

REENA & ANR. v. STATE OF RAJASTHAN: REGULATION OR UNWARRANTED STATE INTRUSION?

—SHREYA & RISHAV RAY*

The Rajasthan High Court, in Reena v. State of Rajasthan, while deliberating on the question of whether live-in couples are entitled to state protection when one of them is a married individual, introduced mandatory registration of such relationships – a move that has raised eyebrows, especially regarding questions of privacy, morality, and the role of states in regulating such relationships. It raises pertinent questions on state intrusion into personal lives, potential moral policing and administrative outreach. Unlike prior legal analyses, this paper offers a dual critique – first, of the judgement’s silence on procedural safeguards essential to protect privacy and second, of the gendered impact of the registration mandate on individuals in non-traditional relationships. This paper goes beyond doctrinal analysis by situating judicial responses to live-in relationships within a broader framework of state paternalism, gendered morality and constitutional transformation in India. The growth of live-in relationships is posing significant challenges to the sanctity of marriage, which forms a crucial part of Indian tradition and culture. Moreover, it has also posed significant legal questions pertaining to succession, legitimacy of children, property and maintenance rights. The paper critically analyses the judgement of the Rajasthan High Court and the broader implications of the requirement of mandatory registration of live-in relationships through the lens of privacy rights and gender dynamics. The authors discuss the existing legal framework that governs these relationships and dive into the case’s background. It looks into whether the evolving nature of live-in relationships could substitute the institution of marriage in the future and the role of courts in balancing public and constitutional morality. The paper advocates for a balanced legislative approach that respects personal liberty while addressing the socio-legal complexities of live-in relationships.

* Shreya is a 4th year law student at National University of Study and Research in Law (NUSRL), Ranchi, and Mr Rishav Ray is an Advocate practising before the Calcutta High Court and also serves as an Editor of the Hague International Law Review.

I. INTRODUCTION

In 2022, India witnessed the gruesome murder of Shraddha Walkar by her live-in partner, who chopped up her body into pieces, stored it in a fridge and disposed of the pieces in different parts of the city. The Union Minister of State for Housing and Urban Affairs, Mr. Kaushal Kishore, cautioned women against live-in relationships and advised 'educated' girls not to get involved in such relationships.¹ Such incidents give rise to moral panic, which often paves the way for the State to justify invasive state regulation of personal relationships in the guise of protective intervention as a response to isolated crime. This incident cannot be the sole determinant of the dangers of live-in relationships; however, the same cannot be ignored altogether.

The Rajasthan High Court's direction in *Reena v. State of Rajasthan* ('Reena & Anr.')² mandating the registration of live-in relationships reflects a paternalistic response justifying state intrusion instead of addressing the structural issues through narrowly tailored legal safeguards. While the incident is deeply tragic, it should not serve as the foundation for sweeping moralistic policy responses that penalise consensual adult relationships. The state's response to curb such incidents should be rooted in evidence-based policymaking rather than administrative overreach resulting from moral assumptions. Live-in relationships have transformed the dynamics of relationships within Indian society. The increasing prevalence of live-in relationships in India indicates a degree of acceptance; however, Indian society as a whole still does not endorse non-marital relationships.

In the *Reena & Anr.* case, the Rajasthan High Court addressed the dilemma of whether the state should grant protection to a couple in a live-in relationship, where one of them is a married individual. Courts, all over the country, have faced similar question and issued conflicting judgements. The Rajasthan High Court referred the matter to the larger bench and provided for mandatory registration of live-in relationship agreements until the legislature develops a law regulating such relationships.³

Marriage is a legally and socially recognised sacred partnership between two individuals.⁴ It is an institution that aims to preserve the social structure and

¹ Deutsche Welle, 'Live-in Relationships in India are Legal But Taboo' *Hindustan Times* (4 November 2023) <<https://www.hindustantimes.com/lifestyle/relationships/live-in-relationships-in-india-are-legal-but-taboo-101699086768759.html>> accessed 18 February 2025.

² *Reena v State of Rajasthan* 2025 SCC OnLine Raj 205.

³ Ritu, 'Are Married Individuals, in Live-in-Relationships with Others, Entitled to Police Protection? Rajasthan High Court Refers Matter to Larger Bench' (*SCC OnLine*, 30 January 2025) <<https://www.sconline.com/blog/post/2025/01/30/raj-hc-refers-case-related-to-protection-orders-in-live-in-relationships-involving-married-individuals-to-larger-bench-scc-time/>> accessed 18 February 2025.

⁴ Wazida Rahman, 'Live-in Relationship and Personal Laws: A Contemporary Study' (2018) 3 NUJS Journal of Regulatory Studies.

connections fundamental to Indian society. Duncan Mitchell defines marriage as a “*socially sanctioned sexual relationship involving two or more individuals of the opposite sex, whose bond is expected to endure beyond the gestational period and the birth of children*”.⁵ In ancient India, marriage was considered essential for men and women to fulfil their purposes in life in order to attain ‘*Moksha*’—a necessary step towards fulfilling one’s duty and liberation from the cycle of birth, death and rebirth, representing the ultimate spiritual goal.⁶ Any change in the institution of marriage will have a direct impact on the family system. Live-in relationships are seen as antithetical to the ‘sacred’ institution of marriage and detrimental to the family system in India. The perception is supported by the findings from the 2017 edition of the World Family Report by the Institute for Family Studies and Social Trends Institute, which reveals that cohabitation contributes to family instability across the globe.⁷ Additionally, the studies by the Pew Research Centre show that married couples report greater satisfaction in their relationships and higher levels of trust in their partners, compared to those cohabiting without marriage.⁸

However, a question that we may ponder upon is whether the concept of live-in relationships, which in recent times has been the subject matter of great debate and even criticism, is a concept that is alien to Indian culture. While the *Vox Populi* may suggest that the concept of ‘live-in’ relationships is something alien to Indian culture and has been adopted from the Western world, the truth is far from that. ‘*Gandharva*’ marriages⁹ as described in the *Vedas* relate to what in modern times is known as a live-in relationship, and granted it recognition as a valid form of marriage. However, with the passage of time, the scope and types of Hindu marriages have narrowed down to what we presently have in our codified laws. However, it cannot be disregarded that live-in relationships are not a modern-day concept but rather relate way back to ancient times and have their recognition, if not origin, from this land itself.

The Delhi High Court in *Alok Kumar v. State* observed that “*Live-in relationships are walk-in, walk-out relationships. There are no strings attached to these relationships, as they are free from any legal bond between the parties.*”¹⁰ For a conventional society like ours, live-in relationships are seen as perpetuating foreign values that threaten the social and moral fabric of the country. It is often looked

⁵ Vijjika Pandey, ‘Various Forms of Matrimony in Himachal Pradesh’ (2019) 5(3) IJHIR.

⁶ Harsimran Kaur Bedi, ‘The Concept of Marriage under Hindu Law and its Changing Dimensions’ (2022) ILI Law Review 104-132.

⁷ Laurie DeRose, ‘Cohabitation Contributes to Family Instability Across the Globe’ *Institute for Family Studies* <<https://ifstudies.org/blog/cohabitation-contributes-to-family-instability-across-the-globe/>> accessed 20 April 2025.

⁸ Juliana Menasche Horowitz, Nikki Graf and Gretchen Livingston, Marriage and Cohabitation in the U.S. (*Pew Research Centre*, 6 November 2019) <<https://www.pewresearch.org/social-trends/2019/11/06/marriage-and-cohabitation-in-the-u-s/>> accessed 20 April 2025.

⁹ W J Johnson, *A Dictionary of Hinduism* (Oxford University Press 2009).

¹⁰ *Alok Kumar v State* 2010 SCC OnLine Del 2645.

down upon and is generally viewed as the shrugging off of taking up a responsibility. These relationships are not legally recognised, creating problems that include property rights, succession rights, custody rights, and protection in case of separation. The legitimacy of a child and the obligation of couples towards each other remain dependent on the valid marriage of the couple at the time of childbirth.¹¹

II. LEGAL FRAMEWORK GOVERNING LIVE-IN RELATIONSHIP

*“With changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today.”*¹²

-Honourable Justice A.K. Ganguly

On 29 September 2022, the Rajasthan High Court, in the case of *Gaytri v. State of Rajasthan*, where it pertained to the protection of life and liberty of a widowed man and a widowed woman involved in a live-in relationship, ruled that the couple has a constitutional right to privacy, liberty and choice.¹³ Similarly, the Kerala High Court in *Muhammad Riyad v. State Police Chief*, observed that the courts are bound to respect the unfettered right of a major to have a live-in relationship, even though the same may not be palatable to the orthodox sections of society.¹⁴ This shows the progressive stance of the Indian Judiciary, which often strives to be free from societal prejudices and biases; however, the courts have not yet explicitly legalised such relationships.

The legislature finally acknowledged the protection of women who are not legally married under the ambit of the Protection of Women from Domestic Violence Act, 2005,¹⁵ with the insertion of the clause ‘relationship in the nature of marriage.’ The Malimath Committee Report in 2003,¹⁶ by the Ministry of Women and Child Development suggested that the scope of the definition of ‘wife’ under Section 125 of the Code of Criminal Procedure (‘CrPC’)¹⁷ be widened to accommodate women involved in live-in relationships so as to allow them to receive alimony.¹⁸ The judiciary, through its decision in *Bharatha Matha v. R*

¹¹ G K Goswami and Siddhartha Goswami, ‘Live-in Relationships: Social Myths, Legal Realities and the Way Forward’ (*SCC OnLine*, 30 December 2021) <<https://www.scconline.com/blog/post/2021/12/30/live-in-relationships-social-myths-legal-realities-and-the-way-forward/>> accessed 18 February 2025.

¹² *Revanasiddappa v Mallikarjun* (2011) 11 SCC 1.

¹³ *Gaytri v State of Rajasthan* 2022 SCC OnLine Raj 3725.

¹⁴ *Muhammad Riyad v State Police Chief* 2018 SCC OnLine Ker 2076.

¹⁵ Protection of Women from Domestic Violence Act 2005.

¹⁶ Ministry of Home Affairs, Government of India, Committee on Reforms of Criminal Justice System (2003).

¹⁷ Criminal Procedure Code 1973, s 125.

¹⁸ Manju Jamwal, ‘Live-in Relationships in India: Legal Moves and Judicial Attitude: Some Observations’ (2014) 4(1) RGNUL Law Review.

*Vijaya Renganathan*¹⁹ also took steps to safeguard children born out of these relationships by ruling that the children born out of live-in relationships cannot be considered as illegitimate if the relationship lasted for a long period of time.

In *Madan Mohan Singh v. Rajni Kant*,²⁰ the Apex Court noted that the law generally presumes in favour of marriage and against concubinage, which means that if a man and woman have lived together continuously for a number of years, it is presumed as marriage unless otherwise proven. A division bench of the Hon'ble Supreme Court in *Indra Sarma v. VKV Sarma* held that, whereby a woman knowingly enters into a live-in arrangement with a married man, she is not entitled to the benefits of a legally wedded wife or to those who enter into a relationship 'in the nature of marriage'.²¹

The primary reason for the steady growth of these types of relationships is that couples wish to test their compatibility with each other before making a lifelong commitment to marriage.²² Another reason young people choose a live-in relationship is due to the need for work-life balance and the delay in marriage.²³ The younger generation is more career-driven and prefers not to be bound by social norms. With marriage comes considerable responsibility, particularly for women. Hence, the acceptance of live-in relationships among young people is increasingly common.²⁴ They tend to opt for a live-in arrangement where they can enjoy the companionship of their partner without the pressure of the responsibilities associated with marriage.²⁵ Due to the unequal gender dynamics of our society, women are in a vulnerable position in these relationships, as they face the brunt of breaking societal norms and are subjected to public humiliation more than their male counterparts.

The discussion above provides the contextual backdrop against which the Reena & Anr. case must be understood. While prior cases like *Indra Sarma* expanded protection for live-in partners, the Rajasthan High Court in the Reena & Anr. case departed from this liberal trajectory by introducing a regulatory element absent from earlier jurisprudence. Having understood the evolution of judicial and legislative recognition of live-in relationships, it becomes crucial to assess

¹⁹ *Bharatha Matha v R Vijaya Renganathan* (2010) 11 SCC 483.

²⁰ *Madan Mohan Singh v Rajni Kant* (2010) 9 SCC 209 : AIR 2010 SC 2933.

²¹ *Indra Sarma v VKV Sarma* (2013) 15 SCC 755.

²² Savita and Dr A G Khan, 'Studies on Sociological Impact of Live-in Relationship: A Critical Review' (2020) 25 IOSR Journal of Humanities and Social Science.

²³ G K Goswami and Siddhartha Goswami, 'Live-in Relationships: Social Myths, Legal Realities and the Way Forward' (*SCC OnLine*, 30 December 2021) <<https://www.scconline.com/blog/post/2021/12/30/live-in-relationships-social-myths-legal-realities-and-the-way-forward/>> accessed 18 February 2025.

²⁴ Vinita Ghosh, 'Perception of Youth Towards Live-in Relationships in India' (2021) 9(2) The International Journal of Indian Psychology.

²⁵ N. Pautunthang, 'Exploring Live-in Relationships in Modern Indian Society' (2024) 4(1) International Journal of Civil Law and Legal Research.

how these principles were applied in the Reena & Anr. case and whether the judgment adequately addressed the constitutional and gender-related dimensions of such relationships.

III. FACTUAL CIRCUMSTANCES AND VERDICT

In the Reena & Anr. case,²⁶ the Rajasthan High Court dealt with the issue of whether protection orders should be made for the couple cohabiting in a live-in relationship involving married individuals. The couple sought protection under Article 21, claiming threats from family members and society. Law enforcement agencies were hesitant to grant protection in cases where a married person entered into a live-in relationship without dissolving their previous marriage. Due to contradictory rulings, the Single Judge Bench referred the matter to a Special/Larger Bench to resolve the specific legal question: “*Whether a married person living with an unmarried person, without dissolving their marriage, or two married persons in a live-in relationship, without divorce, are entitled to protection under the law?*”.

The court began its analysis by shedding light on the lack of legal status of this kind of relationship, as such relationships remain unrecognised under Hindu and Muslim law. The court acknowledged the fact that live-in relationships are not illegal but are often not socially accepted. The right to choose one’s partner has been enshrined under Article 21,²⁷ of the Constitution through a catena of Supreme Court judgements in *S Khushboo v. Kanniammal*,²⁸ *Indra Sarma v. VKV Sarma*,²⁹ and *Lata Singh v. State of U.P.*³⁰ to name a few. In fact, a person’s decision to reside with a partner of their choice is preserved under Article 19,³¹ delving into the fundamental right to freedom of speech and expression. In *D Velusamy v. D Patchaiammal*, the Apex Court outlined key essentials to qualify for live-in relationships, which include being of legal age, not having any marital obligation and cohabitation for a significant time.³²

The *Indra Sarma v. VKV Sarma*,³³ case lays down the distinction between ‘relationship in the nature of marriage’ and ‘marital relations’ and discusses the five categories of cases that exist. The domestic relationships between (i) an unmarried woman and an unmarried male; (ii) an unmarried woman and a married male; (iii) a married woman and an unmarried male; (iv) an unmarried woman unknowingly entering into a relationship with a married adult male; and (v) same-sex partners. The situation where both the individuals are unmarried and

²⁶ *Reena v State of Rajasthan* 2025 SCC OnLine Raj 205.

²⁷ Constitution of India, art 21.

²⁸ *S Khushboo v Kanniammal* (2010) 5 SCC 600.

²⁹ *Indra Sarma v VKV Sarma* (2013) 15 SCC 755.

³⁰ *Lata Singh v State of U.P.* (2006) 5 SCC 475.

³¹ Constitution of India, art 19.

³² *D Velusamy v D Patchaiammal* (2010) 10 SCC 469 : AIR 2011 SC 479.

³³ *Indra Sarma v VKV Sarma* (2013) 15 SCC 755.

where the unmarried woman unknowingly enters into a relationship with a married male can seek relief under the Domestic Violence Act,³⁴ however, the status is unclear about the other categories. The Court held clearly that unmarried couples in a live-in relationship are entitled to protection against any threat from society members. However, the grey area lies when one or both partners are already married, raising concerns about the sanctity of the institution of marriage and public morality.

The Rajasthan High Court in *Leela Bishnoi v. State of Rajasthan* (2021),³⁵ and *Manisha Devi v. State of Rajasthan* (2023),³⁶ upheld the right to protection regardless of the moral implications of such relationships. Other judgements, including *Rashika Khandal v. State of Rajasthan* (2021),³⁷ and *Suman Kumari v. State of Rajasthan* (2023),³⁸ refused protection, emphasising the sanctity of marriage and rejecting relationships deemed 'illicit.' Given the fact that law enforcement agencies are overburdened with the investigation and maintenance of law and order, redressing the grievances arising out of live-in relationships would be an additional burden on their shoulders.

The *Reena & Anr. case*,³⁹ makes a reference to the newly enacted Uniform Civil Code of Uttarakhand ('UCC'), 2024,⁴⁰ which provides the procedure for such relationships and the liabilities of the couple involved. The UCC of Uttarakhand provides a list of prohibited relationships of marriage and explicitly bans live-in relationships for individuals who are already married or in another live-in relationship. It prohibits live-in relationships wherein the consent was not provided out of free will and was the result of undue influence, coercion, fraud or misrepresentation, which can be ascertained by the Registrar by conducting a 'summary inquiry' at the time of registration of a live-in relationship.⁴¹ Unlike this Rajasthan judgement, the UCC of Uttarakhand provides detailed procedural clarity on what information is required and which authority handles the process of registration, providing legal certainty. It includes provisions for the protection of women and children under these relationships and the practical consequences of relationship breakdowns.

³⁴ Protection of Women from Domestic Violence Act 2005.

³⁵ *Leela Bishnoi v State of Rajasthan* 2021 SCC OnLine Raj 4014.

³⁶ *Manisha Devi v State of Rajasthan* 2023 SCC OnLine Raj 5580.

³⁷ *Rashika Khandal v State of Rajasthan* 2021 SCC OnLine Raj 4296.

³⁸ *Suman Kumari v State of Rajasthan* 2023 SCC OnLine Raj 5577.

³⁹ *Reena v State of Rajasthan* 2025 SCC OnLine Raj 205.

⁴⁰ Uniform Civil Code Rules Uttarakhand 2025.

⁴¹ Aiswarya Raj, 'How Uttarakhand UCC Regulates Live-in Relationships' *The Indian Express* (3 February 2025) <<https://indianexpress.com/article/explained/explained-law/uttarakhand-ucc-regulates-live-in-relationships-9807613/>> accessed 20 April 2025.

The court noted that an appropriate legislation is required to be enacted to address the concerns relating to live-in relationships.⁴² Till then, the appropriate authorities are directed to prepare a format and make it necessary for the couples desiring to go for live-in relations to fulfil the format with the terms and conditions before entering into such an arrangement. The terms and conditions would include fixing the liability of the partners with respect to the child's plan to bear the education, health, and upbringing responsibilities and also with regard to the maintenance of the non-earning female partner and children born out of such a relationship. This agreement is liable to be registered with the competent authority established by the government.

The court in the Reena & Anr. case sought to fill what is perceived as a legislative vacuum, acting in a quasi-legislative capacity. The judgement has sparked considerable debate on whether judicial intervention in the absence of legislative clarity results in regulatory overreach. To understand the implications of this decision, the next section undertakes a detailed analysis of the judgment from the perspective of privacy, autonomy and moral reasoning.

IV. ANALYSIS OF THE JUDGEMENT

The ensuing analysis evaluates the judgement through a constitutional and sociological lens, focusing first, on the implications of mandatory registration of live-in relationships, then, on their position vis-à-vis the institution of marriage, and finally, on the evolving tension between public and constitutional morality.

A. EFFECT OF MANDATORY REGISTRATION OF LIVE-IN RELATIONSHIP AGREEMENTS

The directive in the Reena & Anr. case requiring couples to register their live-in relationship agreements exemplifies this shift towards administrative regulation of intimacy. This approach risks expanding state power into private domains. The mandate to register live-in relationships places such relations under strict scrutiny by the competent authority. This move could lead to unregulated intrusion into the privacy of individuals by subjecting them to unnecessary moral policing. The concept of privacy entails three main aspects: (1) invasion by the State into a person's physical body, (2) information privacy, which includes unauthorised access to personal information, and (3) personal autonomy over intimate decisions.⁴³ Article 21 clearly states that the basic right of 'personal liberty' cannot be denied except through 'procedure established by law'.⁴⁴ After the decision

⁴² *Reena v State of Rajasthan* 2025 SCC OnLine Raj 205.

⁴³ Vrinda Bhandari, Amba Kak, Smriti Parsheera and Faiza Rahman, 'An Analysis of Puttaswamy: The Supreme Court's Privacy verdict' (2017) 11 *IndraStra Global* 1-5.

⁴⁴ Constitution of India, art 21.

of Maneka Gandhi, the concept/the acid test changed from ‘procedure established by law’ to ‘due process of law.’⁴⁵ The Uniform Civil Code introduced by Uttarakhand also postulates the requirement of registration with the local registrar within a month of entering a live-in relationship and even introduces punishment of imprisonment or a fine in case of non-compliance.⁴⁶

In the landmark *K.S. Puttaswamy (Privacy-9J) v. Union of India* case, Hon’ble Justice Dhananjaya Yashwant Chandrachud expressed his view that “*privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy*.”⁴⁷ There must be procedural safeguards in place to pass the ‘procedural guarantees’ test, which prevents the misuse of governmental interference. However, the Rajasthan High Court’s silence on such procedural checks in the Reena & Anr. case leaves open a window of concerns regarding the privacy of individuals. It fails to prescribe any safeguards for data protection or confidentiality.

In 2023, the Supreme Court rejected the public interest litigation (‘PIL’) seeking mandatory registration of live-in relationships.⁴⁸ The PIL mentioned that due to no rules covering such relations, there is a hike in crimes committed by live-in partners, like murder and rape. The bench termed the petition as a ‘hare-brained’ idea, asking the petitioner if she was seeking security for such couples or wanted them not to opt for such a relationship. Such a mandate of registration threatens the interfaith or inter-caste couple. The Rajasthan High Court took a deviated stance from the Supreme Court as it felt compelled to fill the legislative vacuum in the absence of a detailed framework and invoked its *parens patriae* role whereby it can act as a guardian protecting the vulnerable women and children born out of such a relationship.⁴⁹ However, in the absence of clear guidelines by the Rajasthan High Court as to what personal details are required to be shared and an outline of the format of the agreement, it leaves a scope of unguided discretion on the authority, leading to possible inconsistency, which could be misused against the autonomy of the individuals.

The privacy implications of mandatory registration lead to a broader sociological inquiry on whether live-in relationships are gradually evolving as

⁴⁵ *Maneka Gandhi v Union of India* (1978) 1 SCC 248 : AIR 1978 SC 597.

⁴⁶ Apoorv Agarwal, ‘Live-in Relationships: Is Registration a Progressive Step Towards Making Them Socially Acceptable?’ *The New Indian Express* (9 February 2024) <<https://www.newindianexpress.com/web-only/2024/Feb/09/live-in-relationships-is-registration-a-progressive-step-towards-making-them-socially-acceptable>> accessed 20 February 2025.

⁴⁷ *K.S. Puttaswamy (Privacy-9J) v Union of India* (2017) 10 SCC 1.

⁴⁸ Debayan Roy, ‘“Hare-Brained Petitions”: Supreme Court Rejects PIL Seeking Registration, Social Security for Persons in Live-in Relationships’ (*Bar and Bench*, 20 March 2023) <<https://www.barandbench.com/news/supreme-court-rejects-pil-registration-social-security-persons-live-in-relationships>> accessed 20 February 2025.

⁴⁹ *Shafin Jahan v Asokan K M* 2018 SCC OnLine SC 201.

substitutes for traditional marriage, and how such a shift may affect the social and legal fabric of Indian society. The next section explores this dynamic.

B. LIVE-IN RELATIONSHIP AS A SUBSTITUTE FOR THE INSTITUTION OF MARRIAGE

Marriage is a society-approved relationship in which men and women receive social sanction to live together. According to Robert H. Lawie, “*marriage is a relatively permanent bond between permissible mates.*”⁵⁰ Marriage confers certain socio-economic benefits and legal security to both partners. The Court in the Reena & Anr. case implicitly reinforced this traditional understanding by grounding its reasoning in the sanctity of marriage. By requiring formal registration, the judgment indirectly validates the notion that state recognition, which is akin to marital validation, is essential for legitimacy. In a country like India, where marriage is considered sacramental, a couple cohabiting without marriage is largely seen as a threat to the Indian ethos and culture.

The Kerala High Court in *Libin Varghese v. Rajani Anna Mathew*,⁵¹ pointed out the rise of the ‘use and throw’ culture among the youth in their marital life and equated the same with the steady increase in the rate of live-in relationships. The court opined that the effect can be seen in the hike in divorce cases on unreasonable and selfish grounds.⁵² The casual attitude reflected in live-in relationships spreads mistrust among people. Bigamy is an offence under Hindu law. It has become easy, especially for married men, to cheat on their wives and start cohabiting with another woman to whom they owe no legal obligation. Adultery is no more a criminal offence in India after the case of *Joseph Shine v. Union of India*,⁵³ adding a layer of complexity to the situation.

Marriage is a universal concept that prevails all over the world, with culturally different rituals, but maintains its position as an important social institution. It serves an individual’s emotional, psychological, and physical needs.⁵⁴ Live-in relationships survive on the whims and fancies of the individual. In fact, many people opt for a live-in relationship to check compatibility with their partner, implying that it is a step towards marriage rather than a ‘rebellion’ against it.

⁵⁰ Shriyanshi, ‘Live-in Relationship in India: A Concept on Rise’ (*Brillopedia*, 1 September 2022) <<https://www.brillopedia.net/post/live-in-relationship-in-india-a-concept-on-rise#:~:text=Lawie%20defined%20marriage%2C%20%E2%80%9CMarriage%20is,particular%20religions'%20rituals%20and%20traditions>> accessed 20 February 2025.

⁵¹ *Libin Varghese v Rajani Anna Mathew*, 2022 SCC OnLine Ker 4383.

⁵² Kanu Sharda, ‘Kerala High Court Denies Divorce to Couple, Says “Use and Throw” Culture Influencing Marriages’ *India Today* (2 September 2022) <<https://www.indiatoday.in/law/high-courts/story/kerala-high-court-denies-divorce-to-couple-use-and-throw-culture-influencing-marriages-1995210-2022-09-01>> accessed 20 February 2025.

⁵³ *Joseph Shine v Union of India* (2019) 3 SCC 39 : AIR 2018 SC 4898.

⁵⁴ S Nambi, ‘Marriage, Mental Health and the Indian Legislation’ (2005) 47(1) Indian J Psychiatry.

The perceived challenge that live-in relationships pose to the institution of marriage is deeply intertwined with prevailing moral beliefs in society. To situate this within a constitutional framework, the following section analyses the tension between public morality and constitutional morality in shaping judicial responses to live-in relationships.

C. PUBLIC MORALITY V. CONSTITUTIONAL MORALITY

In *Gaytri v. State of Rajasthan*, the court made a reference to ‘constitutional morality’ and ‘public or social morality.’⁵⁵ The public morality surrounding live-in relationships still remains as being considered unacceptable and immoral, often due to deeply rooted cultural norms that consider marriage as the only legitimate way of cohabitation between the partners. The judge referred to cases like *Navtej Singh Johar v. Union of India*, where it has been held that the guiding force for the Indian courts must be ‘constitutional morality and not ‘social morality.’⁵⁶ Public morality can be understood as the moral and ethical standards set by society to which the members of the society are expected to strictly adhere. The Court in the *Reena & Anr.* case attempted to reconcile public morality with constitutional principles but ultimately prioritised societal concerns of order and propriety over individual autonomy.

The increasing number of live-in relationship cases is seen as a threat to the institution of marriage. This could be seen in the way live-in couples are exposed to social stigma and discrimination. There is a surge in honour killings cases, with the most recent case in Rajasthan, where the father strangled her daughter to death, as she was involved in a ‘live-in relationship’ with her Dalit partner.⁵⁷ Live-in relationships are often construed to be entered into to satisfy sexual desires. Indian society often views intercourse as something which is to be performed within the ambit of marriage to procreate children. Thus, society exercises social control to restrain these kinds of relationships.

Law and society mirror each other. In 2021, the Punjab & Haryana High Court in *Gulza Kumari v. State of Punjab* denied giving protection to a live-in couple on the grounds that such relationships are not morally acceptable and that granting protection would destroy the social fabric.⁵⁸ In 2020, the same court in *Paramjit Kaur v. State of Punjab* granted protection to the lives of a homosexual couple involved in a live-in relationship.⁵⁹ The reasoning behind the decision was

⁵⁵ *Gaytri v State of Rajasthan* 2022 SCC OnLine Raj 3725.

⁵⁶ *Navtej Singh Johar v Union of India* (2018) 10 SCC 1 : AIR 2018 SC 4321.

⁵⁷ Rajesh Asnani, ‘Rajasthan Man Strangles Daughter to Death Over Her “Live-in Relationship” with Dalit Lover’ *The New Indian Express* (5 March 2021) <<https://www.newindianexpress.com/nation/2021/Mar/04/rajasthan-man-strangles-daughter-to-death-over-her-live-in-relationship-with-dalit-lover-2272269.html>> accessed 25 February 2025.

⁵⁸ *Gulza Kumari v State of Punjab* 2021 SCC OnLine P&H 896.

⁵⁹ *Paramjit Kaur v State of Punjab* 2020 SCC OnLine P&H 994.

that though live-in relationships are considered immoral and unethical in Indian society, they cannot be made a yardstick to declare such relationships as legal or illegal.

Untouchability, at some point in time, was highly prevalent in India, and the 'public morality' discriminated against people belonging to the lower strata of society. Similarly, public opinion on homosexuality was highly rigid and was considered unethical. Social norms at a certain point in time may suggest that certain acts are considered to be wrong by society members. As Emile Durkheim's theory of collective consciousness suggests, social norms reflect the moral beliefs shared by the majority within a society that exerts a compelling influence on social behaviour; however, this collective morality often sustains existing hierarchies and resists change.⁶⁰ The reasoning in the Reena & Anr. case reflects this sociological tension as it mirrors prevailing collective morality rather than transcending it through the transformative spirit of constitutional morality. 'Public morality' cannot guide the judiciary in making its decisions, and it should pragmatically judge things to reach a reasonable conclusion. This reflects the constitutional court's duty to transform regressive social morality through progressive legal interpretation.

The preceding analysis highlights the judiciary's responsibility to reconcile societal attitudes with constitutional values. Building upon this understanding, the concluding section proposes concrete legal and policy reforms to ensure that live-in relationships are governed by a framework that protects privacy, autonomy, and equality without succumbing to moralistic or intrusive state control.

V. CONCLUSION

The judgement in Reena & Anr. case epitomises the contemporary judicial struggle between paternalistic protection and individual freedom. The lack of recognition of live-in relationships has posed many legal challenges pertaining to succession, maintenance and protection & security of couples, which are still left unanswered by the court. At the time of adjudication of the dispute, it has become difficult for the court to ascertain whether the relationship falls within the scope of 'in the nature of marriage.' The requirement of mandatory registration raises significant concerns about privacy and unwanted state intrusion into the intimate decisions of individuals. While this move is initially well-intentioned to protect vulnerable partners, especially women; such a direction can potentially subject an individual to moral policing and administrative hurdles, threatening their autonomy.

⁶⁰ Alexandra Howson, 'Durkheim's Collective Conscience' *EBSCO* <<https://www.ebsco.com/research-starters/history/durkheims-collective-conscience>> accessed on 10 October 2025.

There is a pressing need for a statutory framework that is sensitive to both privacy and the protection of the vulnerable. There should be a voluntary registration mechanism for live-in relationships, and any details collected in pursuance thereof should be protected by data protection principles that include consent-based disclosure, restricted public access and data minimisation. The format and process for such registration must be designed to avoid moral scrutiny. The relationship agreement must clearly include maintenance and financial responsibilities, custody and welfare of children and mutual responsibilities during cohabitation. Instead of police involvement or law enforcement agencies, an independent body could be set up at the district level for registration and grievance redressal of the issues. A framework that facilitates choice, consent and accountability must be preferred that aligns with constitutional values while acknowledging the socio-legal realities of live-in relationships.

The cultural shift to choose live-in relationships will yield unstable families built on a lack of mutual understanding. A live-in relationship cannot be equated to the husband-wife relationship except on the question of maintenance. It is like enjoying all the perks of married life but without any of the responsibility and legal obligations arising out of such a relationship. Despite the judiciary granting legitimacy to the children born out of such relationships, keeping in mind the 'best interest' principle, the social exclusion of those children due to prevailing social norms will make them victims.

The challenges lie in striking a balance between social order and individual freedom. A comprehensive legislative framework is required, keeping in mind the gender dynamics and sociological environment of the country. Such a framework must clearly codify the rights, obligations and remedies available to partners without mandating registration. There is a need for integration of live-in relationships under the ambit of the Domestic Violence Act, 2005, through express definitions and protection measures for partners facing abuse in a relationship. There is an imperative need to organise sensitisation and training for lower courts and law enforcement agencies to handle live-in disputes without moral bias.

Ultimately, the Reena & Anr. case underscores an urgent need for legislative clarity. It is not at all desirable that all forms of non-marital relations be treated as legally identical, considering Indian social conditions and cultural ethos.⁶¹ The regulations should be structured in a manner that respects the autonomy of the individual over their personal choice. Therefore, a nuanced approach by the court is the need of the hour to shape the regulation of live-in relationships.

⁶¹ Manju Jamwal, 'Live-in Relationships in India: Legal Moves and Judicial Attitude: Some Observations' (2014) 4(1) RGNUL Law Review.