

The Legality of Online Marriage in Islamic Family Law

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ABSTRACT

Advancements in information and communication technology have transformed many dimensions of human life, including the field of Islamic family law. One significant implication of this development is the emergence of online marriage practices, in which the ijab and qabul are conducted through virtual media such as video calls. This practice is commonly adopted due to geographical distance, emergency situations such as pandemics, or other specific considerations. Despite the convenience it offers, online marriage has generated debate regarding the validity of the marriage contract under Islamic law and its legal recognition within the national legal system. This article aims to analyze the response of Islamic family law to digitalization through the practice of online marriage, while also examining its legal validity by reviewing classical fiqh perspectives and the relevant statutory regulations in Indonesia.

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1. INTRODUCTION

The development of information and communication technology (ICT) has brought fundamental changes to various aspects of human life, including the field of Islamic family law. Digitalization has not only influenced patterns of social and economic interaction but has also extended to religious practices that were previously carried out in conventional ways. One contemporary phenomenon emerging from this development is the practice of online marriage, namely the conduct of the marriage contract (akad nikah) through virtual media such as video calls or other online platforms. This phenomenon has become increasingly prominent, particularly since the COVID-19 pandemic, which restricted public mobility, as well as in certain geographical conditions that make physical meetings between the parties to be married difficult.

Online marriage is often chosen because it is considered more efficient, practical, and adaptable to specific circumstances. Nevertheless, the implementation of a marriage contract through virtual means has generated considerable debate among academics, Islamic scholars, and legal practitioners, both from the perspective of Islamic law and Indonesian positive law. In Islamic law, marriage is regarded as a sacred contract (mitsāqan ghalīẓan) with far-reaching legal consequences; therefore, its implementation must strictly fulfill the established pillars and conditions. One essential requirement of the marriage contract is the performance of ijab and qabul in a single assembly, with the presence of the bride and groom, the guardian (wali), and two legally qualified witnesses.

The majority of scholars, particularly those of the Shāfi'ī school of thought, require the existence of *ittihād al-majlis* (unity of the session) in the performance of the marriage contract. This unity is understood as the gathering of all parties in the same place and time without any separation that could interrupt the continuity of the contract. A marriage contract conducted in separate locations, especially through virtual media, is therefore considered not to fulfill this requirement. This view is reinforced by Muhyiddin (2021), who argues that physical presence in a single assembly represents respect for the sanctity of the marriage contract, and that the use of virtual media may obscure its essence and create doubts regarding its validity.

However, not all scholars share the same perspective. Some contemporary scholars, as well as scholars from the Hanafi and Hanbali schools, tend to offer a more flexible interpretation. They argue that a marriage contract may be conducted through remote communication media as long as there is direct two-way communication, no doubt regarding the identity of the parties involved, and all pillars and conditions of marriage are fulfilled. This view reflects the dynamic nature of *ijtihad* in responding to technological developments that are inevitable in modern life.

Within the context of Indonesia's national legal system, the practice of online marriage also faces issues of legality. Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI) do not explicitly regulate the implementation of marriage contracts through online media. The absence of such regulation creates a legal vacuum that results in uncertainty regarding the legal status of marriages conducted virtually. Kurniawan (2022) explains that the lack of technical regulations on online marriage has led to some virtual marriages being unable to be officially registered at the Office of Religious Affairs (Kantor Urusan Agama), thereby weakening legal protection, particularly in terms of administrative recognition, legal proof, inheritance rights, and other civil rights.

Furthermore, from the perspective of state administration, Regulation of the Minister of Religious Affairs Number 20 of 2019 on Marriage Registration continues to emphasize the physical presence of the parties and the signing of official documents directly before a marriage registrar. This regulation has not yet accommodated mechanisms for digitally based marriage registration. The discrepancy between an increasingly digitalized social reality and existing legal regulations poses both normative and practical challenges in the administration of Islamic family law in Indonesia.

The phenomenon of online marriage essentially reflects a process of transformation in Islamic family law in the digital era. This transformation is unavoidable as technology plays an increasingly significant role in social life. Therefore, efforts are needed to reinterpret and develop Islamic law, particularly in the field of *mu'āmalāt*, in order to maintain its relevance to contemporary contexts without disregarding its fundamental principles. As noted by Nurrohman (2022), Islamic law possesses a flexible character (*murūnah*) that allows it to adapt to social and technological changes as long as these adaptations do not contradict the core values of the Sharia.

Moreover, the practice of online marriage presents a new challenge for religious authorities and state institutions in formulating comprehensive and accommodative legal policies. Clear and integrated regulations are required to address this issue holistically, not only from the perspective of Islamic legal validity but also in terms of legal protection for the public. The formulation of official guidelines governing the implementation of online marriage such as mechanisms for identity verification, the validity of witnesses, and digitally based marriage registration systems constitutes an important step in preventing legal uncertainty and potential harm to the parties involved.

2. METHODS

This study employs a qualitative approach with a descriptive-analytical design, utilizing a library research method. This approach is selected because the study focuses on a normative examination of legal sources and scholarly opinions concerning the practice of online marriage and its legal validity, both from the perspective of Islamic family law and Indonesian positive law.

The data sources in this study are divided into primary and secondary data. Primary data consist of statutory regulations that form the legal basis of marriage in Indonesia, including Law Number 1 of 1974 on Marriage, the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), and the Regulation of the Minister of Religious Affairs Number 20 of 2019 concerning Marriage Registration. Meanwhile, secondary data are obtained from various academic works such as books, journal articles, research findings, as well as fatwas and opinions of contemporary scholars that examine the phenomenon of online marriage within the context of technological developments and Islamic family law.

Data analysis is conducted using content analysis techniques, which involve a systematic examination of legal texts and relevant literature, followed by interpretation in accordance with the objectives of the study. In addition, this research applies a comparative approach by comparing classical fiqh perspectives, contemporary scholarly views, and the provisions of Indonesian positive law regarding the validity of marriage contracts conducted online. Through these analytical methods, the study is expected to provide a comprehensive understanding of the dynamics and transformation of Islamic family law in responding to the challenges of the digital era.

3. FINDINGS AND DISCUSSION

1. The Concept of Marriage in Islamic Law

From the perspective of Islamic law, marriage (nikah) is a binding and sacred contract aimed at legitimizing the relationship between a man and a woman as husband and wife. The marriage contract is not merely civil in nature but also carries a devotional dimension, meaning that its implementation must fulfill the pillars and conditions prescribed by Islamic law. The essential pillars of marriage include the prospective husband, prospective wife, a lawful guardian (wali), two witnesses, and a valid and explicit offer and acceptance (ijab and qabul) (Zuhaili, 2011).

One of the crucial issues in the implementation of the marriage contract is the concept of ittihād al-majlis (unity of session). In the Shafi'i school of law, which is followed by the majority of Muslims in Indonesia, this concept requires that the ijab and qabul be conducted within the same time and physical space without any separation that could disrupt the continuity of the contract. Any significant temporal delay or spatial separation that interferes with the continuity of communication may render the marriage contract invalid. This requirement aims to prevent uncertainty (gharar) and to ensure mutual consent and clarity of intention among the contracting parties (Al-Nawawi, 2003).

With the advancement of communication technology, new perspectives have emerged among contemporary scholars seeking to respond to modern realities. Scholars such as Yusuf al-Qaradawi and Wahbah al-Zuhaili emphasize that the substance of the marriage contract lies in the fulfillment of its pillars and conditions rather than in the physical form of the meeting itself. Accordingly, a marriage contract conducted through modern communication media may be considered valid provided that certain conditions are met, including real-time two-way communication, clear identification of the parties involved, the presence of a guardian and witnesses who are able to observe the contract, and the absence of coercion or deception (Zuhaili, 2011; Qaradawi, 2010).

This approach demonstrates that Islamic law possesses adaptive capacity through the framework of maqāṣid al-sharī'ah and the principle of public interest (maṣlaḥah mursalah), enabling it to respond to social change without abandoning its fundamental values.

2. The Phenomenon of Online Marriage and Its Practice in Indonesia

Online marriage refers to the performance of a marriage contract using digital media, such as video conferencing applications or online video calls, in which the parties are located in different places but are virtually connected in real time. This phenomenon gained widespread attention during the COVID-19 pandemic, when social restrictions and limited mobility posed significant obstacles to conventional marriage ceremonies.

Beyond the pandemic context, online marriage practices have also been found in long-distance marriages, such as couples residing in different regions or abroad. Research by Kurniawan (2022)

indicates a significant increase in online marriages since 2020, particularly among diaspora communities and residents of border areas. The primary motivations behind this practice include cost efficiency, travel restrictions, and the technical convenience offered by digital technology.

In practice, online marriages are generally conducted by presenting the guardian, the bride and groom, and witnesses within the same virtual space, allowing the *ijab* and *qabul* to be witnessed directly in real time. Although the contract may be technically performed, challenges arise in terms of state registration and legal recognition. To date, the Office of Religious Affairs (KUA) has not provided an official mechanism for registering marriages conducted online, resulting in many online marriages remaining administratively unregistered and potentially giving rise to legal issues in the future.

3. Islamic Legal Perspectives on Online Marriage

In Islamic jurisprudence, there are two major schools of thought regarding the validity of online marriage. The first is the classical and more conservative view, as adopted by the Shafi'i and Maliki schools, which rejects the validity of online marriage on the grounds that virtual presence cannot substitute for physical presence within a single contractual session. According to this view, digital media may give rise to doubts concerning identity verification, testimony, and the continuity of the contract.

The second is a more flexible contemporary perspective, widely embraced by Hanafi and Hanbali scholars as well as modern Islamic thinkers. This group argues that technology functions merely as a means of communication rather than as the substance of the contract itself. As long as the marriage contract is conducted synchronously, witnessed by a lawful guardian and witnesses, and free from any elements of doubt (*shubhat*), it may be deemed valid under Islamic law (Zuhaili, 2011).

This flexible approach aligns with the adaptive character (*murūnah*) of Islamic law, as noted by Nurrohman (2022), who asserts that Islamic law is capable of adjusting to contemporary developments provided that it does not contradict the fundamental principles of the Sharia. Consequently, online marriage may be regarded as a form of contemporary *ijtihad* in response to the digital realities of modern society.

4. Indonesian Positive Law Perspective

Within the Indonesian national legal system, marriage is regulated under Law Number 1 of 1974 on Marriage, the Compilation of Islamic Law (KHI), and the Regulation of the Minister of Religious Affairs Number 20 of 2019 concerning Marriage Registration. However, none of these regulations explicitly address the mechanism for conducting marriage contracts online.

The Marriage Law stipulates that a marriage is considered valid if it is conducted in accordance with the parties' religious law and officially registered by the state. The absence of technical regulations governing online marriage has resulted in legal uncertainty, particularly in terms of administrative registration and official recognition. Muhyiddin (2021) emphasizes that unregistered marriages may lead to serious legal consequences, including ambiguity regarding the legal status of children, inheritance rights, and marital property. This situation reflects a lack of harmony between evolving social practices and existing legal regulations.

5. Social and Legal Implications of Online Marriage

The practice of online marriage generates various social and legal implications. Socially, some segments of society perceive online marriage as failing to reflect the sacredness and cultural values traditionally associated with marriage. From a legal perspective, marriages that are not administratively registered may disadvantage the parties involved, particularly women and children, in matters related to legal status verification, inheritance rights, and broader legal protection.

Unclear legal status also increases the potential for disputes, both within families and before judicial institutions. Therefore, the practice of online marriage should not be allowed to develop without a clear and adequate legal framework.

6. The Urgency of Regulation and Legal Harmonization

The phenomenon of online marriage demands a serious regulatory response from the state. The absence of specific regulations governing online marriage creates legal uncertainty and increases the risk of future disputes. Accordingly, there is a pressing need for regulations that explicitly govern the implementation of online marriage, including digital identity verification mechanisms, the validity of virtual witnesses, and technology-based marriage registration systems.

Harmonization between Islamic law and positive law is essential in formulating such regulations. An ideal regulatory framework should accommodate the flexibility of Islamic law while simultaneously fulfilling the administrative requirements and legal certainty demanded by the state. In this regard, the government should involve religious scholars, academics, and legal practitioners to ensure that the resulting regulations are comprehensive and oriented toward the protection of public rights..

4. CONCLUSION

Advancements in digital technology have introduced new patterns in the implementation of marriage, one of which is the practice of online marriage through virtual communication media. This practice has emerged as a response to society's need for flexibility, particularly in situations involving mobility restrictions, long geographical distances, or emergency conditions. Despite the convenience it offers, online marriage raises fundamental issues concerning the validity of the marriage contract and legal certainty, both from the perspective of Islamic law and the Indonesian national legal system.

From the standpoint of Islamic law, the diversity of scholarly opinions reflects the dynamic nature of *ijtihad* in responding to technological developments. Classical juristic views tend to emphasize the necessity of physical presence within a single contractual session, whereas contemporary scholars provide room for the legitimacy of online-based marriage contracts as long as the essential pillars and conditions of marriage are substantively fulfilled. This latter approach aligns with the principle of *maqāsid al-sharī'ah*, which prioritizes public welfare and the continuity of Islamic legal values amid changing times.

Meanwhile, within the framework of Indonesian positive law, the practice of online marriage continues to face normative challenges due to the absence of specific regulations governing its implementation. The lack of a clear legal basis, both in Law Number 1 of 1974 on Marriage and in the Compilation of Islamic Law, results in weak administrative recognition of online marriages. This situation potentially gives rise to further legal issues, particularly those related to civil status, children's rights, marital property, and legal protection for the parties involved.

Based on these findings, it can be concluded that the practice of online marriage requires serious attention through efforts to harmonize Islamic law and positive law. The government, in collaboration with religious authorities, needs to formulate adaptive regulations and technical guidelines that respond to technological developments without disregarding the fundamental principles of marital validity. Furthermore, enhancing public legal literacy regarding the procedures and legal consequences of online marriage is an essential step to prevent future legal and social problems.

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