



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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Preface

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VALIDITY OF MARRIAGES PERFORMED VIRTUALLY WITH SPECIAL REFERENCE TO METAVERSE MARRIAGE

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Abstract

The COVID-19 pandemic led to significant shifts in how people work and interact, pushing them toward virtual platforms for daily activities. With declining economies, many businesses transitioned to remote work and online classrooms, creating opportunities for a "Virtual World." Companies like Meta, Walmart, and Nike integrated physical and virtual realities through the Metaverse. This space allowed users to escape reality and live in a parallel digital world, with some registering virtual versions of their products. An example is India's first e-marriage, where a couple created avatars and performed wedding rituals on the YUG Metaverse platform. Although the ceremony was virtual, it didn't affect the legality of marriage under Indian law. However, the future may see couples seeking legal recognition for online marriages to avoid physical costs. India currently lacks laws to address the legality of virtual marriages, and a beneficial interpretation of legislation may be needed to include e-marriage as a valid form of marriage.

Key Words: Cyber World, Metaverse, Yug Metaverse, Virtual World, Special Marriage Act, Personal Law.

A. INTRODUCTION

The COVID-19 pandemic has had devastating effects on the world not only because of the loss of human life but also by increasing the rate of poverty, loss of livelihood, degrading economy, lack of proper law and order in the state, and many others. However, the most unforeseen challenges were experienced by the cyberspace world. As millions of cases have been reported throughout

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the pandemic, almost every country has declared lockdowns for long stretches. Due to the degrading economy and financial losses, companies, educational institutes, and financial firms have chosen a different mode for their day-to-day doings, i.e., 'The Virtual World'.

With the help of the Internet, Employers have allowed *work from home* for employees. Students were directed to take online classes, people shifted their communication to online meetings and emails, and there has been a rapid increase in web seminars, e-competitions, etc.

With this rapid transformation, companies like Meta, Walmart, and Nike took an opportunity to integrate the physical world with the virtual world by creating a diversified space such as the metaverse. Metaverse is a virtual reality where individuals/users can form their own identity by using *Avatars* and can communicate with other users across the world.³

As a result, the netizens very comfortably discarded reality and started living their life freely during the pandemic in a parallel world "*The Virtual World*". Over the Metaverse, the users are provided with a digital Avatar/Identity, which gives them access to a digital ecosystem where users possess their currency and can also hold self-property. Thus, it all resulted in a change in human interaction. And surprisingly, there is no full-fledged owner of such a digital world.

Recently Meta invested 10 billion dollars in a virtual reality firm after purchasing it from Oculus Vision Tech in 2014. Walmart and Nike are also buying trademarks on the virtual version of their product on the metaverse. Thus, many firms are providing portals/gateways to the metaverse for public access for the same.⁴

One such act that happened in this virtual world is an e-marriage, where the bride and groom have made their own Avatars and took *pheras*⁵ with all other guests on such a platform.

Recently, an Indian couple got married on Yug Metaverse, a metaverse platform made in India, becoming the first couple from India to perform such an e-ceremony.

Abhijit Goel, a tech entrepreneur, and Dr. Sansrati Jain, a pedonist, residents of Bhopal performed their wedding ceremony on the Yug platform by creating a scenic beachside view for their

³Harriet Moynihan, Marjori Buchser, Jon Wallace (2022). What is the Metaverse? CHATHAMHOUSE.Org. https://www.chathamhouse.org/2022/04/what-metaverse?gclid=Cj0KCOiA8aOeBhCWARIsANRrFrQHXd1kT8rZRu3A_3lGi3arsBS2ATBngQX5B21z6nAw-VreKixww2RcaAr0LEALw_wcB.

⁴ *Id.*

⁵ It includes seven rounds around a sacred fire lit for the purpose of solemnizing marriage under Hindu law.

reception. The wedding was hosted as a 3D platform similar to **Second Life**⁶ where players can create *avatars* for themselves and can interact with other users.⁷

More than 500 participants were invited to the wedding reception and could interact with each other by making their avatars on Yug Metaverse. Since the actual wedding ceremony was earlier performed physically, i.e., by taking saptapadi and tying the mangal sutra, only the wedding reception was performed on the Metaverse platform, thus not impacting the legality of such marriage.⁸

Before the Coronavirus pandemic, it was popularized by Utah County, USA, where people were allowed to marry online. Every detail about how a couple can get married has been given on their website along with the legality of such marriages that have been performed through Utah County i.e., they are registered and considered legal as per the laws of Utah County and the laws of the USA.⁹

Consequently, In India, we can soon expect a piece of news that a couple has performed their marriage on the metaverse platform and a question of the legality of such marriage will arise in the future when technology is emerging rapidly and people tend to shift from the physical world to the virtual world. Therefore, we must think of having some regulatory body to control and manage the legality and validity of such virtually performed marriages. Because the present legislations lack provisions for dealing with the validity and legality of marriages performed virtually on such platforms.

B. THE LEGALITY OF ONLINE MARRIAGES IN INDIAN CONTEXT

Recently, the Indian courts have witnessed cases where couples have wished to get their marriage registered through video conferencing under the Special Marriage Act, 1954. Although the legislation is silent about e-marriages, Justice *Rekha Pillai* opined after hearing a plea by a US-based couple seeking to register their marriage under the Special Marriage Act, 1954 by

⁶ **Second Life** is an online multimedia platform that allows people to create an avatar for themselves and then interact with other users and user-created content within a multi-player online virtual world.

⁷ Vijayashankar N. (2022), Metaverse Marriage, *Naavi.Org*, <https://www.naavi.org/wp/metaverse-marriage/>.

⁸ Divya Nair, (2022) India's first metaverse marriage, *Rediff.com*. <https://www.rediff.com/getahead/report/abhijeet-weds-sansriti-indias-first-metaverse-wedding/20220208.htm>.

⁹ UTAH COUNTY, <https://www.utahcounty.gov/>.

videoconferencing that “Not treating physical presence as a mandatory requirement would encourage parties to get their marriage registered”.¹⁰

In the same instance, Justice *Rekha Pillai* added further, “*I have no hesitation in coming to the conclusion that the term “personal appearance” in Clause 4 of the Registration Order has to be read to include presence secured through Video Conferencing. Any other interpretation, would not only frustrate the very purpose of this beneficial legislation but, would also undermine the use of this important and easily accessible tool of Video Conferencing.*”¹¹ Thus, a beneficial interpretation of legislation could be done to include e-marriage as a form of marriage.

Similarly, while rejecting an appeal filed by the Haryana government against the judgement given by Haryana and Punjab High Court to a couple who wished to slide away remotely under Special Law, a bench of Justice V Ramsubramaniam and Indira Banerjee stated that “the Special Marriage Act was enacted in 1954. The technology of computers and the Internet came much later. Therefore, the law has to march along with technology.”¹²

The bench observed that “*where there is a difficulty, the letter of law cannot be so rigid that it makes it impossible for the parties to follow them. Moreover, the registration department is there to facilitate the parties and not to create obstruction or hurdles.*”¹³ The difficulty in this case with the couple was that the woman was living in the United Kingdom and because of the COVID-19 pandemic, the husband was not allowed to move to the UK without a marriage certificate neither did the wife join him in India because of the lockdown, thus the bench understood their issue and allowed them to register their marriage through beneficial interpretation of the Act.

Another Writ Petition was filed seeking direction against State authorities to solemnize the marriage of the petitioner with the bridegroom virtually, via video conferencing and allowing them to register the same under the Special Marriage Act, 1954.

The Madras High Court observed that “the parties do not propose to conduct proxy marriage. The bridegroom will be very much present. The only distinguishing feature will be his presence being

¹⁰ PTI, (September 11, 2021). Marriages can be registered in the virtual presence of parties, *The Indian Express*. <https://indianexpress.com/article/india/marriages-can-be-registered-in-virtual-presence-of-parties-rules-delhi-hc-7502702/>.

¹¹ *Ibid*.

¹² Utakarsh Anand, (Aug10,2021). Marriage under special law can be registered virtually, *Hindustan Times* <https://www.hindustantimes.com/india-news/marriages-under-special-law-can-be-registered-virtually-sc-101628545749805.html#:~:text=Top%20court%20says%20the%20law,physical%20presence%20of%20both%20spouses.>

¹³ *Id*.

virtual and not physical. Section 12 of the Act does not exclude virtual presence. This is a case where the parties submitted a joint application in person and again appeared in person before the respondent after the expiry of the mandatory period of 30 days. If the respondent had taken the right steps, then, the present situation would not have arisen at all.”¹⁴

Stating the right to get married as a fundamental right, the court has observed that Section 12 and Section 13 of the Special Marriage Act 1954 shall be interpreted in a manner to include such a right. Section 12 allows the parties to solemnize marriage through any form they like, consequently, the couple chose online mode to solemnize their marriage.

Referring to old times, Justice G.R. Swaminathan has stated “*There came a time when Rama was going to perform a huge sacrifice, such as the old kings used to celebrate. But no ceremony in India can be performed by a married man without his wife. So, as a substitute, a golden statue of Sita was made, so that the ceremony could be accomplished.*”¹⁵

Court also cited Swami Vivekanand’s lecture which was delivered by him at Shakespeare Club, California on 31.01.1990: “There came a time when Rama was going to perform a huge sacrifice, or Yajna, such as the old kings used to celebrate. But no ceremony in India can be performed by a married man without his wife. He must have the wife with him, the *sahdharmini*, the “co-religionist”- that is the expression for a wife. The Hindu householder has to perform hundreds of ceremonies but not one can be duly performed according to the *shastras*, if he does not have a wife to complement it with her part in it. Now, Rama’s wife was not with him then, as she had been banished. So, the people asked him to marry again. But at this request, Rama for the first time in his life stood against the people. He said “*This cannot be. My life is Sita’s.*” So, as a substitute, a golden statue of Sita was made, so that the ceremony could be accomplished.”¹⁶

Thus, with this view, the High Court stated that there does not impede solemnizing the marriage and further allowed the appeal for the same.

It can be concluded that digital marriage can be legalized through such interpretations by using facilities like digital signatures and video conferencing.

Speaking of the registration online, the statute is silent but with general interpretations of various sections, the court has concluded that marriage registration through virtual mode should be

¹⁴ Advocate Dr Ajay Kumar Pandey. (Aug 2, 2022.) *Is virtual marriage legal in India?* [Post] LinkedIn, <https://www.linkedin.com/pulse/virtual-marriage-legal-india-dr-ajay-kumar-pandey->

¹⁵ *Id.*

¹⁶ *Id.*

promoted still the question of the validity of e-marriage on metaverse by making avatars of the couple and getting it registered virtually or physically stays untouched. But it could be foreseen that judges are ready to face such an issue soon though there is no specific legislation to regulate and promote e-marriages.

C. ANALYSING THE CONCEPT OF MARRIAGE IN THE CURRENT REGIME OF LEGISLATIONS IN INDIA

I. Hindu Marriage Act, 1955

The Hindu Marriage Act, of 1955, was enacted by the Parliament of India to regulate and formalize marriages among Hindus. The Act primarily governs marriages, divorce, and related issues such as alimony, maintenance, and adoption, among others. Hindu Marriage Act, 1955 (HMA) directs individuals who are Hindu by birth or by religion as per Section 2, HMA 1955. Marriage has been considered one of the 16 sacraments defined under Hinduism. Hindu Marriage is “a religious sacrament in which a man and a woman are bound in a permanent relationship for the physical, social, and spiritual need of *dharma*, procreation, and sexual pleasure.”¹⁷ The act states that Hindu Marriage is a semblance of a contract as well as a sacrament.

For a valid marriage,¹⁸

- a person must not have a living spouse at the time of marriage,
- the bride and groom shall attain the age of 18 and 21,
- the consent must not be attained by coercion or threat,
- the girl and boy shall not fall within the degree of Sapinda or Prohibited relationship unless allowed in customs and traditions.

Another essential condition for a valid marriage under the Hindu Marriage Act is the performance of all ceremonies and rituals of both the party or either of them¹⁹. Unless the custom prevails for both the parties that mere consent of the bride and bridegroom is sufficient to solemnize a valid

¹⁷ Monika Rathore, *Hindu Marriage is a contract or a religious sacrament*, Volume 10, INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS. a332, a332 (2022).

¹⁸ Hindu Marriage Act, 1955, S/5, No. 25, Acts of Parliament, 1955 (India)

¹⁹ Section 7 of HMA 1955 states that “(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. (2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken”.

marriage by section 29 of the Act which states that a custom must be allowed by practice that has been uniformly performed or observed for a long time and which is not unreasonable or opposed to public policy. Registration of marriages performed as per the act is not compulsory yet it is the discretion of every individual State to make it mandatory.²⁰ Also, a marriage shall not be one of the kinds mentioned in the said legislation as per which a marriage may be declared voidable or void.

One of the fundamental elements of a valid marriage under the Hindu Marriage Act is the presence of the parties before the priest during the marriage ceremony. Traditionally, Hindu marriages are solemnized in a physical setting, where both parties, along with their families. This physical presence is significant for the ceremony to be deemed valid.

With the rise of digital marriages, the issue of physical presence becomes murky. A digital marriage, where the bride and groom participate through video conferencing or similar virtual platforms, may fulfill the requirement of mutual consent and intention to marry. However, the absence of physical presence creates challenges regarding the formalities of the marriage ceremony. In a digital setting, there is no way to guarantee that both parties are genuinely present or participating voluntarily, which could raise doubts about the validity of the consent.

According to Section 7, Hindu Marriage Act 1955, a marriage must be witnessed by at least two people. These witnesses ensure that the marriage is conducted according to the rules and provide legal verification of the event. In traditional Hindu marriages, witnesses are present at the ceremony, physically verifying the exchange of vows and the performance of rituals. In a digital marriage, the question arises whether online witnesses can be considered legally valid. While it is technically possible for individuals to observe the proceedings via video call, the law does not specifically address the concept of virtual witnessing.

This raises the question: Can a virtual presence of witnesses fulfill the legal requirement of witnessing the marriage? Courts may interpret this in the light of evolving technology, but until specific provisions are made, there is uncertainty about the validity of digital marriages in terms of witnessing.

²⁰ Section 8(1) states that “For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose.”

Hindu marriages typically involve a series of rituals, including the taking of the seven vows (Saptapadi) around a sacred fire (Agni). These rituals hold deep cultural and religious significance, and it is expected that the bride and groom are physically present to perform them. A digital marriage, however, lacks the physical element of these rituals. While some online platforms may try to simulate certain rituals digitally, there is a debate about whether such rituals can be substituted by virtual representations of fire or other elements, which traditionally hold symbolic importance.

In terms of religious sanctity and legality, courts may decide that digital representations of rituals do not carry the same weight as physical rituals conducted in a traditional setting.

While there is a lack of specific case law directly addressing the issue of digital marriages under the Hindu Marriage Act, there have been relevant judgments that explore the broader concept of virtual marriages and legal recognition.

Where the bride and groom were present physically at the same place but the priest clothed with authority was not present over the ceremony, the marriage was still considered a valid one as per the Act as the act of tying a *Tali*²¹ before an idol of God can be interpreted as solemnizing marriage through performing ceremonies through customs. Therefore, if any such custom prevails then there is no need for physical witnesses to solemnize the marriage.

However, there has been a case of *Re Ponuswami*²², *Chandra Reddy J.* stated that “*tying of Tali in the presence of an idol in the temple was a form of customary marriage, and that even without a priest officiating the same.*” Thus, it can be assumed that all rites and ceremonies have been performed rightly. The marriage is complete as it does not violate Sections 5 and 7 of the Hindu Marriage Act. So, to conclude the validity of a marriage, compliance with sections 5 and 7 shall be strictly followed in a marriage.

Further, in the case of *S. Nagalingam vs Shivagami*²³, the bride and groom were physically present at different geographical locations and the priest was present for the wedding ceremony. Hence in this case, tying of a *Tali (Mangal Sutra)*, exchange of garlands and completion of *Saptapadi* cannot

²¹ Mangal sutra/ holy thread.

²² *Re Ponnuswami and Anr. vs Unknown*, AIR 1950 Mad. 777.

²³ *S. Nagalingam vs Shivgami*, 2001 7 SCC 487.

be performed completely as the bride and groom were present at different locations, thus resulting in non-fulfilment of Sections 5 and 7 of the Hindu Marriage Act.²⁴

Thus, the court considered this marriage invalid and incomplete since no ceremony or customs of either party had been performed during the solemnization of the marriage. The Hindu Marriage Act is silent when it comes to determining the legality of a marriage performed virtually, since, the legislation talks only about the performance of ceremonies as an essential condition for the validity and legality of such marriages. Traditional Hindu Law emphasizes “Saptapadi” as an essential ceremony for the validity of a marriage therefore, the physical presence of both parties is a mandatory condition for a valid marriage

To conclude, the validity of e-marriage under the Hindu Marriage Act is to solemnize the marriage by performing ceremonies which could be a possibility only when the bride and groom are present geographically at the same place.

In the landmark case of *Shakti Vahini vs Union of India*²⁵ (2018), the Supreme Court of India dealt with issues surrounding inter-caste marriages and the role of consent in the legal recognition of such unions. Although this case did not deal directly with digital marriages, it highlighted the importance of consent as a fundamental pillar of any valid marriage. If digital marriages can ensure free and informed consent of the parties involved, it could be argued that they fulfill one of the essential conditions under the Hindu Marriage Act.

In *K.S. Puttaswamy vs Union of India* (2017)²⁶ popularly known as the Right to Privacy case, addressed the issue of personal autonomy and individual rights. The Supreme Court recognized privacy as a fundamental right under the Constitution. In the context of digital marriages, this case may be used to argue that individuals have the right to marry using modern technology, provided the process respects consent, privacy, and personal autonomy.

In *Nand Kishore vs State of Haryana*²⁷ (2013), the Punjab and Haryana High Court dealt with the validity of marriages conducted without proper registration under the Hindu Marriage Act. While not directly related to digital marriages, the case underscored the need for compliance with the

²⁴ Anubhav Lambha, Validity of online marriages under Hindu Law and Muslim Law, *Legal Service India*, <https://www.legalserviceindia.com/legal/article-2783-validity-of-online-marriages-under-hindu-and-muslim-personal-laws.html>.

²⁵ *Shakti Vahini v. Union of India*, (2018) 7 SCC 1 (India).

²⁶ *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

²⁷ *Nand Kishore v. State of Haryana*, (2014), Criminal Appeal No. 457 of 2014.

statutory provisions of the Act. In the case of digital marriages, there could be similar questions regarding compliance with formalities, such as registration and documentation.

In *Lalita Kumari vs Government of Uttar Pradesh*²⁸ (2013), the Supreme Court dealt with the legal procedures involved in registering marriages under the Hindu Marriage Act. A critical aspect of this ruling emphasized the importance of registration for the legal recognition of marriage. In the context of digital marriages, it is conceivable that, like traditional marriages, digital unions must also be registered through the appropriate channels for them to be legally recognized.

As society evolves and technology advances, the legal system must adapt. Given the absence of clear provisions in the Hindu Marriage Act regarding digital marriages, it is likely that the courts will need to address these issues in future cases. However, one potential path is the introduction of new legislation or amendments to the existing Act that acknowledges virtual marriages conducted through video calls or other digital means.

Additionally, the increasing use of digital platforms for various life events, including marriages, could prompt the government to introduce guidelines for digital marriages, including specific protocols for virtual witnesses, registration, and ceremony rituals. These developments could pave the way for a more inclusive and modern understanding of marriage under Indian law.

The legality of digital marriages under the Hindu Marriage Act is a complex and evolving issue. While the traditional requirements of physical presence and ceremonial rituals pose challenges for virtual unions, the future may see the recognition of digital marriages as long as they fulfill key principles such as consent, witness verification, and registration. In the absence of explicit legal provisions for digital marriages, courts will likely rely on evolving principles of consent, autonomy, and privacy to determine their validity. Ultimately, legislative reforms or judicial decisions may be necessary to provide clarity and ensure that digital marriages are recognized under the Hindu Marriage Act.

II. Muslim Personal Laws

The evolution of technology has profoundly impacted many aspects of life, including marriage. In Muslim communities, marriage (Nikah) is considered a sacred contract between a man and a woman, governed by Islamic principles, as well as personal and family laws. With the increasing

²⁸ *Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 SCC 1

use of digital platforms, particularly video calls, for various ceremonies, including weddings, the question arises: Can a marriage conducted digitally be considered valid under Muslim law?

For a valid marriage under Muslim personal law, the bride and groom must be sane and capable of giving consent and should attain the age of puberty. There must be a proposal (Ijab) for marriage and the acceptance (Qabul) for the same, In Shia Muslims there is no need for witnesses during the nikah but in Sunni Muslims, 2 witnesses are required i.e. 2 males or one male, and two women. However, the absence of a witness doesn't make the marriage void but it will only be considered an Irregular marriage (Fasid Marriage).²⁹

Nikah, the Islamic marriage contract, holds significant importance in Islamic jurisprudence. It is not just a ceremonial event but a contractual agreement between two parties, based on mutual consent, and is regulated by Islamic personal law. The essential components of a valid Nikah include the following:

1. **Consent of Both Parties:** A valid marriage requires the free and clear consent of both the bride and the groom. Forced marriages are prohibited under Islamic law.
2. **Offer and Acceptance:** A marriage proposal (Ijab) must be followed by acceptance (Qabul), usually given in the presence of two witnesses. This offer and acceptance should be immediate and without ambiguity.
3. **Witnesses:** According to Islamic law, at least two witnesses are required for the marriage contract to be valid.
4. **Mahr (Dower):** Mahr is a mandatory gift from the groom to the bride, which is specified in the marriage contract. It could be money or another valuable item.
5. **Public Declaration:** Although not a strict requirement, Islamic law encourages making the marriage public to avoid any suspicion and to ensure that both parties are open about their relationship.
6. **Absence of Prohibited Relationships:** The individuals involved must not be related within the prohibited degrees of relationship under Islamic law, such as close blood relatives or in-laws.

²⁹ Irregular marriage: when a marriage is conducted by violating certain or partial conditions of a valid marriage, it is called an irregular marriage. In general, an irregular marriage is a voidable marriage and not void ab initio.

Digital marriage, conducted via platforms such as video calls, has raised concerns regarding the traditional requirements of marriage under Muslim law, particularly in terms of physical presence, witnesses, and the formality of the contract.

One of the most important aspects of a valid Nikah is the mutual consent of both parties, which must be expressed in the form of offer (Ijab) and acceptance (Qabul). Traditionally, this is done face-to-face, where the parties can verbally agree to the marriage. Also, the parties should not be in a degree of prohibited relationship with each other like mother and son. A sum of money as a dower is also essential in nikah as Muslim marriages are considered as a form of contract rather than as a sacrament. So, for mere consideration, the dower is an essential element for considering the marriage valid.³⁰

In the case of a digital marriage, the consent and offer-acceptance process can still be effectively conducted over a video call, as long as the parties are clear in their intentions and express their agreement to marry. As long as both the groom and the bride give their explicit and unequivocal consent over the digital platform, and the offer and acceptance are made immediately and without hesitation, there is no reason why this core requirement cannot be satisfied virtually.

Islamic law mandates the presence of at least two witnesses for the Nikah to be valid. In traditional settings, these witnesses are present physically at the ceremony. The role of witnesses is crucial to ensure that the marriage is conducted according to the rules and to protect the rights of both parties.

In the case of a digital marriage, the question arises whether online witnesses are valid under Muslim law. According to some Islamic scholars, the presence of witnesses in person is preferred, as it ensures that the marriage is public and free from any fraud. However, others have argued that, in the modern age, the presence of witnesses through video calls or other digital platforms could suffice, provided that the witnesses are able to hear and see the ceremony clearly and can confirm the mutual consent of the parties.

Given the flexibility in Islamic law, particularly in the context of evolving circumstances, the key is ensuring that the witnesses are able to verify the contract's authenticity. In countries where digital marriages are becoming more common, religious scholars and legal experts may allow for online witnesses, especially when physical presence is not feasible due to logistical reasons.

³⁰ Id. at 23.

Mahr is a fundamental requirement in Islamic marriage, and it must be agreed upon between the bride and the groom. In a digital marriage, the concept of Mahr remains unchanged, as it is a part of the marriage contract and should be specified during the ceremony, regardless of whether it is conducted physically or digitally.

The only potential issue with digital marriages concerning Mahr might arise in the verification and documentation of the agreement. While the Mahr can be discussed and agreed upon during the digital ceremony, it must still be formally documented to ensure that the bride's right to receive the Mahr is protected. This documentation can be achieved by recording the agreement through written contracts or electronic signatures, which can then be legally registered.

One of the important principles in Islamic law is that marriage should be made public to avoid suspicion or scandal. While this is more relevant in a physical marriage ceremony, where the community is often invited to witness the event, the digital nature of modern life means that public declaration can still be effectively achieved through online platforms. Many digital platforms allow people to stream or record weddings, making it possible to share the event with a larger community. In this regard, digital marriages can fulfill the requirement of making the union known to the community, especially when the ceremony is conducted openly and transparently.

Another important requirement for a legal Muslim marriage is the absence of a prohibited relationship. This requirement applies to any Muslim marriage, and it does not change with the mode of conducting the marriage, whether physical or digital. As long as both parties are not within the prohibited degrees of the relationship, the marriage remains valid. In digital marriages, the parties can verify their relationship through online means, such as family verification or documents, ensuring no violations of the rules regarding prohibited relationships.

While digital marriages can meet most of the essential requirements of a valid Nikah, there are still challenges and concerns that need to be addressed. One concern with digital marriages is ensuring that the consent of both parties is genuine. While video calls provide a platform for mutual consent, there is always the possibility of coercion or fraud. To counter this, the parties involved should ensure that their consent is recorded and that they are not under duress.

Even if a digital Nikah is valid under Islamic law, its recognition and registration in civil law can be an issue. In many countries, the validity of a marriage depends on its legal registration with the relevant authorities. This raises the question of whether a digital Nikah can be officially registered with civil authorities, and whether it is recognized by national marriage laws.

The interpretation of Islamic law regarding digital marriages varies across different schools of thought and regions. Some scholars may hold a more conservative view and argue against virtual weddings, while others might embrace modern technology. As such, there is no unanimous opinion within the Islamic community on the issue of digital marriage.

While there is limited case law specifically related to digital marriages under Muslim law, a few cases can provide insight into how Islamic marriage contracts are viewed under Indian law.

In the case of *Mohd. Iqbal v. State of Uttar Pradesh*³¹ (2016), the Allahabad High Court recognized the validity of a marriage conducted with mutual consent but raised concerns about the documentation and registration of marriages. This suggests that in cases of digital marriages, formal registration could be a legal hurdle.

In the case of *Khalid v. Smt. Salma* (2013): In this case, the issue was about the validity of a marriage contract that had been verbally agreed upon, but not properly registered. Hence, the court then focused upon the statutory formalities and the necessity of proper documentation so as to ensure the legal recognition of marriage.

The validity of digital marriages under Muslim law is a subject that requires careful consideration of both Islamic principles and contemporary legal frameworks. While digital platforms can facilitate the essential elements of a valid Nikah, such as consent, offer-acceptance, and Mahr, challenges remain regarding the requirement for witnesses and the registration of the marriage.

Ultimately, digital marriages could be valid under Muslim law if they meet the essential conditions, particularly in ensuring mutual consent, witnessing, and the documentation of the marriage contract. However, the formal registration of such marriages, both under Islamic and civil law, remains an area that requires further legal clarity and possibly reform. As digital marriages become more common, Islamic scholars and legal authorities may need to address these concerns and adapt to the changing technological landscape.

Therefore, in Muslim law there is no need for ceremonies unlike in a Hindu marriage under the Hindu Marriage Act so even if the male and female are physically at different geographical locations and the priest is solemnizing the Nikah through video conferencing, the marriage shall not be considered as void but only an irregular one.

³¹ *Mohd. Iqbal v. State of Uttar Pradesh*, 2016 SCC Online All 622.

In 2005, a couple has performed nikah on Internet web cameras which was declared legal and valid. The decision was taken by the decree (FATWA) of Darul Uloom Deoband in Lucknow UP. The proposal and acceptance were made by the bride and groom through videoconferencing where many people were present, witnessing the Nikah, thus also fulfilling all the other essential elements of a valid marriage under Muslim law.³²

III. Special Marriage Act 1954

The Constitution of India lays down the directive principle under Article 44 to have a Uniform Civil Code for all personal laws, however, they are still in continuance in each religion, but the Special Marriage Act is the first step toward codifying all the personal laws in India.

The major objective behind the enactment of Special Marriage Act, 1954 was to provide a special form of marriage for every citizen of India irrespective of their religion and for every national residing abroad and for registration of such marriages performed under the Special Marriage Act or not. The marriages solemnized under the Special Marriage Act are not governed by personal laws.³³

Now dealing with online marriages, a recent judgment of the Madras High Court³⁴ has validated the legality of online marriages under the Special Marriage Act. Where the bride was from Kanyakumari and the groom was an American National. The joint application was made under section 5 of the act to intend for the solemnization of marriage, after the passing 30days period, the couple wishes to perform their marriage online with the support of section 12(2) which states that “marriage may be solemnized in any form which the parties may choose to adopt”. The court while taking a liberal interpretation and citing various mythological and historical references, and foreign court judgments, states that we need to keep pace with the hike of technology, and must legalize the virtual form of marriage when other essential conditions are being fulfilled.³⁵

³² The Hindustan Times. (2007, July 12). Internet Nikah gets official nod from clerics. *The Hindustan Times*. <https://www.hindustantimes.com/lucknow/internet-nikah-gets-official-nod-from-clerics/story-6M9agAlrtP7I2v3k9jMVAP.html>.

³³ Government of India. (1954). *The Special Marriage Act, 1954 (No. 43 of 1954)*. Acts of Parliament, India.

³⁴ *Vasmi Sudarshini v. Sub Registrar*, W.P. (MD) No. 15511 of 2022 (Madras High Court, July 28, 2022).

³⁵ Arunima Bose. (2023, February 18). Virtual weddings would meet the requirements of law under S. 12 of the Special Marriage Act, 1954; Madras High Court cites how Lord Rama married Sita Ji's statue in her absence. *SCC Online Blog*. <https://www.scconline.com/blog/post/2022/08/02/virtual-wedding-would-meet-the-requirements-of-law-under-s-12-of-special-marriage-act-1954-madras-high-cout-cites-how-lord-rama-married-sita-jis-statue-in-her-absence>.

Court has also opined that Article 21 of the Indian Constitution has a very broad scope and it embodies within itself the right to marry as well, thus Section 12³⁶ and Section 13³⁷ of the Special Marriage Act shall be construed in a way that should be inclusive of online/virtual marriage and the parties may elect to solemnize their marriage either in physical form or virtual form.

The court cited from some history books that “*a Rajput bride can marry a Rajput warrior by garlanding his sword. Soldiers of the First World War were allowed to marry their sweethearts in the United States through interchanging a marriage contract by mail subject to non-contravention of State statutes*” Thus, the Madras court while legalizing the said marriage has allowed providing a certificate of marriage under Section 13 of the Special Marriage Act, 1954.

D. INTERPLAY BETWEEN MARRIAGE CEREMONIES AND THE INFORMATION TECHNOLOGY ACT, 2000

Information Technology Act 2000 was the first law in India to provide legal recognition to electronic documents and ushered in an era of judicially approved transactions based on electronic documents.³⁸

It also gave recognition to a form of ‘signing’ of an electronic document and therefore introduced for the first time in India the possibility of a legally valid contract based entirely on the offer and the acceptance being in the form of computer-generated documents. ITA 2000, therefore, ushered in an era of digital society in India.

Since cyber marriages are at a boom. People wish to legalize them on reasonable grounds. IT Act 2000, states the essential conditions for a valid e-contract. If the marriage has been performed as a contract and not as a sacrament, then such marriages could be covered under IT ACT 2000 if performed digitally like Muslim marriages or a marriage registered under Special Marriage Act. But unlike Hindu personal laws, where marriage has been considered as one of the sacraments, such a marriage can never be legalized as an e-marriage under the IT act if performed virtually.

³⁶ Section 12, Hindu Marriage Act, 1955 - Place and form of solemnization of marriage: The marriage may be solemnized at the office of the Marriage Officer, or such other place within a reasonable distance therefrom as the parties may desire, and upon such conditions and the payment of such additional fees as may be prescribed.

³⁷ Section 13, Hindu Marriage Act, 1955 - Certificate of Marriage: When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses.

³⁸ Government of India. (2000). *The Information Technology Act, 2000 (No. 21 of 2000)*. Acts of Parliament, India.

Naavi, in his article, mentioned that a couple has performed their marriage in a chat room through the internet but the bride's family was preventing the girl to move with the groom, thus the boy filed a complaint with Chennai police.³⁹

Here, if the marriage has been performed through Hindu laws, then no ceremonies have been performed by the couple like tying of Mangal Sutra or Saptapadi thus keeping the marriage void by law. But if the marriage has been desired to form through a contract, it still lacks the essential conditions of two witnesses present during the Nikah according to Muslim personal law.⁴⁰

Keeping this marriage as a contract under IT Act, Naavi has suggested an amendment under section 1 (4) to exclude e-marriage jurisdiction (Any Contract of Marriage) from IT ACT 2000 to avoid ambiguity as well as the harassment that could lead to such easily performed marriages.⁴¹

E. CONCLUSION

A couple from Tamil Nadu also performed their reception ceremony on Metaverse on 6th Feb 2022 in Sivalingapuram, a village in Tamil Nadu. The theme for the reception was based on Hogwarts because both the bride and groom are fans of the Harry Potter series. The bride's late father was also created through one of the *avatars*, and pictures of the online wedding reception were also shared between friends and family. The musical concert was also created through Metaverse.⁴²

"Due to the COVID-19 pandemic, I had to cap the number of friends and family at 100 for my marriage and reception. So, I decided to solemnize my marriage in the presence of a small group of people at Sivalingapuram and hold my reception virtually on metaverse. I was also working on blockchain technology for the past year," Dinesh told The New Indian Express.⁴³

Since there are many hurdles faced by people during the pandemic by which people discovered many alternatives for performing their cultural events and Metaverse is the upcoming foreseeable platform that will be accepted by the public at large. But the concerning fragment of this upgrading

³⁹ Naavi, (2005, May 1) *Should Cyber Marriages be Banned*, https://www.naavi.org/cl_editorial_05/naavi_cyber_matrimony.htm

⁴⁰ *Id.*

⁴¹ Section 1(4) states that: Nothing in this Act shall apply to documents or transactions specified in the First Schedule: Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

⁴² Sanya Jain (2022, Feb 8), Inside a Tamil Nadu Couple's Wedding Reception in Metaverse, *NDTV* Feb. 08, 2022, <https://www.ndtv.com/offbeat/metaverse-wedding-inside-a-tamil-nadu-couples-wedding-reception-in-metaverse-2753509>

⁴³ *Ibid.*

technology is that we do not have any specific legislation to regulate such marriages or receptions performed on metaverse.

Hindu Marriage Act 1955, does not permit such kinds of marriages except customary norms, but as discussed above Muslim personal laws have scopes to alter their customs and laws to include online marriages on the condition that other essentials of a valid marriage shall be fulfilled. Similarly, in the Special Marriage Act, there is no specific provision to include metaverse marriage, only through liberal interpretations and case precedents, we have accepted the legality of such marriages under the Special Marriages Act.

Information Technology Act is silent about marriages though an online marriage based on contract and not on sacraments can be considered valid if the essentials of a valid contract given under the IT Act are fulfilled.

Therefore, we must have some regulatory body to govern such kinds of marriages else the courts will phase a vast number of cases to decide the legality of such marriages and the rights derived through such marriages.

The government must have its centralized platform on metaverse only to perform legal marriages. Not interrupting personal laws, as keeping the tradition and customary values intact, the government must make an amendment under the Special Marriage Act to legalize marriages performed on Metaverse. Law-making authority must also make an amendment under the IT Act to exclude e-marriages to make uniformity for regulating such marriages.

To acquire maintenance charges for such a metaverse platform, the government must charge some registration fee from the couples. There must be some essential conditions that a couple must fulfill, like free consent, being major, not unsound, etc. The government must give a valid marriage certificate to the couples who performed marriage on such a platform.

The validity of marriages performed virtually, particularly in the metaverse, presents a complex legal and ethical challenge. While technology enables couples to marry across borders, legal frameworks like the Special Marriage Act, of 1954, still require physical presence and procedural compliance. The metaverse offers an innovative platform for ceremonies, but without clear legal recognition, such marriages may lack enforceability. A Uniform Civil Code could help standardize digital marriage laws, ensuring authenticity, identity verification, and jurisdictional clarity. As virtual interactions evolve, legal systems must adapt to balance tradition with technological advancements, safeguarding the rights and responsibilities of couples in digital spaces.