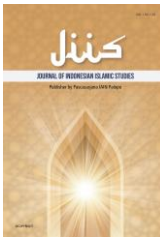
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The Legal Validity of Online Marriage Contracts: Perspectives from Islamic Family Law and Indonesian Positive Law

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Abstract

The development of digital technology has given rise to the practice of online marriage solemnization, raising questions regarding its validity under Islamic law and Indonesian positive law. This study aims to analyze the validity of online marriage solemnization from the perspective of *fiqh munakahat*, as well as its legal regulation and implications within Indonesia's legal system. This study employs a normative juridical approach using a literature review method. The analysis focuses on the requirements for the offer and acceptance of marriage (*ijab qabul*), the status of the guardian and witnesses, and the principle of *ittihad al-majlis*in conducting the marriage contract through digital communication media. The findings indicate that the validity of online marriage solemnization in *fiqh munakahat* is related to differing interpretations of the unity of the assembly and the fulfillment of the pillars and requirements of marriage. Some views emphasize unity of place and physical presence, while others allow room for contemporary interpretations by considering the continuity of the offer and acceptance and the fulfillment of the marriage requirements. Under Indonesian positive law, the marriage regulations examined do not specifically govern the mechanism for conducting online marriage solemnization, thereby creating normative uncertainty regarding the procedures for its registration and legal recognition. This study's contribution lies in its comparative analysis linking differing interpretations of Islamic jurisprudence with Indonesia's marriage law framework and their implications for legal certainty and protection. This study recommends regulatory clarity that continues to uphold the principles of Islamic marriage law while protecting the rights of spouses and children.

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Introduction

The development of information and communication technology in the digital era has influenced various aspects of life, including the field of family law. One phenomenon that has emerged is the implementation of marriage contracts online through digital communication platforms, such as Zoom and Google Meet. This technology allows the parties to communicate directly even while being in different locations, raising issues regarding the validity of the marriage contract and its recognition under Islamic law as well as Indonesian positive law. (Shahnyb, Amalia, & Irfany, 2024 ; Faisal & Isroqunnajah, 2025).

The phenomenon of online marriage contracts has garnered increasing attention during the COVID-19 pandemic, as restrictions on mobility and physical interaction have prompted society to seek alternative methods of conducting marriage ceremonies. Furthermore, the mobility of individuals for work or education outside their local areas, along with Indonesia's geographical conditions as an archipelagic nation, have also contributed to the adoption of communication technology. Nevertheless, the ease of remote communication does not, by itself, determine the validity of a marriage contract; therefore, such practices still need to be examined in accordance with applicable legal provisions. (Hastarini, 2025 ;Qommaruddin & Ma'ruf, 2025).

Persoalan tersebut menunjukkan bahwa pelaksanaan akad nikah daring tidak hanya berkaitan dengan penggunaan teknologi sebagai media komunikasi, tetapi juga dengan penerapan prinsip-prinsip hukum Islam dalam menghadapi perubahan sosial. Islam memiliki mekanisme ijtihad yang memungkinkan pengkajian persoalan hukum baru berdasarkan prinsip-prinsip syariat. Namun, penerapan ijtihad tetap perlu mempertimbangkan pemenuhan ketentuan perkawinan dan tujuan hukum Islam (maqashid al-shariah), termasuk perlindungan hak para pihak dan kepastian hukum. Oleh karena itu, persoalan akad nikah daring perlu dianalisis dengan memperhatikan hubungan antara prinsip fikih munakahat dan perkembangan teknologi komunikasi (Khasanah & Akbarizan, 2026).

Several previous studies have discussed online marriage contracts from the perspectives of Islamic law as well as Indonesian positive law. Hastarini (2025), examining the legal issues that arise when the parties are not physically present in the same place. Faisal and Isroqunnajah (2025) highlighting the legal status of online marriage contracts from the perspective of the Shafi'i school, particularly regarding the offer and acceptance and the unity of the assembly. Nazwa and Mahdiannor (2026) discussing the differing views of scholars regarding the legal status of marriage contracts conducted through digital communication technology. Meanwhile, Qommaruddin and Ma'ruf (2025) examining online marriage contracts from the perspective of Islamic jurisprudence and positive law in Indonesia. Khasanah and Akbarizan (2026) discussing the digitalisation of marriage from the perspective of Islamic family law, including issues related to the validity of online marriages and the electronic registration of marriages.

Although previous research has discussed various aspects of online marriage contracts, further studies are still necessary to clarify the relationship between differing interpretations of Islamic law and the provisions of national marriage law. This research focuses on a comparative analysis of the validity of online marriage contracts from the perspective of munakahat jurisprudence and the regulation of marriage within Indonesia's positive law, particularly in relation to the principle of ittihad al-majlis and the presence of

the parties through digital communication media. This focus aims to clarify the similarities, differences, and legal issues that arise when the principles of munakahat jurisprudence are applied to the practice of online marriage contracts within the framework of Indonesian marriage law.

Based on the aforementioned description, this research formulates two main questions. First, how is the validity of online marriage contracts determined from the perspective of Islamic family law (fiqh munakahat)? Second, how are online marriage contracts regulated and recognised in Indonesia's positive law, and what are the legal and social implications arising from this practice?

The aim of this research is to critically and analytically examine the validity of online marriage contracts from the perspective of Islamic law and positive law in Indonesia, while also identifying the legal and social implications arising from such practices. The research findings are expected to contribute to the development of studies on Islamic family law, enrich the discourse on contemporary marriage jurisprudence, and serve as a consideration for policymakers in responding to advancements in information and communication technology.

The significance of this research lies in the need to provide legal certainty for individuals who are conducting or planning to conduct marriage contracts online, particularly in emergency situations, specific geographical conditions, or other circumstances that prevent the parties from being physically present at the same location. This legal certainty is crucial as it relates to marital status, the protection of the rights and obligations of spouses, the status and rights of children, inheritance rights, and other legal consequences arising from marriage. Therefore, this research is expected to serve as a reference for academics, legal practitioners, marriage registrars, religious court judges, policymakers, and the community in understanding the practice of online marriage contracts proportionally based on Islamic legal principles and the stipulations of Indonesian positive law.

Method

This research employs a normative juridical approach using library research methods. The normative juridical approach is chosen because the research object focuses on legal norms, both those found in classical and contemporary fiqh literature and those regulated in the positive law provisions of Indonesia. This approach allows for an in-depth analysis of the legal substance related to the validity of online marriage contracts without the need for field observations.

The legal materials used in this research consist of primary legal materials and secondary academic sources. Primary legal materials include literature on marriage jurisprudence from various schools of thought, namely Al-Mughni by Ibn Qudamah, Rawdat al-Talibin by al-Nawawi, Fath al-Qarib by Ibn Qasim al-Ghazzi, and Al-Fiqh al-Islami wa Adillatuh by Wahbah al-Zuhaili. Other primary legal materials include the Compilation of Islamic Law (KHI) established through Presidential Instruction No. 1 of 1991, Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019, Government Regulation No. 9 of 1975 on the Implementation of the Marriage Law, as well as fatwas from the Indonesian Ulema Council (MUI) relevant to the research subject (Majelis Ulama Indonesia/MUI).

Secondary academic sources include articles from scientific journals, academic books, dissertations, and other scientific publications that discuss online marriage contracts, the fiqh of marriage, Islamic family law, as well as marriage law in Indonesia. Literature searches are conducted through relevant academic databases, including Google Scholar, SINTA, and Scopus, using keywords directly related to the research focus, such as online marriage contract, Islamic family law, fiqh munakahat, ittihad al-majlis, and Indonesian positive law. Relevant literature is used to support the analysis of the validity of online marriage contracts from the perspectives of Islamic law and Indonesian positive law.

Data were analysed using descriptive-analytical and comparative methods. The descriptive-analytical method was employed to elucidate and analyse the substance of legal norms relevant to the implementation of online marriage contracts. Meanwhile, the comparative method was used to compare the perspectives of Islamic family law and Indonesia's positive law, particularly concerning the requirements for the validity of marriage contracts, the application of the principle of ittihad al-majlis, and the status of the parties' presence through digital communication media. Content analysis was applied through a systematic examination of primary legal materials and secondary academic sources used in the research.

This research is limited to the study of the validity of online marriage contracts based on the pillars and requirements of marriage. Therefore, other aspects of family law, such as marital property, divorce, and other legal consequences of marriage, are not the primary focus of the study. This limitation is intended to keep the analysis centred on the question of whether the implementation of the marriage proposal and acceptance through online communication media can meet the validity requirements of marriage according to the Islamic jurisprudence of marriage and positive Indonesian law, as well as the secondary academic sources used in the research.

Results

The Concept of Marriage Contracts in Fiqh Munakahat: Normative Foundations and Validity Requirements

Marriage in Islam is not merely a social relationship, but a religious and legal institution intended to establish a harmonious family filled with tranquility, love, and mercy. Through marriage, Islamic law regulates the lawful relationship between men and women while also protecting honor, lineage (hifz al-nasl), and the rights and responsibilities of each party (Haq, 2024).

The Qur'an describes the marital bond as mitsaqan ghalizan, meaning a strong and solemn covenant, as mentioned in Q.S. al-Nisa' [4]:21. This concept emphasizes that marriage has religious, moral, and social dimensions, so the marriage contract must be conducted in accordance with Islamic law to ensure responsibility, commitment, and protection of both parties' rights (Dahliana & Wahab, 2023).

In Islamic family jurisprudence, a marriage contract is a legal agreement formed through ijab (offer) and qabul (acceptance) in accordance with the prescribed requirements. This contract determines the legal status of the parties and creates consequences for family relationships, financial support, inheritance, and the legal status of children. Therefore, clear identification of the parties, their intention to marry, and

fulfillment of the essential elements and requirements of marriage are important factors in determining the validity of the contract (Rofiq, 2013; Rafli & Asyuari, 2023).

The majority of scholars (jumhur ulama), particularly the Shafi'i, Maliki, and Hanbali schools, establish five essential elements of marriage: the prospective husband, the prospective wife, the marriage guardian, two witnesses, and offer and acceptance. The Hanafi school differs in its views on several aspects, particularly regarding the status of the guardian. In Indonesia, Article 14 of the Compilation of Islamic Law (KHI) establishes these five elements as the essential elements of marriage. This provision serves as the basis for assessing whether the requirements of a marriage contract have been fulfilled, including when the contract is conducted through online communication media (Rafli & Asyuari, 2023; Parinduri & Adly, 2025).

The Validity of Online Marriage Contracts in Islamic Family Law

Ijab and *qabul* are the essential elements in the performance of a marriage contract. Together, they establish a legal relationship that gives rise to the rights and obligations of the husband and wife. Therefore, Islamic scholars emphasize that ijab and qabul must be conducted in accordance with the applicable requirements, including continuity throughout the contracting process and clarity regarding the parties' intentions (Sallom, 2022; Faisal & Isroqunnajah, 2025).

The principle of *ittihad al-majlis* is an important issue in determining the validity of online marriage contracts. In classical Islamic jurisprudence, the unity of the session concerns the continuity between the offer and acceptance, without an interruption that would break the contracting process. Ibn Qudamah, in *Al-Mughni*, as discussed in studies of this principle, emphasized that the offer and acceptance must take place in a single session. However, interpretations differ as to whether the unity of the session requires the parties to be in the same place or merely requires continuity in the contracting process. This difference has become increasingly relevant because communication technology allows the parties to see and hear each other in real time even when they are in different locations. (Rafli & Asyuari, 2023; Sallom, 2022).

In this context*, ittihad al-majlis haqiqi* refers to the unity of the assembly through physical presence in the same place, *whereas ittihad al-majlis hukmi* refers to the unity of the assembly in a legal or functional sense, even when the parties are in different locations. A more accommodating approach considers it possible for the unity of the assembly to be satisfied through real-time video communication if the parties can see and hear one another, the *ijab and qabul* proceed continuously, and all marriage requirements are fulfilled. Conversely, a stricter approach holds that virtual presence cannot replace physical presence because of the risks of identity forgery, manipulation of audio and visual information, communication disruptions, and uncertainty regarding the parties' circumstances. This distinction is an analytical framework and does not indicate that all scholars accept virtual presence as a substitute for physical presence (Sallom, 2022; Faisal & Isroqunnajah, 2025; Rohman, 2025; Muslimah, 2025; Berutu et al., 2024).

The position of the marriage guardian is also an important factor in determining the validity of the marriage contract. The majority of scholars regard the guardian as one of the essential elements of marriage, while Article 19 of the Compilation of Islamic Law regulates the guardian's position, and Articles 27–29 regulate the performance of the ijab

kabul, including the role of the guardian or their representative. In Islamic jurisprudence, discussions of an absent guardian (*wali gha'ib)* and the granting of authority (*tawkil*) appear in *al-Nawawi's Rawdat al-Talibin*. Through *the tawkil* mechanism, the guardian may authorize another qualified person to represent them in the marriage contract. However, the authorization must comply with the applicable requirements, including clarity regarding the authority granted and acceptance by the appointed representative (Haq, 2024; Parinduri & Adly, 2025; Romadhona, 2024).

The *tawkil* mechanism must be distinguished from conducting a marriage contract online. *Tawkil* concerns the delegation of the guardian's authority, whereas an online marriage contract concerns the use of communication media when the parties are in different locations. Therefore, the guardian's absence does not always require the contract to be conducted online if their authority can be lawfully granted to a representative. Conversely, the use of *tawkil* does not automatically resolve issues concerning the unity of the assembly, the continuity of the offer and acceptance, and the requirements for witnesses if the contract is still conducted through electronic media (Haq, 2024; Parinduri & Adly, 2025; Romadhona, 2024; Sallom, 2022; Faisal & Isroqunnajah, 2025; Rohman, 2025).

In addition to a marriage guardian, the presence of two witnesses is an important requirement for a marriage contract according to the majority of scholars. Article 24 of the Compilation of Islamic Law (KHI) regulates the presence of witnesses in marriage, whose role is to provide publicity and serve as evidence that the contract was performed, thereby preventing secret marriages (*nikah sirri*). In the performance of an online marriage contract, the question arises as to whether witnesses who see and hear the offer and acceptance of marriage through electronic devices can satisfy this requirement. The stricter view requires witnesses to observe the contract in person, whereas the more flexible view considers testimony through real-time communication permissible if the identities of the parties and the continuity of the contract can be verified (Ardiansyah et al., 2025; Muslimah, 2025).

The issue of testimony is also related to the discussion of MUI Fatwa No. 20 of 2021 on Online Marriage, as mentioned in the original text. The text links this fatwa to the need for caution in fulfilling the requirements for witnesses and ensuring the unity of the assembly during the performance of an online marriage contract. Accordingly, the validity of an online marriage contract must be assessed based on the fulfillment of all the essential elements and requirements of marriage, rather than solely on the technology's ability to connect the parties from different locations.

Online Marriage Contracts under Indonesian Positive Law

Marriage law in Indonesia is primarily governed by Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019. Article 2 paragraph (1) of the law states that a marriage is valid if it is conducted in accordance with the laws of each religion and belief. For Muslims, this provision links the validity of a marriage to compliance with the requirements of Islamic law (Law No. 1 of 1974, Article 2 paragraph (1)).

Government Regulation Number 9 of 1975, as the implementing regulation for the Marriage Law, governs the technical aspects of marriage solemnization, including its registration. Article 10 regulates the solemnization of marriage before a Marriage Registrar

and in the presence of witnesses. Meanwhile, Law Number 11 of 2008 on Electronic Information and Transactions, as amended by Law Number 19 of 2016, recognizes electronic information and documents, along with their printouts, as valid legal evidence under Article 5(1). However, the recognition of such electronic evidence does not, by itself, determine the substantive validity of a marriage contract conducted online, because the law does not specifically regulate its implementation.

Another issue lies in the absence of specific provisions that explicitly regulate the mechanism for conducting a marriage contract through online communication media in the regulations under discussion. The development of Islamic legal thought emphasizes the importance of responding to social change and technological developments through systematic and responsible legal reasoning. In the context of marriage administration, Minister of Religious Affairs Regulation No. 20 of 2019 on Marriage Registration regulates registration procedures through the Office of Religious Affairs (KUA), but according to the study referenced in this article, it does not explicitly establish a mechanism for conducting the ijab kabul through online media. Accordingly, a distinction must be made between the use of technology for marriage registration administration and the validity of conducting a marriage contract through electronic communication (Afriladewi, Zuama, & Periyantara, 2026).

Experience during the COVID-19 pandemic also showed that the Supreme Court adopted policies regarding online court proceedings. However, those policies cannot automatically serve as a basis for recognizing online marriage contracts because court proceedings are part of the administration of justice, whereas a marriage contract is both a religious act and a legal relationship that produces consequences for the parties. Therefore, applying online procedures to court proceedings does not, by itself, provide a legal basis for conducting a marriage contract through electronic media.

Legal Consequences of Online Marriage Contracts That Fail to Meet the Requirements

An online marriage contract conducted without satisfying the requirements of Islamic law and Indonesian positive law may have significant legal consequences. Article 2(1) of the Marriage Law affirms that the validity of a marriage is linked to compliance with each party's religious requirements. Therefore, failure to satisfy the applicable religious requirements may affect the legal recognition of the marriage.

An invalid marriage or one that has not received legal recognition may create uncertainty regarding inheritance rights, alimony, marital property, spousal rights, and the child's legal status. An examination of the status of children born outside a valid marriage indicates that uncertainty surrounding marital status can affect the legal relationship between the child and their parents (Rambe, Sembiring, & Ikhsan, 2025).

In addition to legal consequences, an unrecognized marriage can also have social repercussions, particularly for women and children. Uncertainty regarding marital status can affect the fulfillment of spouses' rights and the legal protection afforded to children, especially when the marriage has not been registered with the authorities. Therefore, legal certainty and marriage registration are important aspects of protecting women and children (Winarni, Nadirin, & Ismail, 2023).

Discussion

Analysis of the Validity of Online Marriage Contracts Under Islamic Law and Indonesian Positive Law

From the perspective of Islamic marriage jurisprudence, the validity of an online marriage contract depends on fulfilling the essential elements and requirements of marriage, particularly the offer and acceptance, the principle of ittihad al-majlis, and the presence of the guardian and witnesses. The use of digital communication media has led to differing interpretations regarding fulfillment of the principle of a unified session through virtual communication. Some contemporary views allow for adjustments under certain circumstances, but this does not automatically make every online marriage contract valid. Therefore, the use of technology must be assessed based on whether the essential elements and requirements of marriage are fulfilled according to the school of Islamic law being followed.

From the perspective of Indonesian positive law, Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, the Compilation of Islamic Law (KHI), and Minister of Religious Affairs Regulation Number 20 of 2019 constitute the legal framework examined in this study. However, the solemnization of marriage through online communication media has not been explicitly regulated in these provisions. This situation raises concerns regarding legal certainty, particularly with respect to the recognition and registration of marriages. In addition, online court proceedings cannot automatically serve as a legal basis for recognizing online marriage solemnizations because the two have different functions and legal frameworks.

A comparison of the two legal systems shows that Islamic law and Indonesian positive law both emphasize fulfilling marriage requirements and the importance of witnesses. The difference lies in the mechanism for adapting to technological developments. Islamic jurisprudence provides the method of ijtihad to respond to new issues, whereas positive law requires legal interpretation or regulatory amendments when a practice has not been explicitly regulated (Rohman, 2025; Afriladewi et al., 2026). Uncertainty regarding the validity and recognition of a marriage may affect the protection of the rights of spouses and children, including rights to support and inheritance, as well as the legal relationship between children and their parents (Rambe, Sembiring, & Ikhsan, 2025; Winarni, Nadirin, & Ismail, 2023). Therefore, clear regulations are needed that can respond to technological developments while upholding the principles of marriage law and providing legal protection to the parties involved.

Conclusion

An online marriage contract, from the perspective of Islamic jurisprudence on marriage, has a legal status that depends on fulfilling the essential elements and requirements of marriage, as well as on the interpretation of the principle of *ittihad al-majlis*. Views that require the physical unity of the assembly tend not to recognize contracts conducted online, whereas more accommodating views may accept online marriage contracts subject to certain requirements, including clear identification of the parties, continuity of the offer and acceptance, and fulfillment of the requirements concerning the guardian and witnesses. Accordingly, an online marriage contract cannot

be declared valid unconditionally without considering the requirements applicable under the legal perspective being applied.

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