

ANALYSIS OF MARRIAGE CONTRACT THROUGH TELECONFERENCE PERSPECTIVE WAHBAH AZ-ZUHAILI AND ISLAMIC FAMILY LAW IN INDONESIA

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ABSTRACT

In the era of technology like today, it is feasible to facilitate a marriage contract with the aid of technology, which can streamline the process for the parties involved in conducting the marriage contract. The purpose of this study is to analyse the views of an Islam figure about the marriage contract carried out via teleconference, as well as to determine the prospects of these views in the development of Islamic family law that exists in Indonesia. This study employed a qualitative research method with a library research approach, involving various activities related to collecting library data, conducting literature review and using primary sources of data to uncover factual information for the research. The results of this study show that the development of marriage through technology has indeed continued to progress from time to time, starting from the ratification of Decree No. 1751 / P / 1989 by the South Jakarta religious court until finally tapering to the practice of marriage through teleconferences, ranging from teleconferences using video phones with mobile phones to video conferences using applications like WhatsApp, zoom meeting and so on. Similarly, the findings of this study indicate that the marriage contract conducted through

teleconference has not been specifically regulated in the existing laws of Indonesia, making it somewhat ambiguous. The legal framework regarding this matter is currently lacking. However, according to the perspective of Wahbah Az-Zuhaili, teleconference marriage can be considered permissible and valid. This research can have an impact on the knowledge of the wider community regarding Islamic religious tolerance and religious rules, as well as updates in the millennial era, and open new insights and policies for the House of Representatives of the The Republic of Indonesia to reinforce about legalisation of laws in the permissibility of marriage contracts by Teleconference.

Keywords: Marriage contract, teleconference, Islamic family law

INTRODUCTION

Marriage is sunnatullah. These provisions apply to every human being who lives on this earth, including Muslims. There is no other way to legalise the relationship between a man and a woman in Islam except for marriage. Therefore, the scholars gave a definition of marriage as a contract intended to legalise the relationship between a man and a woman in terms that were previously haram (Julianda, 2023).

In Indonesia, marriage is seen as a very important thing, so it is considered necessary to make a special regulation that regulates matters of marriage and some things that are related to it. Article 1 of the Law states that (Qodril, 2023): “Marriage is the sacred union between a man and a woman as husband and wife, intended to create a joyful and everlasting family unit founded on the belief in the Oneness of the Supreme Being.”

The article also confirms that Indonesian legal regulations still firmly maintain the precepts of the Supreme Godhead, so same-sex marriage is certainly never accepted in the country's constitution.

Teleconferences is an online meeting with the assistance of technology, involving two or more participants with the purpose to communicate more easily. The marriage agreement through teleconference communication media is a form of accommodation to the community in the context of fiqh as a manifestation of the sensitivity of Islamic sharia in dealing with challenges and developments of the times. As long as the value of expediency and benefit is achieved in this case, by not denying the element of possible glory, this kind of marriage contract is an alternative, effective and efficient option (by not abandoning Islamic law) for modern society (Nurhayati & Novianti, 2020).

Online marriage is a form of marriage in which the consummation of the marriage transactions is carried out through circumstances or activities connected to a network or internet system (online) between the bride and groom. Men, women, witnesses and guardians are not present together, but what is shown is just a sort of visualisation created by both sides with the use of technological devices (Mustofa, 2022).

Ordinary marriages are generally men and women meeting each other face-to-face and talk directly. Meanwhile, online weddings involve using power and technological developments to help carry out the marriage in order to convey pictures of the condition of individuals who are interacting as it should be (Gold, 2020). Because it can display visuals or photos in real-time through the Internet network, in addition to transmitting voice, teleconference technology is more advanced than conventional telephones.

Online weddings using online media or applications are a phenomenon in everyday life, especially in the implementation of *ijab qabul*, such as online weddings during the current pandemic. The marriage process is generally carried out face-to-face and in one place, while for online marriage, the marriage contract is not carried out in one assembly (place). The forms of marriage contract also vary. Some are between the guardian and the bride separated, and the witnesses are also separated, and some are the bride and groom who are far apart or not in one place (NurFaizi, 2021).

According to Cahyono, marriage is not just an inner bond or birth, but both. The external bond expresses the occurrence of formal things only, while the inner bond expresses the existence of the informal or invisible, both of which are the main foundations to form a family (Cahyono, 2020).

Abdurrahman Al-jaziri said that marriage is a sacred covenant between a man and a woman to form a happy family (Awaluddin et al., 2023). Meanwhile, etymologically, marriage is mixing, alignment or bonding. If it is said that one is married to someone else, then it means that the two are interrelated.

The provisions of marriage are carried out legally in accordance with the positive rules in Law No. 1 of 1974 concerning Marriage Article 2 Paragraph (1) "Marriage is valid according to the laws of each religion and that trust". Thus, it has clearly proven that whether or not a marriage is valid as a benchmark is the respective religious law (Susanti, 2019).

We already know that there are two ways of conducting marriage nowadays due to technological advances. The first marriage is carried out directly without any distance separating the parties, the bride and groom are in the same place and witnessed by witnesses. Meanwhile, the second marriage is via video call, or through online media such as whatsapp, zoom, skype, instagram, facebook and other social media (Mubarek, 2021). Basically, the implementation of the first way is clearly the rule of law, both from a positive legal perspective and religious law. Meanwhile, the implementation of the second way is a route that has just been known and the rule of law is not yet clear.

Online marriage is a type of remote marriage through technology media and is carried out on the same day. Marriage through video calls has been widely discussed since the existence of COVID-19 in 2020 until now, this is because one of the bride and groom, or generally the bridegroom cannot be present in the same place (Riza, 2022).

The writers are interested in this study is because there are no rules governing the validity of marriage through video calls . Meanwhile, in terms of its implementation, many have practised it so that it raises the vagueness of the law governing marriage in Indonesia, or in other words there is a legal vacuum in this regard. Researchers also try to find and solve problems based on the views of a contemporary Muslim figure and scholar, Wahbah Az-Zuhaili (Yanianur, 2023). In his book, *Al Fiqhu Al Islam wa Adillatuhu*, Wahbah Az-Zuhaili clearly wrote down the results of his thoughts on family law. One of them is about the requirements of *ijab qobul*, which requires *ittihadul assembly*.

The most important thing to pay attention to when involving the process of marriage contract through video call is the parties who will hold the wedding, namely the prospective bridegroom, prospective bride, guardians and witnesses. They must first get to know each other, so that there is no hesitation. The second is the determination of the time of the contract, which means that there must be a time adjustment between the bride and groom, because with the the distance between them, there might be a slight time difference. Third, that making a video call has a pause to be able to connect with the intended party, especially if it is a different country (Kasianto, 2021).

Talking using communication tools such as telephones is increasingly sophisticated due to development of technology and information . In the past, people could only communicate by listening to voices but nowadays phones are equipped with video and screen facilities so that it can be used to see each other's faces and images (Khairuddin, 2022). Current technological developments are ushering society towards a more modern globalisation of telecommunications, media and informatics.

During the pandemic in 2021, there were several people who held weddings online through video call applications due to the stipulation of PSBB (Large-Scale Social Restrictions), which results in difficulties to carry out the provisions surrounding Islamic law (Faisal, 2021).

On 25 March 2020, there was an online wedding by the couple Kardiman bin Khaeruddin with Febrianti bin Hasanuddin. The groom is in Bajoe, South Sulawesi, while the bride is in Kolaka, Southeast Sulawesi, together with her marriage guardian. Previously, Kardiman was about to go to Kolaka but was held back and quarantined for 14 days by COVID-19 task force officers at Bajoe Port. The reason was because Kardiman had just come from Surabaya, East Java, while East Java is a red zone area affected by COVID-19. Amri, as the head of Kolaka, suggested that the two got married via video call after his party provided a number of options. Fortunately, the bride's family agreed to proceed through video call in order to hold the wedding as planned (Safirra, 2020).

This phenomenon is interesting to be researched and studied by Islamic family law experts in Indonesia, because the practice of long-distance marriage contracts using this technological media has never been found in previous times. The practice of marriage contracts in the time of the Prophet and the *Salafus salih* only stated that it was permissible to use a method called 'takwil' in marriage contracts. It implies that if the person responsible for the contract (either the guardian or the groom) was unable to perform their role, someone else could act as a substitute for them.

METHODOLOGY

The type of research used in this study is qualitative because most of the data used come from literature (library research). This research is classified as literature research. This sort of legal research falls under the genre of normative juridical research, also known as literature legal research. As a result, library materials are considered primary data in this study. The method utilised in this study is a legal normative approach, which is based on descriptive data analysis (Rizal, 2022).

RESULT AND DISCUSSION

Online Marriage Law Perspectives in Indonesia

In this case, the implementation of online marriage related to the technological device used can be proven using the law in Law Number 11 of 2008 concerning Electronic Information and Transactions Article 2, Article 3, Article 4 point (e), and Article 5 point (1) and (2), Article 18(2), and other articles, according to the needs of what we are experiencing. Thus, the fear of some people with online marriage, especially women, can be regulated or protected by Law No.11 of 2008 concerning Information and Electronic Transactions. That way, if there are elements that can be detrimental to the parties concerned, they can be immediately reported and dedsaplings, in accordance with Article 27 (1) and Article 45 point (1), namely (Lestari, et.all., 2023):

Article 27

Any intentional and unauthorised distribution, transmission, and/or dissemination of electronic documents containing indecent content is strictly prohibited.

Article 45

A person who meets the conditions described in Article 27, either in paragraph (1), (2), (3) or (4), shall be subjected to a maximum sentence of 6 years of imprisonment and/or a maximum fine of Rp. 1,000,000,000.00.

The implementation of online marriage can be accepted and recognised compared to marriage through telephone media. This is because even though marriage through telephone media is allowed by a panel of judges, the marriage is done by just hearing the voice of the man without seeing his physical condition. Meanwhile, using video calls is much more advanced because the image of the person talking can be seen clearly, not just the voice can be heard.

From these problems, it can be compared with the Decision of the South Jakarta Religious Court Number 1751/P/1989 concerning the Ratification of the Practice of Contract through

ordinary telephone media. If the panel of judges has determined that marriage through telephone media alone is considered valid, for this reason, this provision must be followed regarding online marriage (Faisal et al., 2021). In positive law and legal law in Indonesia, online marriage has never been mentioned before, there are even no regulations governing it, so Indonesian law is still facing a legal vacuum regarding rule of online marriage.

In Indonesia, marriage is regulated and governed by the provisions outlined in Law Number 1 of 1974 and the Compilation of Islamic Law. According to Article 1 of Law Number 1 of 1974, *marriage* or *nikah* is specifically defined as the sacred union between a man and a woman as husband and wife, with the ultimate goal of forming a blissful and everlasting family founded on the belief in the Oneness of the Supreme Being (Kasianto, 2021). Additionally, in the compilation of Islamic Law, Article 2 states that marriage is defined in as a union known as *nikah*, which represents a profoundly binding contract, referred to as *misaqan ghalizan*, intended to adhere to God's commandments, making it an act of worship.

Law Number 1 of 1974 and Legal Compilation Islam only describe marriage in general, not even the slightest discussion about online marriage. However, it can be observed from the sound of the article that there are words that can be interpreted related to this online marriage (Nasution, 2018). According to the article, one of marriage's goals is to create an emotional link between a man and a woman as husband and wife with the intention of starting a happy family and abiding by God's commands. Basically, marriage is to form a happy family, no matter what form of marriage, as the most important thing is the purpose of the marriage, which are to form an eternal family and be founded by Allah the Almighty.

Marriage through a regular telephone, if associated with online marriage, is also included in the category of marriage recognised by the state, because online marriage also aims to obey God's command in order to form a happy and eternal family based on the One True Godhead. Thus, from the explanation, it can be

understood that online marriage can be accepted as valid both in Islam and applicable legislation (Aziz, 2020).

The utilisation of communication technology for the purpose of marriage is not a recent phenomenon; it has been practised before. However, during the global COVID-19 pandemic, there has been a notable increase in the use of such technology for conducting marriages due to the challenging circumstances posed by the pandemic. Similar incidents have happened in Indonesia on numerous occasions in prior years. The assistance of technology has made performing wedding ceremonies a lot easier. There are few examples could be listed, starting from a marriage between Aria Sutarto and Nurdiani, conducted via telephone in 1989. Next, Syarif Abdurrahman Achmad and Dewi Tarunawati's wedding, which was held in 2006 and Sirojuddin Arif and Halimatus Sa'diyah's union in 2007 with the facility of teleconference. Wafa Suhaimi and Ahmad Jamil Rajab also got married in 2009 even though he was in Virginia, United States while his spouse was in Indonesia at the time. In June 2020, an international couple named as Max Walden from Australia, and Safitra Gayatri from Indonesia, were wed through a Zoom meeting. Marriage through telecommunication devices has always been developing from time to time starting, from marriage using the telephone to marriage with video conferencing via zoom etc. (Citra Riza, 2022).

Teleconference Marriage Contract from the Perspective of Wahbah Az-Zuhaili

Wahbah Az-Zuhaili clearly wrote down the results of his thoughts on family law. One of them is about the requirement of *ijab qobul*, which is *ittihadul assembly*. However, he did not explicitly mention the law of marriage contracts through modern technological media such as teleconferencing. He used the emphasis of the method of comparison between the opinions of the four madhhabs (Hanafiyah, Shafi'iyah, Malikiyah and Hanabilah) with the conclusion of the law (*istinbaath al-ahkam*) from Islamic legal sources either *naqli* (*Qur'an, as-Sunnah, ijma'' and qiyas*) or *aqli*, until he concluded that if one of the parties could not be present in the contract assembly, then the contract can be done with a writing intermediary or with a messenger.

The author is interested in researching Wahbah Az-Zuhaili's views on the law marriage via teleconference using *the theory of qiyas*, which is combining or equating a law or matter that did not exist at that time but has similarities in the following cases; benefits, dangers and various aspects of the previous case so that they are punished equally (Marzuki et.all., 2019). The following is an analysis table of Wahbah Az-Zuhaili's opinion on the marriage contract via teleconference (Abdullah, 2022).

Table 16.1: Analysis table of Wahbah Az-Zuhaili's opinion on the marriage contract via teleconference

Analysis Aspect	The Perspective of Wahbah Az-Zuhaili
Validity of Marriage Agreement	It is necessary to review and assess scholars regarding the applicable provisions of Islamic law and principles in the execution of marriage contracts via teleconference. Validity can depend on the underlying principles of Islamic law and their suitability to developments in telecommunications technology.
Physical Presence	It may emphasise the importance of physical presence in the execution of the marriage contract to ensure the presence of both the bride and groom, and witnesses in person.
Agreement and Ijab-Qabul	Pay attention to clarity and certainty in the expression of agreement and ijab-qabul between the prospective bride and the guardian, so that the marriage contract is considered valid.
Representatives and Trustees	It may consider the issue of the legitimacy of the representative of the guardian or representative in the situation of the marriage contract by teleconference.

The approach used by Wahbah Az-Zuhaili emphasises the method of comparison of four madzhab as follows an explanation of the differences of opinion between scholars regarding the interpretation of *ittihad al-assembly* (one assembly) (Ahmad, 2021):

Imam Shafi'i

According to Imam Shafi'i, one of the most important conditions in a marriage contract is the continuity (Muttashil) between ijab and qabul. Therefore, in this school that holds fast to Imam Shafi'i, the pronunciation of ijab and qabul in one place (locality) and the same period (era) is a must. This implies that the essential aspect of the *ittihad al-majelis* contract is the convergence of the physical presence (being together in the same place, such as during a meal), not solely relying on verbal agreement (spoken words) from both parties.

Following this view point, Shafi'iyah scholars reject and consider a contract of ijab and qabul conducted through written means (such as letters) or representatives as invalid. This is because the contract requires immediacy, meaning that qabul (acceptance) must occur immediately after ijab (proposal) through direct verbal communication and not with a time gap or through intermediary words. Another very strong reason is that ijab and qabul must be done with lafaz (*Sharih*) that is spoken directly and clearly, so that it is easily understood by the contracting party, while a speech contained in the letter (*kitabah*) is considered obscure or still vague (*kinayah*), which is something not allowed in a marriage.

Imam Hanafi

Hanafi scholars interpret *ittihad al-majlis*, the uniting of the assembly during a marriage contract, to be related to the continuous timeframe (epoch) between ijab and qabul, rather than the unity of place. In this context, ijab and qabul must occur within the same time frame specified in the marriage contract; they should not take place in two separate and distinct periods. This means that ijab must be stated at one time, and immediately after its conclusion, qabul must be pronounced.

Although the *ijab* and *qabul* events may occur separately but within the same time period, if the continuity between *ijab* and *qabul* is disrupted, then this type of marriage contract is considered invalid according to the Hanafi interpretation.

Even if the physical presence (place) is united, if *ijab* and *qabul* are carried out at different time periods or as two separate events, the essential continuity between *ijab* and *qabul* is no longer present. As a result, the marriage contract is deemed invalid. One case raised by Ibn Nujaim is in the context of one party contracting to say *ijab* somewhere (eating), while the other party say *qabul* elsewhere, then the contract is considered valid if the contracting parties can see their potential spouse and his voice can be heard by *sharih*, although the two are separated by a long distance (Wibisono, 2022).

According to Imam Hanafi, the expression of *ijab* and *qabul* through oral words is not the only way to conduct the marriage contract. He believed that the contract can also be executed through written means (*al-kitabah*). Writing is considered equivalent to oral speech in its function. Hence, statements of intent conveyed through written media under Islamic law hold the same legal validity as direct oral pronouncements. For example, al-Jaziri presented a scenario to explain Imam Hanafi's interpretation of the united assembly. In this case, a man sends a letter containing the marriage contract to the woman he intends to marry.

Upon the letter's arrival, its contents are read in the presence of the female guardian and witnesses, all gathered in the same assembly. After reading the contents of the letter, the female guardian immediately pronounces "*qabul*". Imam Hanafi considered this marriage contract valid because the expression of *ijab* is found in the prospective husband's letter and the pronouncement of "*qabul*" by the female guardian is heard by the two witnesses in the same assembly. In this scenario, the *ijab* is first expressed by the groom through the letter, and afterward, the *qabul* is pronounced by the female guardian. Such practice is permitted by Imam Hanafi and is considered valid (Hutagalung, 2023).

The basis of Imam Hanafi allowing marriage by writing is based on a hadith of the Holy Prophet PBUH who married Ummu Habibah.

“That Ummu Habibah was the wife of Ubaidillah bin Jashy. Ubaidillah died in the land of Habasyah, so the king of Habasyah (may Allah have mercy on him) married Ummu Habibah to the Holy Prophet PBUH. He paid her a fortune of 400 dirhams, then he sent Ummu Habibah to the Holy Prophet PBUH with Shurahbil bin Hasanah. Then, the Holy Prophet PBUH accepted it.”

(H.R. David and Nasa’i)

In another hadith, the Holy Prophet PBUH also married two people without bringing them together in an assembly.

“It is from Uqbah ibn Amir that the Holy Prophet PBUH once said to a man, “Do you like to marry the Fulanah?” He answered: Yes, and the Prophet asked his woman, “Do you like to marry the Fulan?” She answered: Yes, and they were married between them, and they became husband and wife.”

(HR. Abu Dawud)

These two hadiths indicate that it is permissible for a woman to be married to a man without the two directly meeting each other. Apart from written means (such as letters), Hanafi scholars also permit ijab and qabul through messengers. For instance, a man may send someone to the woman he intends to marry. When the messenger arrives at the designated place, he conveys the man’s proposal and the woman’s response is immediately given in the presence of female guardians and witnesses, all gathered in the same assembly.

Imam Malik and Imam Hambali

The opinion of Imam Malik and Imam Hambali is the same as the opinion expressed by Imam Shafi’i, which is united in one assembly, and testimony must be based on hearing and sight. This view assumes that the contract ijab qabul through writing or letter is vague (kinayah). This understanding emphasises that the

requirement of unity in the assembly is not only to maintain continuity of time, but contains another requirement, namely *al-mu'ayanah*, where both parties must be present in one place. This is because this requirement can see in real terms the pronouncement of *ijab* and *qabul* can be realized. The implementation of *ijab qabul* must be in accordance with the pattern that has been handed down by the Holy Prophet PBUH for his people. That is why *ijab* and *qabul* should be as found in *nash*, such as *lafaz nikah* or *tazwij*, instead of other *lafadz* by way of *qiyas*.

Imam Hanafi's opinion is different from the opinion of Imam Shafi'i, Maliki and Hambali, Imam Hanafi understands one assembly not in terms of the physical aspects of the parties. Imam Hanafi's opinion allows the contract of *ijab qabul* by letter, provided that the letter is read in front of witnesses and the statement in the letter is promptly answered by the parties concerned. According to Imam Hanafi, a letter read in front of witnesses can be said to be *ijab qabul* and must be answered immediately. From the opinion of Imam Hanafi, KH. Sahal Mahfudz can be analogous that marriage is considered legally carried out through communication media such as teleconference.

The *shahih* opinion of Imam Shafi', *ijab qabul* should not be done through correspondence. They reasoned that *ijab qabul* was a mean to show both parties mutual pleasure in the existence of a transaction, and *rida* could not be convinced if only through a letter. In addition, the letter is used as evidence by witnesses if there has been a conflict about the marriage contract.

The emergence of differences of opinion between the Imam of the School is because there is nothing in the Qur'an and Hadith that explains definitively and clearly that the implementation of *ijab qabul* must be carried out directly or without interlude. The conditions in question include witnessing. One's testimony over a regular phone call is still a matter of debate among scholars, because the testimony of a person over a regular phone call is tantamount to the testimony of a blind man who does not see something but can hear his voice. Tetfire wedding through teleconference his testimony can be seen directly physically

clearly and undoubtedly. The witness involved four deft men. Two people from the male side and two people from the female side or guardians in order to further convince the parties that the opponents of communication are righteous people. For this reason, in terms of testimony, marriage via online or via teleconference is considered valid (Aslami, 2021). The families of the bride and groom already know each other, so the level of unwanted fraud using media can be minimised, as they can communicate directly without a long time difference.

The next requirement is a *majelis (ittihad al-majelis)*. *Jumhur ulama* argues that the marriage contract is required to be carried out in one assembly. However, this argument is clearly not fulfilled in the marriage contract teleconference. However, the understanding of one assembly according to a number of scholars means that all parties involved in a marriage contract can follow all the processes carried out, especially in the process of *ijab* and *qubul*. By following all processes, the bond resulting from *ijab* and *qubul* can be recognised by all parties, including witnesses. In an online marriage like this, it can indeed be achieved, because the *ijab* and *qabul* are carried out by the guardian and the prospective husband not just by hearing, but they also can witness it (Wakhid, 2019).

According to *Ittihad Majlis*, an online marriage, though conducted with the individuals in different physical locations, can still be considered valid as if the responsible parties were physically present together. Online meeting ceremony provides a virtual space for people from different regions to connect and enable the ceremony to take place with a more significant meaning. With this picture, online marriage via teleconference is considered valid.

Prospects for the Implementation of Teleconference Marriage Agreement on the Development of Family Law in Indonesia

In the compilation of Islamic jurisprudence, specifically in Chapter 2, the concept of “*Mitsaqan marriage*” is defined as a sacred and binding contract, a covenant aimed at adhering Allah’s commandments and fulfilling them. This form of marriage is

considered an act of worship. Furthermore, Article 3 emphasises that the purpose of marriage is to establish a harmonious and blessed marital life, known as *sakinah mawaddah warahmah* (Wibisono, 2022).

Etymologically, marriage in Arabic means *nikah* or *zawaj*. Marriage can be understood as *al-wathh'i*, *Al-Dhomm*, *Al-Tadakhul*, *Al-Jam'u*, or similar to *al-wath wa al aqd*. These terms refer to the act of intercourse, coming together, gathering, union and contract associated with the institution of marriage. (Saputera, 2022).

In terms of its definition, marriage can be described as a contractual agreement that permits *istimta'* (intimacy/intercourse) with a woman, provided that the woman is not among those who are forbidden due to reasons such as hereditary or milk relationships (Abdullah, 2020).

In Islamic religious law, including the provisions of the code of law, there are no specific marriage rules in the compilation of Islamic law via video call. In the life of a society that considers that, the implementation of marriage must be carried out in one place (Mandasari, 2023). This is to ensure that there is continuity at the time of the pronouncement of *ijab* and *qabul*, which is a determinant of the validity or absence of a marriage. However, in the case of the implementation of marriage in one place, it is not a pillar or a legal condition for a marriage, only an ordinance or habit that is carried out by society.

The definition of marriage in the Compilation of Islamic Law (KHI) is *pernikahan*, which represents a robust covenant or *mī āqan galīḍan* to faithfully follow and carry out God's commandments, making it an act of worship. If the two formulations of marriage in the above laws and regulations are carefully examined, there is a significant line of difference even though it is not confrontational (Hamdani, et al., 2023).

Several conditions must be fulfilled for a marriage to be valid and recognised. Wahbah Az-zuhaili, in his book on Islamic *fiqh wa adillatuhu*, elaborated that these conditions are based on the consensus and opinions of Islamic scholars, in *sighat akad* (ijab and qabul) there are 4 things, namely (Rojikin, 2023):

The conformity and accuracy of the sentence ijab with qabul.
The person who utters the sentence ijab shall not retract his utterance.

- Completed at contract time.
- Conducted in one assembly (*ittihad al-majlis*)

The relationship in the implementation of ijab and qabul via video call cannot be separated from one of the conditions above, namely the fourth condition, which is a condition of the majlis. Because marriage through video call is called whether it has met the requirements of ittihatul majlis. As studied by Nahdtahul Ulama (NU) through the Lajnah of the Bathsul Mashail Nahdathul Ulama Institute stated as follows (Pranata et.all, 2021):

According to NU, the marriage contract conducted via the internet or online media is deemed invalid due to several considerations. This is because the contract cannot be executed directly, particularly the involvement of the guardian and the groom, which is an essential requirement for a valid marriage. Second, because witnesses do not see and hear sounds directly. A marriage contract requires a clear *lafaz*, and marriage online or through electronic media is included in a vague group.

However, there are differences with the views of the Indonesian Ulama Council, which issued provisions based on *ijtima' ulama* from 9 to 11 November 2021, which discussed several things related to the law on current issues. One of them is regarding marriage through electronic media. The legal provisions for marriage through online according to *ijtima' ulama* are as follows (Arifin, 2023):

An online marriage contract is legally invalid if it does not meet one of the requirements for the validity of the *ijab qabul* marriage contract, which is carried out by *ittihad al-majlis* (being in one majlis, with clear *lafaz* and *ittishal* (continued between *ijab* and *qabul* directly).

In the event that the bridegroom and guardian cannot be in one place physically, then *ijab qabul* in marriage can be done by proxy. In the event that the parties cannot attend and/or do not want to represent, the implementation of the marriage contract online can be carried out by means of the condition of *ittihad al-majlis*, characterised by:

- The marriage guardian, groom-to-be and two witnesses are confirmed to be connected through a virtual network that includes sound and images (audio visual).
- In the same time or real time

There is a guarantee of certainty about the correctness of the existence of the parties. Online marriages that do not qualify, as referred to in number 3 of the law, are invalid. Marriage as in number 3 must be registered by the officials making the marriage certificate or KUA.

From this description about marriage through video call in Islamic law, there are different arguments regarding the validity of the marriage contract through video call, due to *ittihad al-majlis*. According to the author, the understanding of current situation cannot be equated with the understanding of the past because basically technological advances are constantly getting more sophisticated (Aprian, 2023).

The researcher summarised the results of research through a table on the discussion of *Akad Nikah* through teleconference by perspective of Wahbah Az-Zuhaili and islamic family law in Indonesia (Muflikhah, 2023).

Table 16.2: Summary of the results of research through a table on the discussion of Akad Nikah through teleconference

Analysis Aspect	The Perspective of Wahbah Az-Zuhaili	Islamic Family Law in Indonesia
Validity of Marriage Agreement	Depending on the underlying principles of Islamic law	Based on Law No. 1 of 1974 concerning Marriage
Physical Presence	Emphasising the importance of physical presence to ensure the bride and groom, and witnesses are present in person	Requires the physical presence of the bride and groom, and witnesses at the location of the marriage contract
Agreement and Ijab-Qubul	Pay attention to clarity and certainty in the expression of ijab-qabul between the bride and groom, and the guardian	The principles of agreement and ijab-qabul are important to ensure that the marriage contract is considered valid
Representatives and Trustees	Pay attention to the issue of the validity of the representative in the situation of a teleconference marriage contract	The issue of the validity of the representative needs to be considered in the implementation of the marriage contract teleconference
Views of Indonesian Ulema and MUI	-	The views of Indonesian scholars and MUI on the validity of marriage contracts through

Analysis Aspect	The Perspective of Wahbah Az-Zuhaili	Islamic Family Law in Indonesia
		teleconferencing serve as guidelines for Islamic family law in Indonesia
Technology Implementation	Technical aspects such as reliable technological infrastructure need to be considered so that the marriage contract process runs smoothly and in accordance with legal provisions	The need for reliable technology infrastructure to carry out the marriage contract teleconferencing so that the process runs smoothly and in accordance with legal provisions

CONCLUSION

In conclusion, nowadays, there are two ways of implementation of marriage, due to technological advances. The first marriage is carried out directly without any distance separating the parties, the bride and groom are in the same place and witnessed by witnesses while the *akad* is performed. The second is via video call or through online media such as WhatsApp, Zoom, Skype, Instagram, Facebook etc. Meanwhile, law in Indonesia has not clearly regulated this online marriage. Wahbah Az-Zuhaili, with the *ijtihad* method, mentioned that the process of interpreting Islamic law must also use new methods that are in accordance with times, not only using the methods of the previous scholars.

The possibility of marriage contracts through teleconference has not been factually regulated in the governing legislation, making it possible to say that Indonesia's legal protection is still insufficient in this situation. However, if adopting the viewpoint of Wahbah Az-Zuhaili, this marriage conducted through

teleconference is legal and recognised as valid. Wahbah Az-Zuhaili used qiyas as his concept of ijtiḥad and regarded it as an explicit way of understanding *nas*. This thinking is based on his desire to avoid various damages and create the benefit for the people.

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