the original judgments never anticipated, which is itself some evidence that the framework is doing its job. A researcher extending this paper would do well to survey the post-2015 High Court decisions applying *Kasinka Trading* and *Motilal Padampat* side by side, since it is at that level that the tension between the two authorities is worked out most concretely, fact pattern by fact pattern.

IV. THE CENTRAL PROBLEM: ESTOPPEL AS A SHIELD OR A SWORD

A. The traditional shield theory

The oldest and simplest account of estoppel treats it as purely defensive. A has a legal right to demand X. A represents that X will not be demanded. B relies on that representation. Estoppel then prevents A from insisting on X after all. Notice what is doing the work here: the right already existed before the promise was made. Estoppel does not create it; it merely restricts how it can be enforced.

B. The sword theory

Now change the facts. A has no legal obligation to provide X. A nevertheless promises B that X will be provided. B relies on the promise. Can B go to court and demand X purely on the strength of that promise? This is a genuinely different situation, and it is the conceptual heart of the paper. Here estoppel is not restricting the enforcement of a right that already existed; there was no such right. If a court grants relief in this situation, it looks very much as though estoppel has created an entitlement rather than protected one.

C. *Motilal Padampat* and the expansion of the doctrine

Motilal Padampat's holding that promissory estoppel can operate without a pre-existing contract is often read as edging toward the sword theory. But the absence of a pre-existing contractual relationship is not the same as the absence of a pre-existing legal right. The company in that case had a statutory route to exemption available to it independently of any promise; the promise simply told it how that route would be applied to its specific investment. Treating "no contract" as equivalent to "no underlying right" conflates two things that should be kept apart, and this paper treats that conflation as one of the more persistent sources of confusion in the case law.

D. The cause-of-action problem

Here the doctrinal tension sharpens further. Traditional formulations hold that promissory estoppel does not itself supply a cause of action: it is a defence, not a claim. Indian law departed from that formulation in *Motilal Padampat*,¹¹ and *Manuelsons Hotels* restated the departure expressly, holding that under Indian law the doctrine can form the basis of an independent cause of action in which detriment need not be proved.¹²

The question this raises is whether an independent cause of action necessarily means an independent substantive right. It does not, and the distinction is worth insisting on. A cause of action is simply a procedural basis for approaching a court: a door the claimant is entitled to knock on. It does not, by itself, authorise the court to invent an entitlement that contradicts the statute book once the claimant is inside.

An analogy from ordinary civil procedure makes the point more concrete. A claim for unjust enrichment gives a plaintiff a cause of action without requiring proof of a contract, yet no one supposes that unjust enrichment lets a court award whatever it thinks fair regardless of statutory limits on liability, or invent a proprietary interest a statute has deliberately withheld. The cause of action simply gets the plaintiff through the door; what the court can do once inside is still bounded by everything else the law provides. Promissory estoppel, read this way, should function in the same way in public law: *Manuelsons Hotels* opens a route to relief without settling, on its own, what the content of that relief may be. Keeping “cause of action” and “substantive right” as separate categories, rather than treating the first as a proxy for the second, is one of the more useful moves available to courts trying to keep the doctrine within workable bounds, and it is one of this paper’s central contributions.

E. A proposed distinction

Two categories are worth developing here. Reliance-protective estoppel arises where the law already recognises a legal relationship, and the promise simply modifies how an existing right will be exercised. A landlord entitled to raise rent promises not to for a set period; the tenant relies on the promise; estoppel prevents the landlord from going back on it. The underlying right to raise rent existed all along; the promise only affected its exercise. Right-creating estoppel arises where the underlying law provides no entitlement at all, and a bare promise is relied upon to demand one anyway. A public authority promises a benefit that no statute authorises it to

¹¹ *Motilal Padampat*, *supra* note 3.

¹² *Manuelsons Hotels*, *supra* note 4.

grant; the claimant argues that reliance transformed the promise into an enforceable right. This is where, on the argument advanced in this paper, estoppel should ordinarily stop.

V. CAN EQUITY OVERRIDE, MODIFY OR CREATE LEGAL RIGHTS?

A. Equity and statute

There is a hierarchy worth keeping in view: statute defines the legal right, and equitable intervention operates within whatever space the statute leaves open. Can equity override an outright statutory prohibition? The answer, on the weight of authority, is no. Where a legislature has expressly denied an entitlement, an executive promise cannot resurrect it through the back door of estoppel, a limitation that *Kasinka Trading* and *Jit Ram Shiv Kumar* both recognise, in slightly different ways.^{13,14}

B. *Ultra vires* promises

Where an officer lacks the authority to make a promise, where the promise contradicts legislation, or where the statutory conditions for it simply do not exist, enforcing that promise would let an executive official legislate through representation, an outcome that sits uneasily with separation of powers, legislative supremacy, the principle of legality, and basic administrative accountability. Whatever sympathy a court might feel for a claimant who relied in good faith, none of that sympathy can substitute for authority the promisor never had.

C. Equity and existing legal rights

The picture looks quite different where the promise operates within the promisor's existing legal authority, where the promisee's reliance was reasonable, and where that reliance was substantial. Here equity has real and legitimate work to do: restraining inconsistent conduct rather than manufacturing anything new. This is, on any fair reading of the case law, the strongest and least controversial application of promissory estoppel.

D. The problem of government promises

Government occupies a special position in all of this. A private individual can generally choose to surrender or modify their own legal rights as they see fit. Government cannot do the same so freely, because public power is statutory in origin, fiduciary in character, constitutionally constrained, and meant to be exercised in the public interest rather than for the convenience of whoever happens to be exercising it at the time. A governmental representation, in other words, is not simply a public-sector version of a private contractual promise, and treating it as though

¹³ *Kasinka Trading*, *supra* note 2.

¹⁴ *Jit Ram Shiv Kumar*, *supra* note 7.

it were tends to obscure exactly the constraints that matter most. This has a practical consequence for how courts should treat detrimental reliance on government promises. A private promisor who reneges bears the consequences personally, and equity's intervention affects only the two parties before the court. A government promisor operates with public money and under a mandate that belongs, in a real sense, to the electorate rather than to the particular officials who happen to occupy office when a promise is made. Holding the Government to an unauthorised or unlawful promise does not simply redistribute loss between two private parties; it commits public resources, or forecloses a regulatory choice, on a basis the legislature never approved. That is a different kind of harm from the one estoppel was designed to prevent, and it is part of why the limits recognised in *Kasinka Trading* and *Jit Ram Shiv Kumar* deserve to be treated as more than incidental qualifications on an otherwise expansive doctrine. This is also where legitimate expectation starts to become relevant, a connection taken up in Part VI.

E. Article 14 and non-arbitrariness

Government representations can also engage Article 14, but the argument needs to be framed carefully. The claim cannot simply be that the Government promised something, and therefore Article 14 requires it to perform. The better formulation is that a government departure from a representation may become constitutionally problematic where the departure itself is arbitrary, unfair, irrational, or inconsistent with a legitimate expectation the representation had generated. Framed this way, Article 14 does not turn promissory estoppel into a constitutional substitute for statutory authority; it simply adds a separate, narrower check on how the Government withdraws from its own representations.

VI. PROMISSORY ESTOPPEL, LEGITIMATE EXPECTATION AND RELATED DOCTRINES

A. Promissory estoppel versus legitimate expectation

Contemporary Indian jurisprudence increasingly separates these two doctrines, after a period in which they were sometimes run together. In *State of Jharkhand v. Brahmputra Metallics Ltd.*, the Supreme Court expressly acknowledged that the two had at times been conflated, and clarified that legitimate expectation is the broader public-law doctrine, while promissory estoppel remains more tightly tied to reliance on a specific promise.¹⁵

¹⁵ *State of Jharkhand v. Brahmputra Metallics Ltd.*, (2023) 10 SCC 634, 2020 SCC OnLine SC 968.

B. Legitimate expectation does not necessarily create a right

This point deserves emphasis. A legitimate expectation is not, by itself, a distinct enforceable right. Its denial matters legally when, and generally only when, that denial amounts to arbitrariness under Article 14. A useful way to keep the three concepts distinct is this: promissory estoppel protects reliance on a promise; legitimate expectation protects fairness and non-arbitrariness in how public power is exercised; a legal right is an entitlement the law recognises independently of either. Collapsing these three into one another, which the case law has sometimes done, is precisely what produces the confusion this paper is trying to untangle.

C. Waiver

Waiver raises a related but distinct question: can a party's own conduct stop it from exercising a right it otherwise has? The comparison is useful mainly because it shows that several equitable doctrines restrict how rights are enforced without pretending to create new ones, which is exactly the posture this paper argues promissory estoppel should maintain.

D. Acquiescence

Acquiescence sits alongside waiver: it, too, concerns conduct and reliance, and it, too, should not automatically harden into a new substantive entitlement simply because a party failed to object in time.

VII. LIMITS AND EXCEPTIONS TO PROMISSORY ESTOPPEL

Several recognised limits keep the doctrine within workable bounds, and it is worth setting them out together.

Statutory prohibition. Estoppel cannot ordinarily compel performance contrary to legislation.

Lack of authority. There is no estoppel where the person making the representation lacked the legal authority to make it.

Public interest. The doctrine may yield where an overriding public interest makes enforcement inequitable; *Kasinka Trading* remains the leading authority here.

Change in circumstances. Shifts in economic conditions, public policy, national interest, or regulatory necessity can justify a departure from an earlier promise.

Vagueness. A vague or ambiguous representation should not, on its own, generate an enforceable entitlement.

Unreasonable reliance. A promisee should not succeed where their reliance on the representation was objectively unreasonable in the circumstances.

Absence of causal reliance. The claimant must show a genuine link running from the promise, through reliance, to an altered position, and finally to actual prejudice, not merely that a promise was made and later broken.

VIII. CRITICAL ANALYSIS AND PROPOSED DOCTRINAL TEST

This is where the paper's own contribution belongs. Rather than resolving the shield-or-sword debate with a flat yes or no, it is more useful to give courts a structured way of asking the right questions in the right order.

A. Proposed four-stage rights boundary test

Stage One: identify the underlying legal position. What right, duty, or legal relationship existed before the promise was made? If no underlying legal framework exists at all, courts should proceed with real caution.

Stage Two: identify the legal effect of the promise. Does the promise merely restrict how an existing right will be enforced, or does it purport to create an entirely new entitlement? This is the most important of the four stages, since it is where reliance-protective estoppel and right-creating estoppel actually diverge.

Stage Three: test legality. Would enforcing the promise contradict a statute, a piece of delegated legislation, a constitutional limitation, or the promisor's own legal authority? If so, the claim should fail regardless of how reasonable the reliance was.

Stage Four: apply the equity test. Where the promise clears Stage Three, courts should weigh the clarity of the representation, the promisor's authority, the foreseeability and fact of reliance, the resulting prejudice, proportionality, the public interest, and whether alternative remedies exist.

B. Proposed principle

Promissory estoppel may operate as a sword in the procedural sense, supplying a basis on which relief can be sought, without operating as a sword in the substantive sense by creating an entitlement that the governing law prohibits, excludes, or simply does not authorise. This formulation does more work than the older maxim that estoppel is "a shield, not a sword." It accommodates everything Indian courts have already done in expanding the doctrine's procedural reach, while holding the line on the one thing that should not follow from that expansion: the invention of rights the law itself withholds.

IX. CONCLUSION

The traditional distinction between estoppel as a shield and estoppel as a sword is useful, but incomplete, as an account of where Indian law now stands. Courts have moved well past a purely defensive conception of the doctrine: *Motilal Padampat* and *Manuelsons Hotels* both show that promissory estoppel can supply meaningful, and at times independent, judicial relief. That expansion, however, does not amount to giving the doctrine an unlimited law-making function. The distinction that actually matters is between protecting an existing legal relationship from inequitable repudiation, on the one hand, and creating a substantive legal entitlement with no foundation in law, on the other. The first sits comfortably within equity's traditional purpose. The second risks turning judicial equity into a quiet source of legislation, a role courts have neither the mandate nor, arguably, the institutional legitimacy to occupy. Indian courts would do well, on this account, to adopt what might be called a legality-conscious model of promissory estoppel: one that protects reliance and fairness robustly, while treating statutory prohibitions, constitutional limits, and questions of governmental authority as decisive rather than negotiable. And the distinction between promissory estoppel and legitimate expectation needs to be maintained rather than blurred. *Brahmputra Metallics* provides a solid foundation for keeping legitimate expectation where it belongs, within the public-law principles of fairness and non-arbitrariness under Article 14, rather than folding it back into estoppel's private-law logic. Held apart, the two doctrines can do complementary work. Collapsed into one another, they tend to generate exactly the kind of doctrinal drift this paper has tried to trace and, ultimately, to contain.
