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## THE DIGITAL REVOLUTION THROUGH CHRISTOPHER NOLAN

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### ABSTRACT

The digital revolution has profoundly impacted various facets of contemporary society, including the realms of art, culture, and communication. This dissertation project seeks to investigate the transformative effects of the digital era through the cinematic works of acclaimed filmmaker Christopher Nolan. By employing a multidisciplinary approach that integrates film studies, digital media theory, and cultural analysis, this research aims to elucidate how Nolan's oeuvre reflects, critiques, and contributes to the on-going digital revolution. Through an in-depth examination of key films such as "Inception," "Interstellar" and "Tenet," this study will explore how Nolan navigates the intersection of technology, storytelling, and human experience. Furthermore, this research will examine the reception and cultural impact of Nolan's films within the context of the digital age, considering the influence on popular discourse, audience engagement, and industry practices. Ultimately, this dissertation project aspires to contribute to a deeper understanding of the digital revolution's impact on contemporary cinema and culture, using Christopher Nolan's body of work as a lens through which to explore the complexities of technological change, narrative innovation, and human creativity in the digital age.

### INTRODUCTION

In the annals of cinematic history, few filmmakers have left as indelible a mark on the landscape of storytelling as Christopher Nolan. Renowned for his visionary approach to filmmaking and his penchant for weaving intricate narratives, Nolan stands as a titan of the silver screen whose work transcends mere entertainment to provoke profound contemplation and philosophical inquiry. At the heart of Nolan's oeuvre lies a fascination with the intersection of technology and humanity, a theme that resonates deeply in an era defined by the rapid advancement of digital technologies. From his early works like "Memento" to his blockbusters epics such as "Inception" and "Interstellar," Nolan has consistently grappled with the implications of digital innovation on the human experience, exploring themes of memory, perception, reality,

and the very essence of what it means to be human.

This dissertation seeks to embark on a comprehensive exploration of the digital revolution as reflected in the cinematic works of Christopher Nolan. Furthermore, by contextualizing Nolan's work within the broader discourse of the digital revolution, this dissertation seeks to contribute to a deeper understanding of the complex interplay between technology, storytelling, and human consciousness in the digital age. As we stand at the precipice of a new era defined by unprecedented technological advancements, the insights gleaned from this exploration of Christopher Nolan's cinematic corpus offer invaluable perspectives on the evolving relationship between humanity and the digital realm.

## LITERATURE REVIEW

#An all-encompassing display of visual arts, music, video games, film, and design. The book *Digital Revolution* examines and commemorates how digital technology has changed the arts during the 1970s. Using digital technology to push the frontiers of their respective fields, a variety of artists, filmmakers, architects, designers, musicians, and game developers are brought together for the first time in this show.

The program also explores future trends, including the influence of maker and do-it-yourself (DIY) culture, internet communities, and the creative opportunities presented by wearable technology, augmented reality, artificial intelligence, and 3D printing. A variety of new installations are on display at *Digital Revolution*. The immersive installation that fills the theatre with a sequence of interactive laser sculptures is Umbrellium's first piece in a theatre environment. Umbrellium is most known for its large-scale, highly participatory outdoor events. **(Bruno Martelli , 2014)**

# Hollywood has been producing disaster films since the 1930s. But starting in the 1980s, it started to take on the categorical requirement that a "genre" have its own set of established standards. Disaster film archetypes range from the blatantly pyrotechnical to the intellectual.

This essay seeks to examine the notion that disasters in Hollywood productions are human-made occurrences. To achieve this, read *The Dark Knight* trilogy by Christopher Nolan as texts that illustrate many facets of the anarchic worldview. This article's main objective is to interpret "anarchy-as-disaster" within the framework of the trilogy. This essay makes an effort to interpret Nolan's trilogy as cultural artefacts' with the power to instil fear of looming catastrophes brought on by mysterious powers in Western industrialized civilization. The three movies highlight the politics of representation by putting an emphasis on "liberal" principles (liberalism, capitalism, and democracy) as opposed to "conservative" values (socialist,

radicalism, and religious fundamentalism), the latter of which are written off as outmoded substitutes. **(Mridul Bordoloi, 2013)**

# The world has been immersed in technology for the past ten years, which has created several opportunities as industry boundaries continue to shift. New businesses like social networking, smart technology, mobility, and big data have found their way into "blue oceans." In the future, emerging developments like the Internet of Things (IoT) and the development of 5G mobile technology will open up new markets and sectors and accelerate the growth of big data. Researchers and business executives participated in a panel discussion to examine these subjects as well as the cutting-edge technologies that are reshaping society. **(A.M. & Shim, J.P. 2016)**

# This empirical study looked into how the convergence of various media due to technological advancements has altered the social aspect of film. Based on data gathered from 21 qualitative interviews with Finnish moviegoers, the essay explores the wide range of open-ended responses to questions about watching films and related activities. This essay, which examines cinema attendance via the lens of practice theory, aims to provide readers with some helpful resources for comprehending how movie going fits into a media landscape that encompasses a complicated network of distribution channels. Based on two main considerations, the results provide promise for the continued popularity of going to the movies as a means of seeing films.

First off, movie going has more social purposes built into it than those advocating for its demise suggest, making it less susceptible to technology advancement. The social aspects of attending to the movies are changing due to technological advancements, such as the growing usage of social media, and this is inspiring new ways to interact with the sociality of the medium. **( Heidi Grundström, 2018)**

#Using Ghana and Burkina Faso as case studies, this study examines how digital video



filmmaking has evolved in West Africa in the context of emerging technology. How do the political, social, and economic settings of video filmmaking impact the growth of a digital video film industry in Ghana and Burkina Faso? Was one of the main research topics that drove the investigation? And how has the growth of digital video filmmaking in West Africa been influenced by the opinions that stakeholders, including filmmakers, have about digital technologies?

The research discusses the challenges of new digital and video technologies and their implications for the development of the video film industry through document research, textual references, field interviews with stakeholders in the video film industry in Ghana and Burkina Faso as well as with the West African diaspora community in the UK. **(Benagr, S, 2012)**

# The process of digitalizing anything that can be digitalized to alter a company model and offer new chances for value creation and revenue is known as digitalization. Evaluating the value that digital technology investments bring to businesses, economies, industries, and society at large is challenging, though. My dissertation highlights the necessity for a dynamic approach to entrepreneurial innovation within national innovation systems and demonstrates how the unique qualities of digital technologies are involved in the move from stable to fragile product creation. The digitalization of value networks, which started in 2000 and provides the backdrop for this study, is fundamental to my body of work. Digital cinema reduced costs significantly for US studios while providing distributors with a new value proposition. **(Culkin, Nigel, 2017)**

### **Christopher Nolan: A Filmmaker in the Digital Age**

# Nolan's early exposure to 16mm film and his expertise in independent cinema served as the basis for his unique aesthetic and storytelling sensibilities. Drawing inspiration from filmmakers like as Stanley Kubrick, Alfred Hitchcock, and

Orson Welles, Christopher Nolan frequently employs elaborate narratives, multifaceted characters and thought-provoking topics in his films.

#Known for emphasizing real effects over computer-generated imagery, Nolan tries to do as much of the work in-camera as possible to avoid using digital editing. His use of realistic stunts, ornate sets, and painstakingly created practical effects, all add to the realism and immersion of his films, demonstrate his dedication to using practical filmmaking techniques.

# Even though Nolan is renowned for favoring analog filmmaking methods, he admits that digital technology has advantages in some situations.

#Because of its adaptability and efficiency, he has embraced digital cinematography, employing cameras such as the IMAX and 65mm film formats to produce epic, jaw-dropping images.

#By fusing the accuracy and adaptability of digital tools with the tactile artistry of practical effects, Nolan's hybrid style of filmmaking enables him to push the limits of cinematic storytelling while remaining true to established filmmaking traditions.

### **Themes and Techniques in Nolan's Films**

#### **Themes:**

**1. Time:** A major theme in Nolan's films, time is frequently examined through existential questions, temporal manipulation, and nonlinear storytelling. Films like Memento and Inception explore the subjective experience of time in great detail, questioning traditional narrative frameworks and encouraging viewers to re-evaluate how they see the world.

**2. Identity and Memory:** Nolan often veers the boundaries between reality and illusion by examining topics of identity, memory, and perception. Using intricate psychological plots to unlock the secrets of the human psyche, movies like The Prestige and Insomnia explore the

essence of selfhood and the effects of our decisions.

**3. Morality and Philosophy:** Nolan asks viewers to consider the nature of good and evil in a morally complex world by tackling moral ambiguity, ethical conundrums, and existential ambiguities in his films. Themes of atonement, meaning-finding, and the pursuit of purpose in the face of cosmic uncertainty are explored in works such as *Interstellar* and *The Dark Knight Trilogy*.

#### Techniques:

**1. Nonlinear Narrative:** In order to confuse and captivate audiences, Nolan regularly uses nonlinear storytelling techniques, such as fractured timelines and parallel narratives. His narratives become more complex as a result of his nonlinear style, which encourages viewers to gradually put the story's puzzle pieces together.

**2. Realistic Effects:** Well-known for his dedication to realistic filmmaking methods, Nolan prefers real sets, real stunts, and in-camera effects over computer-generated imagery whenever it is practical to do so. His films have a palpable sense of realism and authenticity thanks to his commitment to tactile craftsmanship, which heightens the immersive nature of the cinematic

**3. Visual Spectacle:** Nolan is a master of visual storytelling, crafting breathtaking cinematic spectacles with elaborate production designs, breathtaking practical effects, and exquisite cinematography. His movies frequently have magnificent set pieces, stunning scenery, and memorable images that linger in the minds of viewers.

#### Sensory features

Sensory features of film making refer to the various elements that filmmakers use to engage the audience's senses and create an immersive and emotional experience. Here are some of the key sensory features of film making:

**# Visuals:** One of the most important sensory features of film making is the visual element.

Filmmakers use a range of visual techniques to create stunning images that captivate and engage the audience. This includes elements such as lighting, color, camera angles, framing, and composition.

**# Sound:** Another key sensory feature of film making is sound. Filmmakers use sound effects, music, and dialogue to create a rich and immersive audio experience for the audience. The use of sound can heighten the emotional impact of a scene and create a more realistic and engaging environment for the viewer.

**# Touch:** While touch is not typically associated with film making, it can still play a role in creating a sensory experience for the audience. For example, filmmakers may use physical effects, such as wind or rain, to create a more immersive environment and engage the audience's sense of touch.

**# Smell:** Similar to touch, smell is not commonly used in film making, but it can still be used to create a sensory experience for the audience. Filmmakers may use scents or aromas to create a more realistic and engaging environment for the viewer.

**# Taste:** Taste is also not commonly used in film making, but it can be used to create a sensory experience for the audience in certain contexts. For example, a film that focuses on the culinary arts may use the taste of food as a sensory element to engage the audience.

#### ANALYSIS

In light of the digital revolution in cinema, Christopher Nolan, the highly regarded director of films such as *"Inception," "The Dark Knight Trilogy,"* and *"Interstellar,"* has proven to be an intriguing subject of study. Even though he is well-known for preferring to shoot on film and for being sceptical of digital filmmaking, his influence and body of work yet speak to the larger changes and difficulties that the industry has faced as a result of digital technologies.

**#Technological Ambivalence:** Nolan has made it clear that he prefers making movies on celluloid over those on digital platforms.

Because film stock has a unique appearance and is seen to be better at capturing photographs, he has defended its use. This position could be interpreted as opposition to digital technology taking over the filmmaking industry entirely.

**#Creative Adaptation:** Although Nolan still loves movies, he has made the necessary adjustments to fit the digital age. Even though he loves to shoot on film, he has used digital technologies in several of his films. He has used computer generated imagery (CGI) and digital effects, for example, to improve visual spectacle and narrative in his films, showcasing a practical use of technology.

**#Distribution and Exhibition:** Although Nolan has shown a preference for the cinematic experience and expressed disapproval towards streaming services, he has acknowledged the evolving nature of film distribution. His films have been distributed in a variety of forms, including digital projection, to accommodate a range of viewing tastes and expand their global distribution.

**#Impact on Filmmaking Techniques:** The industry's continuous discussion about the "film vs. digital" controversy has been facilitated by Nolan's popularity and influence. Even as digital technologies advance and become more sophisticated, his support of conventional filmmaking methods has encouraged other directors to investigate the possibilities of celluloid as a medium.

In addition, Nolan frequently explores the nexus between technology and mankind in his films, posing challenging queries concerning the moral and philosophical ramifications of scientific progress. In his "The Dark Knight" trilogy, Christopher Nolan explores the moral conundrums posed by unrestricted monitoring and the use of technology to the fight for justice. In a similar vein, "Interstellar" explores themes of space travel and the existential problems that face humanity in a society growing more and more digitalized.

## DISCUSSIONS

The renowned director Christopher Nolan has both welcomed and questioned the digital revolution in filmmaking. He has skillfully negotiated the rapidly changing technological landscape through his films, all the while upholding a staunch dedication to the art of filmmaking. Examining Christopher Nolan's use of technology in filmmaking, his opinions on the cinematic experience, and his contributions to the ongoing conversation regarding the nexus between artistry and technology are essential when examining the digital revolution through his perspective.

**#The cinematic works of Christopher Nolan are distinguished by their vast tales, complex storylines, and striking visuals. Even with the progress made in digital filmmaking, he has continued to be an ardent supporter of shooting on film wherever feasible. Celluloid is Nolan's preferred material because he thinks it has better texture, depth, and image quality.**

He has talked extensively on how film has a tactile quality and enhances the visual experience emotionally. While pushing the limits of what is possible within the constraints of traditional filmmaking, Nolan's dedication to the medium evokes a sense of nostalgia for those earlier techniques in an era dominated by digital cameras and computer-generated imagery.

**# The painstaking attention to detail that Nolan pays to both the technical and narrative aspects of his films is one of their defining characteristics. Even though he recognizes the advantages of digital editing and visual effects, he continues to be intimately involved in all stages of the filming process, from screenplay development to final edit supervision.**

Regardless of the technological resources at his disposal, he wants to retain creative control and keep the integrity of his vision, which is reflected in his hands-on approach. Frequently delving into intricate topics and philosophical ideas, Nolan's films encourage viewers to participate in



thought-provoking stories that go beyond the spectacular visual effects.

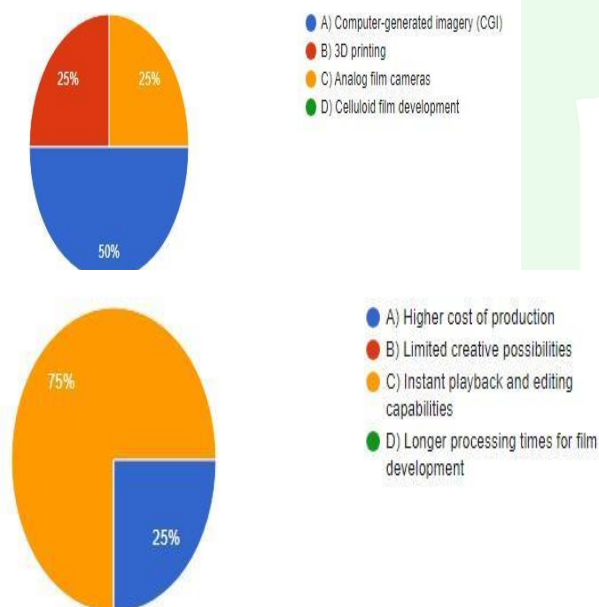
# In "Inception," he explores the nature of reality and the subconscious mind's power, creating mind-bending visuals that conflate dreams and reality with actual effects and stunts. Similar to this, Nolan grounds the plot in themes of love, sacrifice, and the survival of the human spirit in "Interstellar," which depicts space travel and the exploration of far-off worlds through the

combination of cutting-edge visual effects and practical effects.

Even though he prefers to use conventional filming methods, Nolan hasn't hesitated to use digital technology when it helps convey a story. He captured the intensity and scope of the Allied forces' evacuation during World War II in "Dunkirk," with IMAX cameras and digital photography.

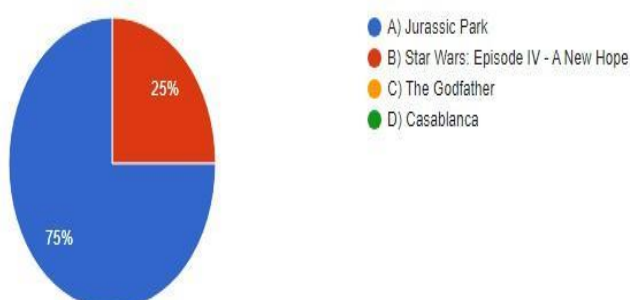
### QUESTIONS AND ANALYSIS

1. What technological advancement marked the beginning of the digital revolution in cinema?

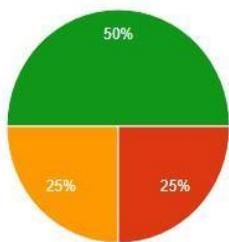


2. Which of the following is a significant advantage of digital filmmaking over traditional analog methods?

3. Which film is often credited as the first to extensively use computer-generated imagery (CGI)?



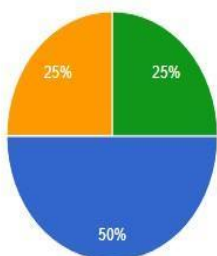




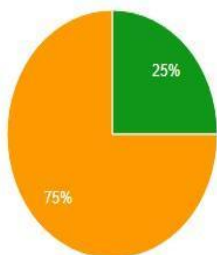
- A) Reduced accessibility to audiences worldwide
- B) Increased reliance on physical media distribution
- C) Expanded reach and availability through online platforms
- D) Limited the variety of films produced

4. How has digital distribution impacted the film industry?

5. What is one way in which digital editing has changed the filmmaking process?

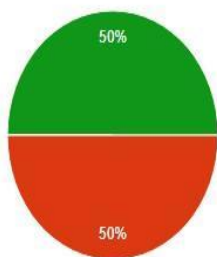


- A) It has made editing more time-consuming.
- B) It has decreased the flexibility of editing choices.
- C) It has enabled non-linear editing, allowing for greater experimentation.
- D) It has increased the need for manual splicing of film reels.

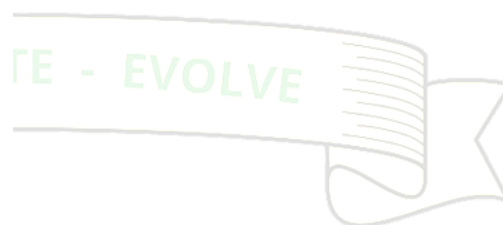


- A) Improved image quality and consistency
- B) Reduced distribution costs for studios
- C) Increased susceptibility to piracy
- D) Easier adaptation to different aspect ratios

6. Which of the following is NOT a benefit of digital projection in cinemas?

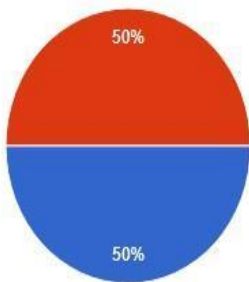


- A) It has decreased audience engagement with films.
- B) It has facilitated word-of-mouth marketing and audience interaction.
- C) It has led to a decline in film attendance.
- D) It has limited the distribution of independent films.



7. What role has social media played in the digital revolution of cinema?

## 8. What is one potential



- A) Enhanced longevity of film prints
- B) Higher costs associated with storage and maintenance
- C) Limited accessibility for future generations
- D) Decreased risk of technological obsolescence

### METHODOLOGY

In order to investigate "The digital revolution through Christopher Nolan," a thorough methodology that integrates qualitative and quantitative methods is necessary. This is a methodical plan:

**Review of the Literature:** Start with a thorough analysis of the body of work already written about Christopher Nolan's movies, with an emphasis on their digital elements. Examine academic publications, novels, interviews, and critical evaluations to comprehend Nolan's methods of filmmaking, technological innovations, and effects on the business.

**Review of the film:** Examine and evaluate Nolan's works, giving particular attention to digital components like CGI, editing, special effects, and photography. Determine any trends, developments, or patterns in the way he uses digital technology in his many films.

**Interviews and Expert Opinions:** To gain insight into Nolan's method of digital filming, speak with critics, academics, and industry professionals. Obtain viewpoints regarding the ways in which Nolan's work has impacted the digital revolution in filmmaking.

**Questionnaires & Surveys:** Create questionnaires or polls aimed at experts, movie buffs, and general public to find out how they feel about Nolan's use of digital filmmaking. Ask them about how Nolan's movies have affected their perceptions of and expectations for digital effects in movies.

**Case Studies:** Choose particular moments or sections from Nolan's movies to study in-depth. Examine the creative choices made in these instances regarding the usage of digital technology, as well as how audiences and reviewers reacted to them.

**Quantitative Data Analysis:** To measure the impact and reception of Nolan's digital filmmaking, apply statistical analysis. To evaluate the success, use indicators like box office results, audience ratings, accolades received, and critical evaluations.

**Analytical Comparison:** Examine Nolan's and other modern directors' approaches to digital filmmaking. Determine the parallels, divergences, and original contributions that set Nolan's work apart in the digital space.

**Moral Aspects to Take into Account:** Make sure that data collection, processing, and reporting adhere to ethical standards, particularly when it comes to sensitive or human subjects. Obtain the required authorization before using any copyrighted works, and make sure to properly credit your sources.

**Synthesis and Interpretation of Data:** Integrate the results of all research techniques to get a thorough grasp of Christopher Nolan's digital revolution. Analyze the information in the context of current ideas and discussions on digital media and film studies.

### CONCLUSION

Finally, this dissertation has examined the digital revolution in filmmaking via the perspective of Christopher Nolan's body of work. Several significant conclusions have been drawn from a

thorough examination of Christopher Nolan's films, which include "Inception" and "Dunkirk," using a range of research techniques such as cinema analysis, interviews, and archive research.

First of all, it became clear that Christopher Nolan had successfully negotiated the digital revolution by combining a distinctive style of old-fashioned filmmaking with cutting-edge technological applications. Nolan has stayed dedicated to shooting on film whenever possible, claiming its higher image quality and tactile character, despite the widespread use of digital technologies in modern cinema. But when it comes to producing stories, he has also embraced digital technology, as evidenced by the way he uses IMAX cameras and special effects in movies like "Dunkirk." Second, Nolan's movies demonstrate how technology and storytelling are changing together.

Even though his stories frequently deal with difficult subjects and philosophical ideas, the incorporation of state-of-the-art special effects and useful filmmaking methods heightens the immersive quality of his storytelling. As evidenced by the fighting in "Dunkirk," Nolan's films show how technology can drastically alter the way that movies are experienced.

Additionally, this dissertation has clarified the wider ramifications of the digital revolution in film for both consumers and filmmakers. Aspiring filmmakers are now more equipped to actualize their artistic ambitions thanks to the democratization of filmmaking technologies, while digital distribution channels have increased access to a wider range of cinematic voices. Nonetheless, issues like technical obsolescence and piracy still exist, underscoring the necessity of ongoing discussion and innovation in the sector.

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## PRIVACY CHALLENGES IN TELECOMMUNICATION ACT 2023: A COMPARATIVE LEGAL ANALYSIS

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### Abstract

In December 2023, the anticipated Telecommunication Act 2023 was executed, prioritising the development of a strong security framework to protect essential mobile networks from cyber threats and unauthorised access. Telecommunication networks, being prime targets for cybersecurity threats, necessitate stringent data protection measures to mitigate risks effectively. This research emphasizes procedural shortcomings identified by the various judicial trends and examines instances such as Section 66A of the Information Technology Act and that its use in cyber weapons like Pegasus<sup>1999</sup> exceeds the authority, falling into the realm of hacking, a criminal offense and essentially an attack on the basic right of one's privacy which is an integral part of Right to life. It is imperative to ensure that data processed within the telecommunications domain adheres strictly to prevailing data protection laws. This includes obtaining explicit authorization for any deviations from compliance and ensuring that all processing activities align with principles of legitimacy, necessity, and proportionality.



<sup>1999</sup> Nilesh Navalakha v. Union of India, 2021 SCC OnLine Bom 56



## I. Introduction

In this digital age data is the new oil, it has been proven to significantly change the way of human's psychology into making them do whatever and buy whatever given if the human data is controlled in a manner that lets you control this human behaviour. Therefore, data is more relevant than any money.<sup>2000</sup>

The absence of a data protection laws in India had left a void in terms of oversight until, efforts were underway, as reflected in the Justice B.N. Srikrishna Committee Report of 2018, which has led to the drafting of a Data Protection Bill currently under consideration by the Joint Parliamentary Committee. This suggested legislation envisions the establishment of a Data Protection Authority (DPA) as an independent regulatory body responsible for enforcing and implementing data protection laws effectively and was a major driving force for the India's first data protection law implemented in August 2023.

In the light of various issues in relation to the research gap herein the application of new Section 69A of the IT Act granted the Central Government the power to restrict public access to information on computer resources. This authority extended to ordering agencies to block material stored on such resources. In the case of *Shreya Singhal v. Union of India*, the Supreme Court validated Section 69As constitutionality. However, experts advocate for greater transparency and accountability regarding Internet shutdowns.

The nature of data protection laws is indeed a critical aspect in today's digital age, especially considering the rising incidents of identity theft, ATM skimming, and phishing. These crimes exploit vulnerabilities in digital systems and often result in significant financial losses and privacy breaches for individuals. Conventional cyber laws, such as the Information Technology Act, 2000, and the Penal Code, 1860, have

struggled to keep pace with the complexities of cybercrimes, leading to gaps in legal frameworks and enforcement mechanisms.

Cybersecurity threats like Aadhaar data leaks highlight the need for robust identity protection mechanisms and citizen awareness. According to recent data, a notable percentage of respondents have experienced non-consensual pornography, where their intimate images or videos were shared without their consent, leading to misuse and victimization. Additionally, instances of doxing have been reported, with perpetrators publicly sharing personal information to cause harm or embarrassment to individuals. The manipulation and sharing of original photos online, along with the unauthorized posting of images from social media platforms with malicious intent, further highlight the risks faced by individuals in maintaining their privacy in the digital realm.<sup>2001</sup>

Over 60 digital rights establishments, including Firefox, consider this bill poses a grave danger to our fundamental rights, democracy, and the existing internet landscape. They urge its withdrawal and modification to address these issues, as it would establish standards on encryption and data processing without limitations, creating uncertainties for service providers in offering robust encryption and fostering privacy-respecting innovations. In the same predicament, there may be a valid motivation to revise colonial-era laws elsewhere. The recent attempt to overhaul the BNS bill and now BNS II has also brought about multiple improvements, albeit with persisting ambiguities. Ambitious tasks are bound to take up a long time and hastily pursuing legislative processes for political gain may have lasting consequences for citizens. While some may perceive the extensive curtailment as the lowest ebb, it becomes crucial to recognize that the resulting consequences pose a threat that

<sup>2000</sup> Abhimanshi Singha, Democracy is in Blood and Pegasus holds the Smoking Gun, 2 JCLJ 1215 (2022).

<sup>2001</sup> Dr. Sheetal Arora & Poonam Yadav, Victimization of Females in Cyberspace - A Study on Females Enrolled in Higher Education Institutions in India, 2 JCLJ 412 (2022).

looms larger over the very fabric of our Constitution.

### A. Legislative Background

The Telecommunications Bill of 2023, represents a significant change of India's telecommunications regulatory framework. One of its key objectives is to repeal outdated legislation such as the Indian Telegraph Act of 1885, the Indian Wireless Telegraphy Act of 1933, and the Telegraph Wires (Unlawful Possession) Act of 1950. These laws, being relics of a bygone era, no longer adequately address the complexities and challenges of the modern telecommunications landscape.

By repealing these old acts, the new bill aims to streamline and modernize regulatory processes, making them more adaptable to the rapidly evolving technologies and services in the telecommunications sector. This move reflects a proactive approach to ensure that India's regulatory framework remains relevant, efficient, and conducive to fostering innovation and growth in the telecommunications industry.

The historical framework of India's telecommunications sector spans from 1885 to 2023, characterized by significant legal milestones and regulatory changes that have shaped the industry's evolution.

The recent repeal of the Telegraph Wires (Unlawful Possession) Act, 1950, by the Repealing and Amending Act of 2023 underscores the importance of regulatory adaptability in response to changing technological landscapes. This repeal reflects a broader trend of updating and modernizing outdated laws to align with contemporary needs and challenges in the telecommunications sector.

In terms of regulatory authorities, the Telecom Regulatory Authority of India (TRAI) Act of 1997 was instrumental in tariff regulation and established bodies such as TRAI and the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). However, the licensing authority remained vested in the central

government, highlighting the division of regulatory responsibilities between governmental and quasi-judicial bodies.

Now in December 2023, the highly anticipated Telecommunication Act 2023 was implemented, prioritising the development of a strong security framework to protect essential mobile networks from cyber threats and unauthorised access. While the Digital Personal Data Protection Act was passed in early August of 2023. The act is expected to come into force in 2024 through a government notification.

The inception of major activities in establishing the telecommunication system in India marked a pivotal moment, leading to the formulation of the National Telecom Policy in 1994. Envisaging telecommunication accessible to all, the policy aimed at achieving world-class service quality, resolving consumer complaints, and positioning India as a significant manufacturing and exporting hub for telecom equipment. As a response to growing needs, the separation of regulatory functions from the service-providing functions of the Department of Telecommunication (DOT) became imperative.

This necessitated amendments to the old Indian Telegraph Act of 1885, leading to the conceptualization of the Indian Telegraph (Amendment) Bill, 1995. Despite its preparation, the Bill did not materialize, paving the way for an independent regulatory body. Subsequently, the Telecom Regulatory Authority of India (TRAI) Bill, 1995 was drafted but replaced by an ordinance in 1996 due to delays in parliamentary consideration. The regulatory journey continued with the introduction of the Telecom Regulatory Authority of India Bill, 1996, and subsequent amendments based on recommendations from the Standing Committee of the Parliament.

The culmination of these legislative endeavours resulted in the enactment of the TRAI Act, 1997, signifying a commitment to regulating telecommunication services in India. The Act addressed crucial aspects, including defining licensees and service providers, outlining

qualifications and functions of the Authority, and ensuring compliance with terms and conditions of licenses. The TRAI was entrusted with advising the Central Government on licensing matters, determining the introduction of new service providers, monitoring services, and conducting surveys to maintain prescribed standards of quality.

## II. Telecommunication Act & its Consequences

The Telecommunications Act of 2023 in India represents a significant overhaul of the regulatory framework governing the telecommunications sector. One of its notable aspects is the replacement of several outdated acts, including the Indian Telegraph Act of 1885, the Indian Wireless Telegraphy Act of 1933, and the Telegraph Wires (Unlawful Possession) Act of 1950. This consolidation streamlines the legal landscape and brings about more cohesive and modernized regulations. Under the Telecommunications Act, the central government is entrusted with the authority to provide authorization for telecom-related activities and assign spectrum. This marks a shift towards a more centralized approach in managing telecom operations and ensuring efficient spectrum allocation, tailored to the specific needs of various telecommunications services.

The Telecom Act, with its emphasis on prior authorization from the central government for providing telecommunication services and operating telecommunications networks, plays a pivotal role in ensuring regulatory oversight and compliance with established standards and regulations. This authorization requirement serves as a mechanism to maintain control over the telecommunication sector, promoting transparency and accountability in the provision of services.

Likewise, the Act provides continuity and stability for existing telecom operators by recognizing the validity of licenses granted under previous regulations for their designated periods or up to five years. This provision allows for periodic reviews and updates, ensuring that

telecom operations evolve in line with industry norms and technological advancements while maintaining regulatory coherence.

In terms of spectrum allocation and usage, the Act adopts an auction-based approach for allocating spectrum, except for specific purposes such as national security, disaster management, and satellite services. This approach aims to promote efficient spectrum utilization and management by allocating spectrum resources to entities that can utilize them optimally. Additionally, the Act empowers the government to re-purpose frequency ranges and allows for spectrum sharing, trading, leasing, and surrender, further enhancing spectrum management practices.

The Act also grants the government necessary surveillance and suspension powers to intercept, monitor, or block messages on specified grounds related to public safety or emergencies. This includes the ability to suspend telecom services and take temporary possession of infrastructure during public emergencies, ensuring that national security and public safety measures can be implemented effectively and swiftly.

The Act further addresses regulatory standards by empowering the central government to prescribe standards for telecom equipment and infrastructure. This provision aims to ensure the quality, reliability, and interoperability of telecom services within the ecosystem. Additionally, amendments to the TRAI Act, 1997, provide criteria for the appointment of TRAI chairpersons and members, allowing experienced individuals from various sectors, including the private sector, to contribute to regulatory decision-making and policy formulation. The Act even introduces measures such as the Digital Bharat Nidhi (formerly the Universal Service Obligation Fund), which can be utilized for research and development initiatives, promoting digital inclusion and innovation. Additionally, the Act excludes over-the-top (OTT) services, indicating that their regulation falls under potential separate legislation, such as the Digital India Act, 2023.



*This highlights the evolving regulatory landscape for digital services and the need for comprehensive legislative frameworks to address emerging challenges in the digital sphere.*

*To conclude, the Act specifies criminal and civil offences related to the unauthorized provision of telecom services and breach of terms, along with corresponding penalties ranging from fines to imprisonment. These penalties are enforced through adjudication overseen by designated officers and committees, ensuring accountability and deterrence against illegal activities in the telecom sector.*

*One of the key provisions of the Act pertains to interception, where the procedure and safeguards are mandated to be prescribed by the Central Government. This signifies a structured and regulated approach to interception activities, aiming to balance security concerns with individual privacy rights. The inclusion of stringent punishment for violators further reinforces the seriousness with which interception activities are viewed under the Act, ranging from three years' imprisonment to hefty fines of up to 50 lakh rupees.*

### **A. State Surveillance**

In recent years, the rapid advancement of technology has led to a substantial reduction in global distances, facilitating instant communication across vast distances through various digital means. The Telecommunications Bill, 2023, reflects a shift in India's telecom regulatory landscape to address modern challenges. However, concerns have been raised about provisions allowing interception and monitoring of communications, potentially compromising privacy rights. The Bill's broad definition of "public interest" and exemptions for certain entities raise further privacy concerns. Additionally, the Bill lacks provisions to address surveillance issues adequately. This technological progress has also brought to the forefront a critical issue concerning privacy and surveillance, particularly in the context of wiretapping or phone tapping by governments and law enforcement agencies.

*Phone tapping and interception have long been contentious issues, especially concerning the legal framework and safeguards in India. The Indian Telegraph Act, 1885, particularly Section 5(2), has been a focal point of debate regarding the substantive and procedural safeguards necessary for lawful interception. The recent case in Telangana involving the arrest of a deputy superintendent of police for alleged phone tapping serves as a relevant case study to understand these legal complexities and challenges. Starting with substantive safeguards, the Court's acknowledgment of the necessity for procedural laws alongside substantive requirements is crucial. While Section 5(2) itself was not deemed unconstitutional, the absence of proper procedural safeguards renders the substantive provisions vulnerable. Section 25 of the Telegraph Act provides substantial safeguards by imposing penalties, including imprisonment, for unauthorized interception, emphasizing the gravity of such actions.<sup>2002</sup>*

*The sections discussed in the Telecom Act that impact privacy laws include provisions related to interception, monitoring, and blocking of communication by state instrumentalities on grounds such as national security, public order, and prevention of incitement to offenses. These provisions are outlined under the Bill's powers of interception and search. It mandates telecom service providers to verify subscriber identity through biometric-based identification, which raises concerns about privacy infringement and compliance with fundamental rights to privacy. The provisions for suspending telecom services in specific areas based on security grounds also have implications for privacy, as they could lead to broader surveillance and monitoring of communications.<sup>2003</sup>*

### **B. The Takeover**

One of the most debated aspects of the provisions regarding interception, monitoring,

<sup>2002</sup> Dhriti Kawale, Wiretapping in India: Understanding its Laws and Implications, 4.2 JCLJ (2023) 581

<sup>2003</sup> KP Singh, Strike a balance between surveillance and privacy, The Tribune (December 25, 2023), <https://www.tribuneindia.com/news/comment/strike-a-balance-between-surveillance-and-privacy-575077>.



and blocking of communications. The Act empowers state instrumentalities to undertake such actions on specified grounds related to national security, public order, friendly relations with other countries, and prevention of incitement to offences. While these powers are crucial for safeguarding critical interests, concerns have been raised regarding potential misuse and overreach.

The entire take-over of the telecommunication network from an authorized entity in itself possesses grave danger. It is well developed notion that the ambition at the end is to strike a better balance between protecting individual privacy and ensuring security measures.<sup>2004</sup> But, it is clear that this possesses an unequivocal danger to the privacy of any citizen when such takeover has taken place by the government. Certain safeguards have to be taken into account or else otherwise, it devolves into an Orwellian narrative of autocratic control. The takeover of telecommunication networks by unauthorized entities represents a significant peril.

The right to privacy, which is intricately linked with the right to life and personal liberty under Article 21, faces significant challenges in such situations. The government's ability to take control of telecommunication services and networks can lead to intrusive surveillance and monitoring of individuals' communications, thereby violating their privacy rights. This becomes especially concerning when there are insufficient safeguards in place to prevent abuse of power or misuse of data collected during such takeovers. The lack of transparency and accountability in these processes further compounds the threat to privacy rights. Without clear guidelines and oversight mechanisms, there is a risk of unchecked government surveillance, undermining citizens' trust in the state's ability to protect their privacy and uphold their constitutional rights.

<sup>2004</sup> Daniel J. Solove, Nothing to Hide: The False Tradeoff Between Privacy and Security (2011)

### III. Judicial Trends over Surveillance

In the case of *Manohar Lal Sharma vs. Union of India and Ors.*<sup>2005</sup>, the Supreme Court of India delved into allegations concerning the potential infringement of Indian citizens' right to privacy through the use of spyware technology. This case specifically focused on the Pegasus suite of spyware developed by the NSO Group, an Israeli technology firm.

The scrutiny of this case sheds light on the critical need for robust safeguards to protect privacy rights in the digital age. Spyware technologies like Pegasus raise serious concerns regarding unauthorized surveillance, intrusion into private communications, and the potential misuse of personal data. Such activities, if left unchecked, can significantly undermine individuals' right to privacy, as recognized under Article 21 of the Indian Constitution.

*Moving on to procedural safeguards, the past decade has seen numerous scandals related to phone tapping, leading to political controversies and public outcry. The People's Union of Civil Liberties (PUC) filed a Public Interest Litigation (PIL) seeking clarity on electronic tapping laws, specifically challenging the arbitrary powers granted by Section 5(2). The alteration made in 1971 expanded interception powers beyond emergencies, raising concerns about privacy and misuse of authority. The Telangana case emphasizes the practical challenges and potential misuse of interception powers. It raises questions about the adequacy of existing safeguards and the necessity for comprehensive legislative oversight. The formation of an elite committee post the PUC case reflects efforts to address legality concerns, yet the effectiveness of such measures remains debatable.*<sup>2006</sup>

Another viewpoint is pivotal in the context of internet shutdowns and fundamental rights

<sup>2005</sup> *Manohar Lal Sharma v. Union of India*, 2021 SCC OnLine SC 985= AIR 2021 SC 5396

<sup>2006</sup> Sreenivas Janyala, As Telangana phone tapping case unravels, ex-intel bureau chief is named as prime accused, *The Indian Express* (March 31, 2024), <https://indianexpress.com/article/cities/hyderabad/telangana-phone-tapping-case-unravels-ex-intel-bureau-chief-prime-accused-9233209/>.

wherein the Apex Court reaffirmed that Article 19 of the Constitution protects the freedoms of speech, expression, and online engagement in professions or trade. It emphasized that any restrictions on these rights must adhere to the constitutional provisions outlined in Articles 19(2) and 19(6).<sup>2007</sup>

And again the Apex Court recognized the importance of 4G internet services for various activities, including communication, education, business, and access to information.<sup>2008</sup> *The court recognized the legitimate concerns regarding national security and public order that Section 69A seeks to address but emphasized the need for transparency, accountability, and procedural safeguards in its implementation but, Section 66A was struck down because it was vague and over-reached the citizen's fundamental right, leading to potential misuse and violation of freedom of speech and expression as guaranteed under Article 19(1)(a) of the Indian Constitution. The court found that Section 66A was not narrowly tailored and could encompass a wide range of legitimate speech, leading to arbitrary censorship and chilling effects on free speech.*

### A. Eminent Test of Proportionality

As formulated in *Gujarat Mazdoor Sabha v. State of Gujarat*<sup>2009</sup> and *Ramesh Chandra Sharma v. State of Uttar Pradesh*<sup>2010</sup>, the critical role of proportionality in assessing and discerning the constitutionality of state actions that infringe upon fundamental rights. The doctrine of proportionality serves as a safeguard against potential abuses and ensures that state measures are in line with the principles of fairness, necessity, and balance with individual rights. Under the proportionality test, as outlined in *Modern Dental College and Research Centre v. State of Madhya Pradesh*<sup>2011</sup>, any restriction on fundamental rights must

satisfy the three-pronged test of necessity, suitability, and proportionality. This means that the restriction must be necessary to achieve a legitimate aim, must be suitable to achieve that aim, and must be proportionate, ensuring that the restriction is not excessive or disproportionate to the goal sought to be achieved.

Present date rulings have essentially attributed to Justice KS Puttaswamy v. Union of India, wherein the author's dissenting opinion stands out for its cogent analysis, particularly in declaring the right to privacy as a fundamental right and finding the Aadhaar Act ultra vires of the Constitution.<sup>2012</sup> Absolute control over networks may not satisfy the proportionality test outlined by Justice Puttaswamy. The unrestricted authority to monitor and control communications may not be necessary, suitable, or proportionate to achieving legitimate aims such as national security or public order. This raises concerns about overreach by the state and the potential for disproportionate restrictions on privacy rights. Granting absolute control over telecommunications networks to the government poses a grave threat to privacy rights. Such control can lead to intrusive surveillance, monitoring of communications, and potential breaches of individuals' privacy without adequate safeguards. This contravenes the principles laid down by Justice Puttaswamy regarding the fundamental nature of the right to privacy.

### IV. Conclusion

Ever since the Pegasus spyware case, allegations of snooping have arisen. Aadhaar data leaks and other compromised databases reveal a troubling disregard for privacy. These leaks have undermined our privacy across the spectrum, and the gravity of its insinuation is unfathomable. Policymakers have consistently displayed negligence in addressing data protection laws, and it is imperative to establish safeguards that align with our requirements.

<sup>2007</sup> Anuradha Bhasin v. Union of India, (2020) 3 SCC 637

<sup>2008</sup> Foundation of Media Professionals v. Union Territory of Jammu & Kashmir, (2020) 3 SCC (Cri) 194

<sup>2009</sup> Gujarat Mazdoor Sabha v. State of Gujarat, (2020) 10 SCC 459

<sup>2010</sup> State of U.P. v. Ramesh Chandra Sharma, (1995) 6 SCC 527

<sup>2011</sup> Modern Dental College and Research Centre v. State of Madhya Pradesh (2016) 7 SCC 353

<sup>2012</sup> K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1

This lack of concern dramatically devalues our privacy, especially when juxtaposed with nations like the USA that exhibit heavy penalties and maintain a zero-tolerance stance towards the violation of their citizens' privacy in any regard. Against this backdrop, the revelations of surveillance through Pegasus and many other instances internationally not only raises individual privacy concern but also poses a significant threat to press freedom under the umbrella of free speech. In the digital age, data has become a crucial asset, comparable to oil in its value and significance. However, with the rapid accumulation of data through various government schemes and private sector initiatives, India faces significant challenges in ensuring data protection and establishing robust oversight mechanisms.

The recent controversies surrounding TikTok in the United States underscore a significant and growing tension between national security interests and the principles of a free, open market. TikTok, a Chinese-owned viral video-sharing platform, has been targeted by U.S. authorities over concerns that its data could be accessed by the Chinese government, potentially leading to espionage or manipulation. The Trump administration, citing national security threats, made aggressive moves to ban the app unless its Chinese owners divested their stakes in its U.S. operations. This action sparked a broad debate regarding the implications for free speech, competition in the tech industry, and the concept of the 'splinternet'—a fragmentation of the global internet.<sup>2013</sup>

Parallel to the TikTok issue, another significant case involves Huawei, the Chinese telecommunications giant, which has faced intense scrutiny from the U.S. and other Western governments. Huawei has been accused of potentially facilitating backdoor access for the Chinese government through its

telecommunications equipment. This concern is particularly acute given the role Huawei plays in the development of global 5G networks, which promise not only faster cellular service but also the capacity to connect more devices than ever before in the so-called Internet of Things.<sup>2014</sup>

The U.S. government has taken several steps to mitigate this threat, including banning Huawei from its communications networks and urging its allies to do the same. The fear is that the company could install backdoors in its network equipment that could be used for spying or cyber sabotage. In September 2020, the U.S. Department of Justice unsealed indictments against five Chinese nationals associated with global hacking campaigns that compromised more than 100 companies worldwide, illustrating the broader concerns of cybersecurity tied to Chinese firms, including Huawei.

Upholding data protection principles, including data minimization, transparency, and accountability, is essential for maintaining trust, protecting privacy, and mitigating cybersecurity risks within the telecommunication sector. The recent developments in the telecom sector, underline the standing of aligning data protection principles with telecom practices. The case discussions regarding government takeovers of telecommunication networks and allegations of privacy violations through spyware technologies accentuate the delicate balance required between security measures and privacy rights. In conclusion, while India's proposed data protection Bill is a step forward, it falls short in ensuring comprehensive privacy protection. Revisions are needed to strengthen data protection measures and address privacy concerns effectively.

The telecommunications sector plays a pivotal role as a catalyst for economic and social progress, serving as the primary gateway to digital services in today's interconnected world. The safety and security of telecommunication networks are paramount, as they underpin not

<sup>2013</sup> Wang, Jufang. "From banning to regulating TikTok: Addressing concerns of national security, privacy, and online harms, (2020).

<sup>2014</sup> Williams, Robert D. "Beyond Huawei and TikTok: Untangling U.S. Concerns over Chinese Tech Companies and Digital Security, (2020).





just economic activities but also crucial aspects of national security. Therefore, establishing the right legal and regulatory framework is imperative to ensure a safe and secure telecommunication environment that fosters digitally inclusive growth.

Central to this framework is safeguarding users' sensitive personal information throughout the data processing lifecycle. With the increasing digitalization of services and transactions, protecting this information from misuse or unauthorized access is of utmost importance to maintain trust and confidence in digital platforms. A competitive landscape is vital for innovation and customer choice. Any new player entering the services market must have non-discriminatory and non-exclusive access to infrastructure on a commercial basis. This approach encourages healthy competition and prevents monopolistic practices, ultimately benefiting consumers and driving innovation.

A unified vision and concerted efforts by the government of India are crucial to bring synergies across various aspects of the telecommunications sector. This includes harmonizing licensing frameworks, setting robust standards, enhancing skilling initiatives, and establishing effective governance mechanisms. A cohesive approach across different departments ensures efficient and effective regulation, promotes industry growth, and contributes to India's digital transformation journey.





## EXPLORING THE LEGALITY OF LIVE IN RELATIONSHIP IN INDIA WITH NEED AND CHALLENGES (AN OVERVIEW)

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### INTRODUCTION

In today's rapidly evolving world, technological and industrial progress has been occurring at an unprecedented rate over the past few decades, profoundly transforming every aspect of our lives. Globalization has further accelerated these changes, impacting nearly every facet of our social existence, including family structures, marriage, and intimate relationships. Marriage, traditionally recognized both legally and socially as the formal union between couples, holds significant cultural importance in our society, where social bonds are particularly strong.

Historically, living together outside of marriage has been stigmatized and uncommon in our culture. However, recent times have witnessed a rapid shift in societal norms, with couples increasingly choosing to cohabit without formalizing their relationship through marriage. These cohabiting arrangements, whether temporary or long-term, are referred to as live-in relationships. Such relationships are characterized by continuous cohabitation over a significant period between partners who are not legally married but share a common household.

In India, there is no specific legislation, social norms, or customs governing live-in relationships. As a result, the Supreme Court has played a vital role in clarifying and defining the legal framework surrounding these relationships through various judgments, issuing guidelines to address the legal aspects involved. This article aims to review the Supreme Court's decisions over time and delineate the current legal stance on live-in relationships. Additionally, it explores the psychosocial dimensions of these relationships, shedding light on their implications beyond the legal realm.

Living together in a relationship between consenting adults is not illegal under Indian law. In the 2006 case of "*Lata Singh v. State of U.P.*"<sup>2015</sup> it was determined that while a live-in relationship between two consenting adults of opposite sexes might be seen as immoral, it doesn't constitute an offense under the law. Similarly, in the case of "*Khushboo vs Kanaimmal and another*"<sup>2016</sup> the Supreme Court emphasized that although society might view live-in relationships as immoral, they are not illegal in the eyes of the law. The right to live together is considered a fundamental right and cannot be deemed illegal.

If a live-in relationship endures for an extended period and the couple presents themselves to society as spouses, they may be recognized as legally married. This principle was established as far back as 1978 in the case of "*Badri Prasad Vs Deputy Director Consolidation*"<sup>2017</sup> where it was noted that a strong presumption of marriage arises when a couple lives together for a considerable time as husband and wife. However, this presumption can be rebutted, but

<sup>2015</sup> AIR 2006 SC 2522

<sup>2016</sup> Criminal Appeal No 913 of

2010 S

<sup>2017</sup> 1978 AIR 1557,

the burden of proof lies heavily on the party seeking to deny the relationship's legal status.

Furthermore, in cases such as "**SPS Balasubramanian Vs Suruttayan**"<sup>2018</sup> it was determined that if a man and woman cohabit as spouses for an extended period, the law presumes them to be legally married unless proven otherwise. Children born from such relationships are entitled to inherit from their parents' property.

However, if the relationship is solely based on sexual reasons, neither partner can claim the benefits of a legal marriage, as seen in the case of "**Indra Sarma vs VKV Sarma**"<sup>2019</sup>. Prior to 2018, domestic cohabitation with a married woman constituted the criminal offense of adultery for the man under Section 497 of the Indian Penal Code. This section was struck down by the Supreme Court in the case of "**Joseph Shine vs Union of India**"<sup>2020</sup> in 2018, as it was deemed discriminatory and unconstitutional.

Although adultery is no longer a criminal offense, cohabitation with a married person may still be grounds for divorce, irrespective of gender. Similarly, prior to 2018, cohabitation with sexual relations between same-sex partners was considered a crime under Section 377 of the IPC. However, the Supreme Court overturned this in the case of "**Navtej Singh Johar vs Union of India**"<sup>2021</sup> declaring it unconstitutional to criminalize consensual homosexual acts between adults. While consensual homosexual acts are now legal, same-sex marriages are not recognized in India, although performing a symbolic ceremony is not prohibited.

To be recognized as "in the nature of marriage," the Supreme Court, in the case of "**D.**

**Velusamy and D. Patchaimal**,"<sup>2022</sup> established certain conditions:

1. The couple must present themselves to society as akin to spouses.

2. They must be of legal age to marry.

3. They must meet the qualifications for legal marriage, including being unmarried.

4. They must have willingly lived together and presented themselves as spouses for a significant period.

However, in "**Indra Sarma vs VKV Sarma**" the Supreme Court clarified that not all live-in relationships qualify as relationships in the nature of marriage. In this specific case, it was determined that the appellant, being aware that the respondent was married, couldn't have entered into a live-in relationship akin to marriage. The court emphasized that such relationships lack the inherent characteristics of marriage and are different in nature.

The court made several observations regarding such relationships:

- They may endure for an extended period, leading to dependency and vulnerability, especially for women and children born from these relationships.

- While acknowledging the personal nature of such relationships, the legislature must address the need for adequate protection, without promoting premarital sex.

- Parliament needs to consider these issues and enact appropriate legislation or amend existing laws to protect women and children born from such relationships, even if they don't qualify as marriages.

It's important to note that Sections 494 and 495 of the Indian Penal Code prohibit marriage during the lifetime of a spouse and deem it punishable unless permitted by personal law. Therefore, a live-in relationship involving a married individual cannot be recognized as "in the nature of marriage" as it's explicitly prohibited by law. However, children born from such relationships, though not considered legitimate, are entitled to certain rights as outlined below.

<sup>2018</sup> AIR1992SC756

<sup>2019</sup> (2013) 15 SCC 755

<sup>2020</sup> AIR 2018 SUPREME COURT 4898

<sup>2021</sup> AIR 2018 SUPREME COURT 4321

<sup>2022</sup> AIR 2011 SUPREME COURT 479

## LITERATURE REVIEW

Cohabitation is described as a close, sexual relationship between two individuals who are not married but reside together in the same household for an extended period (Bacharach et al., 2000). The surge in cohabitation marks a significant shift in partnership patterns across various developed and developing nations. This increase in cohabitation coincides with other notable demographic changes, such as higher divorce rates and delays in marriage and childbirth (Coast, 2009). While research on cohabitation was scarce until the late 1980s, its prevalence has substantially grown in recent years (Smock, 2000).

In addition to tracking cohabitation trends, much research explores its implications, including whether it serves as a precursor or alternative to marriage, its impact on forming and ending relationships, and its effects on children and childbearing (Hatch, 1995; Smock, 2000). Only recently have scholars started investigating aspects like relationship dynamics and quality within cohabiting partnerships (**Brown & Booth, 1996; Brown, 2003**).

Despite some similarities, significant differences between cohabiting and marital relationships have been observed. Previous studies generally indicate lower levels of commitment and relationship satisfaction among cohabiting couples compared to married ones (e.g., **Brown, 2003, 2004; Stanley, Whitton & Markman, 2004; Hansen, Moum & Shapiro, 2007**).

Numerous studies have examined relationship quality, with the majority indicating that married individuals tend to report higher satisfaction with their relationships compared to cohabiting partners (e.g., **Brown & Booth, 1996; Brown, 2003, 2004; Stanley et al., 2004**). Nock (1995) observed lower levels of commitment among cohabiting couples compared to married ones. Additionally, Stanley et al. (2004) found that currently married individuals, in comparison to cohabiting partners without definite plans for marriage, displayed significantly higher levels of

dedication to their relationships, indicating a greater desire to prioritize the relationship.

On average, cohabiting individuals tend to report lower levels of commitment to their relationships, reduced happiness, diminished satisfaction with their sex lives, and more frequent disagreements when compared to married couples (**Nock, 1995; Waite, 1995; Brown & Booth, 1996**).

Research on cohabitation in India has been scarce, mainly limited to non-representative surveys and opinion-based articles. The reluctance of cohabiting individuals to openly discuss their relationships may contribute to this lack of research. Despite the introduction of laws regarding domestic violence and property rights, there hasn't been a significant shift in societal attitudes toward cohabitation. According to Kojima (as cited in **Times of India**, November 2010), when comparing cohabitation in East Asia and the West, it's suggested that cohabitation might become more prevalent in major Indian cities with further economic growth and evolving social norms. Kojima noted that the rapid economic development in mega cities like those in coastal China, coupled with India's democratic political system, could lead to even faster changes in social norms and values in Indian cities.

The Scandinavian countries, such as Norway and Sweden, are often highlighted as examples of nations where cohabitation is widely accepted and regarded as nearly equivalent to marriage (**Wiik, Keizer, & Lappegard, 2012**). In these countries, cohabitation is prevalent and socially acceptable, with public policies treating it similarly to marriage. In contrast, Southern and Eastern European countries tend to have lower rates of cohabitation compared to Scandinavia and may view this living arrangement differently (**Wiik, Bernhardt, & Noack, 2009**).

Considering the diverse perspectives on cohabitation across the globe, research in this area should extend beyond simply measuring its prevalence and comparing it to marital



relationships. Cohabitation warrants recognition as a distinct and separate phenomenon. To gain a deeper understanding, there is a pressing need for more extensive research on cohabitation in countries like India, where despite its increasing prevalence, it remains culturally unacceptable. Cohabitation has become integrated into existing family systems, but researchers should approach this topic with caution.

Moreover, as typologies of cohabitation continue to evolve, reflecting broader changes in living arrangements, ongoing research efforts are essential (*Haskey, 2001; Martin and They, 2001*). This evolving understanding of cohabitation will contribute to a more comprehensive grasp of contemporary family dynamics and social norms (Coast, 2009).

### **NEED AND CHALLENGES**

The concept of a live-in relationship may be considered objectionable and novel in India, but it is gaining traction worldwide. In today's contemporary lifestyle, influenced in part by the rapid spread of globalization, many people are reluctant to commit to traditional, long-term relationships. Instead, they are opting for voluntary partnerships based on a broader understanding of domestic cohabitation, recognition of pre-nuptial agreements, and greater tolerance towards diverse sexual preferences. The Protection of Women against Domestic Violence Act, 2005 was a welcome initiative in India to extend protection against violence to women in non-marital relationships. However, the Act's criteria for determining the legal validity of a relationship as a "relationship in the nature of marriage" based on the fulfillment of legal formalities has raised concerns. This criterion may exclude many relationships from being recognized as marriages and deny women involved in these relationships their rights and entitlements associated with marriage. Furthermore, the Act's criteria may lead to judges imposing specific forms of marriage solemnization as legally valid forms, curtailing individuals'

freedom to choose custom-based or other forms of marriage. This is problematic, given that the Indian legal system recognizes diverse forms of marriage, and individuals have the right to choose the form that best suits their cultural and social practices.<sup>2023</sup>

### **CHALLENGES**

Below are some highlighted challenges that comes in between live-in relationships:

#### **1) BREAKING DOWN OF MARRIAGE INSTITUTION**

The institution of marriage is a recognized social union or legal contract between individuals, establishing kinship ties. It encompasses various interpersonal relationships, often intimate and sexual in nature, and is observed in diverse ways across different cultures and subcultures. Typically formalized through a wedding ceremony, marriage is also referred to as matrimony. In contrast, a live-in relationship lacks the formal recognition and legal standing of marriage, involving the cohabitation of two individuals without the formalities of matrimony.

Marriage fosters a bond between a man and a woman, providing a sense of security, particularly for any children resulting from the union. It is seen as a foundational institution for family structure and societal stability. Critics argue that promoting live-in relationships may undermine the sanctity and value traditionally associated with marriage. They caution that the dissolution of such arrangements, for any reason, can leave emotional scars and feelings of rejection for the individuals involved. Moreover, children born out of live-in relationships may face challenges integrating into society and may be perceived as misfits. In essence, proponents of marriage often view live-in relationships as a deviation from established social norms and values, raising concerns about their impact on individuals and society as a whole.

#### **2) IN AND OUT RELATIONSHIP**

<sup>2023</sup> Kumar, V. (2017). BIGAMY AND HINDU MARRIAGE: A SOCIO-LEGAL STUDY. Journal of the Indian LAW



An in-and-out relationship, such as a live-in arrangement, is characterized by a contract of cohabitation that is essentially renewed daily by the involved parties and can be terminated unilaterally by either party without the need for mutual consent. Consequently, individuals who opt for a live-in relationship cannot reasonably lament issues of infidelity or moral misconduct within the context of such an arrangement. Thus, it can be perceived merely as a means of personal enjoyment devoid of deeper commitments or expectations.

### 3) NON RECOGNITION IN HINDU LAW

The Hindu Marriage Act of 1955 does not recognize the concept of a second wife among Hindus. Therefore, granting legal status to a mistress involved in a live-in relationship, entitling her to rights such as property share, inheritance, and maintenance, goes against both the provisions of the Act and traditional Hindu customs. In light of this, the proposal by the Maharashtra Government suggesting that a woman engaged in a live-in relationship for a 'reasonable period' should be treated as a wife is seen as contradictory. On one hand, the government has taken measures such as banning dance bars due to their perceived negative impact on the social fabric, while on the other hand, it appears to be endorsing illicit relationships through such amendments.

### 4) NEGATIVE IMPRESSION

Every individual bears a moral responsibility to uphold life-enriching norms, ensuring that future generations can take pride in their heritage, cultural traditions, and national identity. It is unjust for children to suffer the consequences of their parents' misguided actions. Responsible parents strive to leave behind a positive legacy for their offspring, rather than burdening them with the consequences of their own shortcomings. Even when parents fulfil their normative duties in raising their children, it is imperative to take precautionary measures to shield them from

the negative influences of societal deviations and the harmful effects of modernity. India, with its rich cultural heritage and time-honoured customs, cannot afford to disregard its inherent merits. It is essential to preserve and uphold these values in the face of changing societal trends.

### 5) INTERFERENCE IN SOCIAL RELATIONSHIPS

The decision to engage in such relationships is often made independently by the individuals involved, without the involvement or consent of their parents. This can create expectations of strained relations between the families of the spouses. Consequently, conflicts of ideas and opinions may arise within the family, leading to a weakening of relationships among family members. Overall, this can have a detrimental effect on societal cohesion and harmony.

### 6) LGBTQ COMMUNITY

The LGBTQ community faces several issues and challenges when engaging in live-in relationships in India due to social, legal, and cultural factors. Legal Recognition: India does not legally recognize same-sex relationships, including live-in arrangements. This lack of legal recognition deprives LGBTQ couples of various rights and protections, such as inheritance, property rights, and spousal benefits.<sup>2024</sup>

### CONCLUSION AND SUGGESTIONS

Cohabitation or live-in relationships often reflect a human rights-oriented and individualistic approach, prevalent particularly in Western societies. However, in India, the social landscape presents a starkly different reality, where marriage remains the preferred institution over any other form of union. Nonetheless, adult unmarried couples who choose to cohabit should not face prohibition or societal stigma for their decision. The judiciary's efforts to safeguard the interests of individuals in such relationships are indeed commendable and contribute to societal welfare.

<sup>2024</sup> Priya Sepaha, Live-in Relationship in India: Laws and Challenges April 202191

Live-in relationships are popular among educated urban classes seeking to escape the constraints and inequalities of traditional marriages. However, it's important to recognize that a live-in relationship can never fully replace the institution of marriage, which offers a unique sense of security and emotional fulfilment. While some view live-in arrangements as a precursor to marriage, others see them as immoral or indecent. Nevertheless, the Supreme Court of India has rightly declared that while live-in relationships may be perceived as immoral, they are not illegal.

Despite the absence of specific laws regulating live-in relationships in India, the judiciary has taken steps to provide legal recognition and protection to such couples and their children. However, there remains a need for clear legislation to address the rights and responsibilities of individuals in such relationships, particularly concerning the welfare of children.

Live-in relationships, especially among the educated middle class in urban areas, can be viewed as a declaration of independence or a deliberate rejection of the institution of marriage. It's crucial to acknowledge the rights of such couples while ensuring that their choices do not undermine the institution of marriage.

International studies suggest that cohabitation can complement rather than compete with marriage. However, relying solely on statistics may be misleading in a culturally diverse country like India.

The pragmatic approach taken by the judiciary toward live-in relationships is a positive step toward their social acceptance. While live-in relationships offer individual freedom, laws are necessary to address their associated insecurities. Ultimately, regardless of the type of relationship chosen, it should prioritize the interests of both partners and be based on understanding and commitment.

Live-in relationships have sparked debates as they challenge traditional societal norms. While the government has reserved many rights for married individuals to encourage marriage, there is currently no law defining live-in relationships in India. However, courts have been cautious in enforcing obligatory agreements between unmarried couples, considering public policy. In conclusion, as Swami Vivekananda emphasized, it's essential to recognize the inherent equality of all individuals, regardless of gender, and work toward their upliftment.