

# Online Marriage During the Covid-19 Pandemic: A Study of the Fatwas in Egypt, Iraq, Syria, and Saudi Arabia

Abdul Hakim<sup>1</sup> & Bagus Haziratul Qodsiyah<sup>2</sup>

**Abstract: Online Marriage During the COVID-19 Pandemic: A Study of the Fatwas in Egypt, Iraq, Syria, and Saudi Arabia.** Online marriage is a new social phenomenon that has emerged since the arrival of the COVID-19 virus outbreak in all corners of the world. This phenomenon is widely discussed by people everywhere and is motivated by the desire to carry out pre-planned marriages and not wanting to postpone them. This study aims to discuss the above social phenomena from the point of view of fiqh, *maqâshid al-sharia*, and fatwas in several Muslim countries. This type of research is qualitative in the form of a literature study using a conceptual and socio-legal approach. Based on the results of the study, it can be concluded that the views of fiqh and fatwas in Muslim countries regarding online marriage are divided into two: Some allow it because they regard virtual meetings as meetings in one place (*ittihâd al-majlis*) and consent and *qabûl* can be witnessed by both witnesses; but some forbid it because there is no physical and essential *ittihâd al-majlis*, there are no witnesses, and the possibility of audio-visual manipulation. Viewed from the *maqâshid al-sharia* perspective, online marriage is also not suitable because the purpose of marriage may not be realized.

**Keywords:** online marriage, COVID-19, fatwa.

**Abstrak: Pernikahan Online di Masa Pandemi COVID-19: Studi Fatwa-fatwa di Mesir, Irak, Suriyah dan Arab Saudi.** Pernikahan online merupakan satu fenomena sosial baru yang muncul sejak kedatangan wabah virus COVID-19 ke seluruh penjuru dunia. Fenomena ini banyak diperbincangkan orang di mana-mana dan dilatarbelakangi oleh keinginan untuk melaksanakan pernikahan yang sudah direncanakan sebelumnya dan tidak ingin menundanya. Penelitian ini bertujuan untuk membahas fenomena sosial di atas dari sudut pandang fikih, *maqâshid al-syarîah* dan fatwa-fatwa di beberapa negara Muslim. Jenis penelitian ini adalah kualitatif yang berbentuk studi kepustakaan dengan menggunakan pendekatan konseptual dan sosio-legal. Berdasarkan hasil penelitian dapat disimpulkan bahwa pandangan fikih dan fatwa-fatwa di negara Muslim terkait nikah online terbagi menjadi dua: Ada yang membolehkan karena menganggap pertemuan virtual sebagai pertemuan di satu tempat (*ittihâd al-majlis*) serta *ijâb* dan *qabûl* bisa disaksikan oleh kedua saksi. tetapi ada pula yang melarang dengan alasan tidak adanya *ittihâd al-majlis* secara fisik dan hakiki, tidak ada saksi, dan kemungkinan adanya manipulasi audio visual. Dilihat dari perspektif *maqâshid al-syarîah* pernikahan online juga tidak sesuai karena tujuan nikah berpotensi tidak terwujud.

**Kata kunci:** pernikahan online, COVID-19, fatwa.

---

<sup>1</sup>STAI Imam Syafi'i Cianjur Jawa Barat

<sup>2</sup>UIN Syarif Hidayatullah Jakarta

E-mail: <sup>1</sup>abdulhakim.92@yahoo.com, <sup>2</sup>haziratul@gmail.com

## Introduction

Since the confirmation of the COVID-19 virus that caused an outbreak of the disease in Wuhan at the end of 2019<sup>1</sup>, the COVID-19 virus has spread to almost all countries in the world, not only claiming many victims but also destroying the world order.<sup>2</sup> Many countries in the world have done various ways to deal with the pandemic; Some implemented total lockdowns, such as in China, Italy, Poland, El Salvador, Ireland, Spain, Denmark, Lebanon, France, and England,<sup>3</sup> while others only limited social activities, without implementing a total lockdown, such as in Singapore, South Korea, and Indonesia.<sup>4</sup>

To break the chain of transmission of the COVID-19 virus, the Indonesian government has issued a series of regulations, including Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of COVID-19,<sup>5</sup> which was followed up by a Decree of the Minister of Health Number: HK. 01.07/MENKES/382/2020 regarding health protocols, including Minister of Home Affairs Regulation (Permendagri) No. 27 of 2021 concerning the Enforcement of Restrictions on Community Activities (PPKM) on the Islands of Java and Bali. with different levels, from level 1 to level 4, for each region according to the level of spread of the COVID-19 virus that occurs in their respective areas. The government, through the series of regulations above, is

---

<sup>1</sup> Yelvi Levani and others, 'Coronavirus Disease 2019 (COVID-19): Patogenesis, Manifestasi Klinis dan Pilihan Terapi', *Jurnal Kedokteran dan Kesehatan*, 17.1 (2021), 44–57 (p. 45). See Zaelani, A. Q., Disemadi, H. S., & Rumawi, M. The Company's Contribution to Overcome the Economic Crisis Due to Covid-19 Pandemic in Indonesia Through Corporate Social Responsibility Policy. *NeuroQuantology*, (2022), 457-466.

<sup>2</sup> Moch Halim Sukur, Bayu Kurniadi, and Ray Faradillahisari N, 'Penanganan Pelayanan Kesehatan di Masa Pandemi COVID-19 dalam Perspektif Hukum Kesehatan', *Journal Inicis Legis*, 1.1 (2020), 1–17 (p. 3).

<sup>3</sup> Tim detikcom, 'Daftar Negara Yang Lockdown Karena Corona', 18 Maret, 2020 <<https://news.detik.com/berita/d-4956298/daftar-negara-yang-lockdown-karena-corona/1>> [accessed 8 December 2021].

<sup>4</sup> Rehia Sebayang, 'Bukan Lockdown, Ini Cara Negara Ini Tangani Corona', 18 Maret, 2020 <<https://www.cnbcindonesia.com/news/20200318120307-4-145765/bukan-lockdown-ini-cara-negara-ini-tangani-corona>> [accessed 8 December 2021].

<sup>5</sup> *Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2020 Tentang Pembatasan Sosial Berskala Besar dalam Rangka Percepatan Penanganan COVID-19*, 2019.

imposing Large-Scale Social Restrictions (PSBB) and prohibiting crowds of people or carrying out activities that will involve many people which can eventually trigger the spread of the COVID-19 Virus outbreak. Apart from that, the government also encourages the public to carry out a series of activities, namely wearing masks, washing hands, and maintaining distance, which later became known as 3M.<sup>6</sup>

With the above restrictions, almost all social and work activities, which were previously carried out outside the home, must be carried out at home (work from home) through internet media. Face-to-face learning activities were abolished and replaced with e-learning, even, buying and selling activities at the markets or shopping centers were limited, even closed, to minimize physical contact and crowds.

The restrictions that affect almost all of the above social activities also touch on activities in the household sector, particularly in terms of holding wedding receptions. Many couples who have prepared for their wedding day far in advance are forced to cancel or postpone their weddings, due to the prohibition against activities that invite many people.

For those who still insist on getting married on a predetermined day, there is no other choice but to do so through the help of technological media or what is better known as online marriage.<sup>7</sup> This is what was done by the couple Sri Sulastri from Muko-Muko, Bengkulu, and Feru Eriyandi from Medan, North Sumatra, who married on April 3, 2020, which was held online through a video call that was connected directly to the Head of KUA Air Manjuto H. Kasan Bisri, The wedding was also broadcasted live streaming where the groom was represented by Zulman.<sup>8</sup>

In another area in Indonesia, namely in South Sulawesi, online marriage also occurred. A man named Kardiman bin Haeruddin had

---

<sup>6</sup> *Instruksi Menteri Dalam Negeri Nomor 27 Tahun 2021 Tentang Pemberlakuan Pembatasan Kegiatan Masyarakat Level 4, Level 3, dan Level 2 Corona Virus Disease 2019 di Wilayah Jawa dan Bali*, 2021, pp. 1–23.

<sup>7</sup> Mochamad Adrian Pranata, Neneng Nurhasanah, and Muhammad Yunus, 'Keabsahan Akad Nikah Melalui Video Call Menurut Hukum Islam', *Jurnal Riset Hukum Keluarga Islam*, 1.1 (2021), 21–26 (p. 21) <<https://doi.org/10.29313/jrhki.v1i1.85>>.

<sup>8</sup> Wahibatul Maghfuroh, 'Akad Nikah Online dengan Menggunakan Via Live Streaming Perspektif Hukum Islam', *Jurnal Ilmiah Ahwal Syakhshiyah*, 3.1 (2021), p. 97.

to undergo a 14-day health quarantine in anticipation of the spread of the COVID-19 virus as he had just arrived from Surabaya which has a red zone status. According to their plan, the marriage ceremony will take place at the prospective bride's residence in Southeast Sulawesi. However, due to uncondusive conditions and situations, the marriage contract must be carried out via video call between the groom and the guardian of the bride, in a location approximately 700 km apart.<sup>9</sup> On a different occasion, online marriage also occurred between Max Walden, a man from Sydney, Australia, and a woman Shaffira from Surabaya, East Java. The couple had set the date for their wedding day at the end of 2019 and were reluctant to reschedule. The marriage, therefore, was held via the internet, using the ZOOM application on June 20, 2020. thousands of kilometers apart.<sup>10</sup>

On April 2, 2020, the Minister of Religion through a Circular issued by the Director-General of Islamic Community Guidance Number: P-002/DJ.III/Hk.00.7/03/2020, in point number 7, emphasizing that online marriage by any online media used, either telephone, video calls, or other web-based applications, is not legal and is not justified.<sup>11</sup> The provision, however, was not in line with the MUI's fatwa which asserts that online marriage can be justified as long as it fulfills three conditions. First, all parties involved in the marriage (guardian, groom, and two witnesses) must be connected with audiovisuals. Second, must be real-time. Third, guarantee the truth of the parties present.<sup>12</sup>

In the academic realm, many studies discussing marriage online were conducted. Among them is an article written by Wahibatul Maghfuroh

---

<sup>9</sup> Mahardika Putera Emas, 'Problematika Akad Nikah Via Daring dan Penyelenggaraan Walimah Selama Masa Pandemi COVID-19', *Batulis Civil Law Rev.* 1.1 (2020), 68–78 (p. 69) <<https://doi.org/10.47268/ballrev.v1i1.387>>.

<sup>10</sup> Tim detikcom, "'Jab Kabul Yang Menegangkan", Pasangan Indonesia-Australia Nikah Lewat Zoom', *01 Juli*, 2020 <<https://news.detik.com/abc-australia/d-5075557/ijab-kabul-yang-menegangkan-pasangan-indonesia-australia-nikah-lewat-zoom>> [accessed 8 December 2021].

<sup>11</sup> *Surat Edaran Nomor: P- 003/DJ.III/Hk.00.7/04/2020 Tentang Pelaksanaan Protokol Penanganan COVID-19 pada Area Publik di Lingkungan Direktorat Jedral Bimbingan Masyarakat Islam*, 2020, p. 1.

<sup>12</sup> MUI, 'Hukum Pernikahan Secara Online – Majelis Ulama Indonesia', *12 November*, 2021 <<https://mui.or.id/berita/32212/hukum-pernikahan-secara-online/>> [accessed December 8, 2021].

entitled: *Akad Nikah Online dengan Menggunakan Via Live Streaming Perspektif Hukum Islam*. The author explains that marriage using live streaming is legal according to Islamic law and the Compilation of Islamic Law because it does not reduce the pillars and conditions of marriage.<sup>13</sup> Similar research results were presented by Mochamad Adrian Pranata, Neneng Nurhasanah, and Muhammad Yunus in the article entitled: *Keabsahan Akad Nikah Melalui Video Call Menurut Hukum Islam*. The authors emphasized that marriage through video call was considered valid because it fulfilled the pillars and conditions of Islamic marriage.<sup>14</sup>

In contrast to the two studies above, the article written by Mahardika Putera Emas entitled: *Problematika Akad Nikah Via Daring dan Penyelenggaraan Walimah Selama Masa Pandemi COVID-19* explains that marriage using video calls is not valid and is not allowed because one of the requirement. i. e. *ittihâd al-majlis* (one *majlis*) is not realized. In addition, he also supported his argument by referring to government regulations that do not allow marriage online.<sup>15</sup>

Most of the researchers, including whom are already mentioned earlier while discussing the issue of online marriage, more focus on the legal status of online marriage. None of them discusses the issue from the point of view of classic fiqh scholars, *maqâshid al-sharîa* (the objectives of Islamic Law), and the fatwas in Muslim countries. To fulfill this gap, in this work the author tries to explore the issue of online marriage, involving fiqh, and *maqâshid al-sharîa* perspectives, as well as the fatwas in several Muslim countries. This is to answer questions about the views of fiqh scholars and *maqâshid al-sharîa* regarding the phenomenon of online marriage, and about the fatwa in Muslim countries regarding the practice of such marriages.

---

<sup>13</sup> Wahibatul Maghfuroh, "Akad Nikah Online dengan Menggunakan Via Live Streaming Perspektif Hukum Islam," *Jurnal Ilmiah Ahwal Syakhshiyah*, 3.1 (2021).

<sup>14</sup> Mochamad Adrian Pranata, Neneng Nurhasanah, and Muhammad Yunus, "Keabsahan Akad Nikah Melalui Video Call Menurut Hukum Islam," *Jurnal Riset Hukum Keluarga Islam*, 1.1 (2021), <https://doi.org/10.29313/jrhki.v1i1.85>.

<sup>15</sup> Mahardika Putera Emas, "Problematika Akad Nikah Via Daring dan Penyelenggaraan Walimah Selama Masa Pandemi Covid-19," *Batulis Civil Law Rev*, 1.1 (2020), <https://doi.org/10.47268/ballrev.v1i1.387>.

## Method

This research is qualitative, library research using a comparative, conceptual, and socio-legal approach. The data were obtained by exploring *mu'tabarab* (well-known) fiqh books, scientific journals, and other relevant sources and then were analyzed using the comparative method.

## Result and Discussion

### Fiqh, *Maqâshid al-Sharîa*, and the Provision of Marriage

Muslim scholars distinguish between fiqh and *maqâshid al-sharîa*. Fiqh, in the view of Muslim scholars, is the science of Islamic laws that are taken from detailed arguments (*al-adillah al-tafshîliyyah*). While *maqâshid al-sharîa* is the science to find out the meanings and wisdom desired by the Lawmakers of *sharîa* (Allah SWT).<sup>16</sup> *Maqâshid al-sharîa*, in the history of the development of Muslim knowledge, is classified as a new scientific discipline that emerged from the field of *Usûl Fiqh*. The discipline of *maqâshid al-sharîa* became famous and stood as a separate discipline from the time of as-Syathibi who was known as the father of *maqâshid al-sharîa* discipline.<sup>17</sup>

In fiqh discourse, the fuqaha prioritize their interpretation more on the *sharîa* texts (*an-nushûsh al-shar'îyyah*) and the 'illat (reasons) of law than on the *hikmah* (wisdom) behind the law. In the case of *qashr al-sholâh* (shortening prayer), for instance, the fuqaha will focus more on the 'illat of law, namely travel, not on the *hikmah* of the law, distress (*al-masyaqqah*). On the other hand, *maqâshid al-sharîa* scholars will more focus on the aims and objectives of *sharîa* makers. They all unanimously agree that the *sharîa* contains wisdom and goals and benefits for humans both in this world and in the hereafter. Most of the objectives of *sharîa* are explicitly mentioned by Allah SWT through His commands and prohibitions to His servants. For the objectives that are implicitly

---

<sup>16</sup> Muhammad al-Habib, 'Muqaddimah al-Tahqîq', in *Maqâsid al-Syarî'ah al-Islâmiyyah* (Qatar: Wizârah al-Auqâf al-Islâmiyyah, 2004), pp. 17–21.

<sup>17</sup> Muh. Mukhlis Abidin, 'Paradigma Maqâsid Syariah Menjadi Disiplin Ilmu', *Tawazun: Journal of Sharia Economic Law*, 2.1 (2019), 73 (pp. 78–81) <<https://doi.org/10.21043/tawazun.v2i1.5415>>.

mentioned, the scholars must find out them through the *'illat* (reasons) contained in the sharia texts.<sup>18</sup>

Furthermore, in the *maqâshid al-sharîa* discourse, the law is a *wasîlah* (way) to realize the essential goal desired by the sharia, i.e to realize benefits and reject harm.<sup>19</sup> The benefits referred to by sharia are divided into three levels, namely: *dharûriyyah* (emergency or urgency), *hajiyyah* (needs or necessities), and *tahsîniyyah* (accessories or complementary). The benefits of *dharûriyyah* include *hifzh al-dîn* (safeguarding religion), *hifzh al-nafs* (guarding the soul), *hifzh al-'aql* (guarding the mind), *hifzh al-mâl* (safeguarding property), *hifzh al-nasl* (protecting offspring). The benefits of *hajiyyah* are aimed at fulfilling secondary human needs such as the permissibility of the *qashar* prayer for people who are traveling far away as a relief for him. Whereas, the benefits of *tahsîniyyah* are aimed at fulfilling tertiary human needs, such as being prescribed purification (ablution, bathing, etc.) so that humans can live clean.<sup>20</sup>

Meanwhile, the main purpose of marriage is *hifzh al-nasl* (maintaining offspring)<sup>21</sup> and the purpose of *hifzh al-nasl* is included in the *dharûriyyah* category. Therefore, the marriage contract, to be considered valid, must pay more attention to the pillars and conditions of marriage. As explained by the fiqh scholars, there are five pillars of marriage namely: the existence of a *shîghah* (*ijâb* and *qabûl*), the presence of a bride, a groom, two witnesses, and a guardian.<sup>22</sup> The guardian and two witnesses must be Muslim, mature, intelligent, free (not slaves), male and fair.<sup>23</sup> In addition, there are at least four people who must be present at the marriage

<sup>18</sup> Khairan Muhammad Arif, 'Pengaruh Maqashid Syariah Terhadap Fiqh Muamalah dan Fatwa dalam Mewujudkan Moderasi Islam', *El-Arbab: Jurnal Ekonomi, Bisnis dan Perbankan Syariah*, 4.01 (2020), 1–16 (pp. 2, 13) <<https://doi.org/10.34005/elarbah.v4i01.1054>>.

<sup>19</sup> Abdurrahmân al-Kailânî, *Qawâd al-Maqâsid 'Inda al-Imâm al-Syâthibî* (Damascus: Dâr al-Fikr, 2000), p. 59.

<sup>20</sup> Abû Ishâq al-Syathibî, *al-Muwafaqât* (Dâr Ibn 'Affân, 1997), p. 83.

<sup>21</sup> Muhamad Taufiq, 'Nikah Sirri Perspektif Maqashid Syariah', *al-Manhaj: Journal of Indonesian Islamic Family Law*, 1.2 (2019), 114 (p. 121) <<https://doi.org/10.19105/al-manhaj.v1i2.3138>>.

<sup>22</sup> Syamsu al-Dîn al-Syirbînî, *Mughnî al-Mubtâj Ilâ Ma'rifah Ma'ânî Alfâdzi a-Minhâj* (Beirut: Dâr al-Ma'rifah, 1997), p. 188.

<sup>23</sup> Abû Syujâ' Ahmad ibn al-Husain, *Matn al-Gâyah Wa at-Taqrîb* (Beirut: Dâr al-Minhâj, 2005), p. 109.



procession, namely: the guardian, husband, and two witnesses. If one of them is not present at the moment of *ijâb qabûl*, then the marriage is considered invalid.<sup>24</sup>

Wahbah al-Zuhayli explained that there are at least four conditions agreed upon by the four madhabs scholars that must be met in *ijâb qabûl*. First, *ittihâd al-majlis* (conducted in one place); Second, conformity between *ijâb* and *qabûl* (consent and acceptance); Third, continuation between *ijâb* and *qabûl* and Fourth, happen immediately, not postponed or hung in the future.<sup>25</sup> The scholars of the four madhabs agree that the marriage contract must be in one place (*ittihâd al-majlis*). If the guardian has recited the *ijâb*, but the majlis disbands before the groom pronounces *qabiltu* (I accept the marriage), or he mentions the phrase at another majlis or other place, then the marriage contract is invalid.<sup>26</sup>

Moreover, the conditions for *shîghah*, in a marriage contract, are similar to the conditions for a sale and purchase contract, namely: between *ijâb* (consent) and *qabûl* (acceptance) there should be no pauses (interludes), no hanging, must use clear words (*sharîh*), taken from the word *inkâh* or *tazwîj*, although not in Arabic, and must be understood by the wali, the groom and two witnesses. It is not permissible to use the word *kinâyah* (parable or allusion) because *kinâyah* requires intention (*al-niyyat*), while a witness cannot know someone's intention (*al-niyyat*).<sup>27</sup>

### Online Marriage in the View of Fiqh and *Maqâsid al-Sharî'ah* Scholars

Online marriage is a long-distance marriage contract with the help of technology, either by telephone, video call, or teleconference. The guardian, the groom, and the two witnesses are separated but connected digitally. This kind of marriage practice had never existed before, so there were no classical fiqh scholars who discussed this issue in their

<sup>24</sup> Abû Bakr al-Hisnî, *Kifâyah al-Akhyâr* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 2001), p. 477.

<sup>25</sup> Wahbah al-Zuhayli, *al-Fiqh al-Islâmî Wa Adillatuh*, 2nd edn (Damascus: Dâr al-Fikr, 1985), pp. 49–52.

<sup>26</sup> Abdurrahman al-Jazîrî, *al-Fiqh 'alâ Mazâhib al-Arba'ah*, 2nd edn (Beirut: Dâr al-Kutub al-'Ilmiyyah, 2003), p. 27.

<sup>27</sup> Ibrâhîm al-Bâjûrî, *Hasyiyah al-Bâjûrî 'alâ Ibn al-Qâsim* (Beirut: Dâr al-Minhâj, 2016), 347.



books. Meanwhile, contemporary fiqh scholars try to explore the legal status of online marriage by adhering to the principles and conditions of marriage, which have not changed even though society and technology develop over time.

Regarding the legal status of marriage online, Muslim scholars are divided into two groups. One group views marriage online as invalid, while another considered it valid. Such a difference of opinion emerges from the issue of *ittihâd al-majlis* (one place). Those who view online marriage as invalid argue that the practice does not fulfill a condition in the marriage contract, that is *ittihâd al-majlis* (conducted in one place). This condition, in their opinion, is essential to keep the marriage contract serious and not to be playing games. This view is held by the majority of ‘ulema including Abû Bakr Al-Hisnî,<sup>28</sup> Wahbah al-Zuhaili,<sup>29</sup> Abdurrahman al-Jazîrî.<sup>30</sup> Some, however, expand the meaning of *ittihâd al-majlis* so that video calls and live streaming can be considered as *ittihâd al-majlis* in a figurative manner (*majaz*). This second opinion is used by groups that allow online marriage because it is considered a *majlis* in cyberspace.

The COVID-19 Pandemic can be categorized as a *dharûrah* (emergency) situation which provides relief in doing something that is prohibited (*mahdûrât*). For example the case of Friday prayers. Friday prayers in normal times are obligatory. However, during the COVID -19 pandemic, Friday Prayers should not be held if there is fear that it will cause crowds which then have the potential to spread the virus to the congregation. The permissibility of leaving what is obligatory is based on the principle of *dharûrat*.

Such, however, is not the case with online marriage. Even though COVID-19 can be used as an excuse to carry out certain activities, the emergency principle does not apply here. If someone wants to get married for reasons of biological necessity, to be able to have *halâl* (legal) sexual relations, and to avoid adultery, but because of the COVID-19 pandemic he cannot carry out the marriage contract, then even if he does the

---

<sup>28</sup> al-Hisnî, p. 477.

<sup>29</sup> Wahbah al-Zuhaylî, pp. 49–52.

<sup>30</sup> al-Jazîrî, p. 27.

marriage contract online, it is still useless because the biological need to have sex is still hindered by distance. So, even though the COVID-19 pandemic can be used as a strong argument for those who allow online marriages, the excuse does not apply here, because in this situation the married couple still can not fulfill their biological need.

That is why the majority of contemporary jurists are more inclined towards face-to-face marriage contracts because this gives the impression of being more careful not to get out of the way of the opinions of the scholars who require *ittihâd al-majlis*.<sup>31</sup> Caution is emphasized in the marriage contract because this attitude is related to the prevention of intimate relations so as not to fall into adultery. After all, face-to-face marriage contracts, actually, can still be carried out during the COVID-19 pandemic as long as they pay attention to and strictly implement health protocols and limit the number of people attending to only certain people, namely people who must attend because they are included in wedding pillars. Another option that is still available for the prospective bride and groom is to postpone the wedding while waiting for the situation and conditions to improve. The reason for not wanting to postpone the wedding because it was planned and scheduled well in advance is not a shar'i reason and is not included in the rules of *al-dharûrah tubîh al-mahdûrât* (emergencies are allowed for something that is prohibited).

Furthermore, moving to the perspective of *maqâsid al-sharîa*, al-Syathibi, the father of *maqâsid al-sharîa*, mentioned an important rule in the science of *maqâsid al-sharîa* that should be considered when reviewing a legal issue. The rule is:

النظر في مآلات الأفعال معتبر مقصود شرعاً<sup>32</sup>

*“Looking at the impact caused by the act is considered (necessary and used) and includes the intent of sharia”.*

Therefore, in the case of online marriage, it is necessary to see whether the *maqâsid al-sharîa* of marriage can be realized which includes:

<sup>31</sup> Muhammad Mustafâ al-Zuhaylî, *al-Wajis Fi Usûl al-Fiqh al-Islâmî* (Damascus: Dâr al-Khair, 2006), p. 450.

<sup>32</sup> al-Syathibî, p. 177.

*hifzh al-nasli*, maintaining views and *farji* as well as producing offspring and multiplying people. If the online marriage contract cannot realize the *maqâsid al-sharîa* of marriage, then the online marriage contract is not allowed and is not considered valid by syara'.

The marriage contract is very sacred because it distinguishes between a lawful and unlawful relationship (adultery). Ali Ahmad al-Jurjawi emphasized that the purpose of marriage, in general, is to stay away from adultery and accompany women by living together. Therefore, the marriage contract is carried out openly in front of witnesses, not done secretly, because marriage is related to offspring and maintains lineage.<sup>33</sup> Moreover, because of the sacredness of marriage which results in *nasab* (the lineage) status and keeps it away from adultery, the marriage contract is required to have a witness who directly sees the contract. Online marriage reduces the sacredness of the marriage contract, as the witnesses cannot see the contract directly since the contract is done online.

Still, in the view of *maqâsid al-sharîa*, well-organized family affairs are the core of civilization. To maintain civilization, the first thing to pay attention to is maintaining the core component of the origin of civilization, namely the family. The sharia maintains order in family affairs by paying attention to the origins of family creation, namely the relationship between men and women through the institution of marriage. Islam places great emphasis on the validity of marriage to protect the lineage so that it is not contaminated with doubts.<sup>34</sup> Honor (*'aradh*), in Islam, is something of great value; Tarnishing honor, therefore, is a very despicable act. Humans must maintain their honor so that they are not trampled on and tarnished by others. Among the purposes of marriage, is to protect oneself from falling into adultery. If a person does not guard his gaze and falls into adultery, then he has tarnished his honor and that of others.<sup>35</sup> The Prophet said:

---

<sup>33</sup> al-Jurjâwî, p. 5.

<sup>34</sup> Ibn 'Âtsur, p. 421.

<sup>35</sup> Alî Ahmad al-Jurjâwî, *Hikmah al-Tasyrî' Wa Falsafatuh*, 2nd edn (Beirut: Dâr al-Fikr, 2003), p. 5.

يا معشر الشباب، من استطاع منكم الباءة فليتزوج، فإنه أغض للبصر، وأحصن للفرج، ومن لم يستطع فعليه بالصوم، فإنه له وجاء.<sup>36</sup>  
*“O youths, whoever can afford to marry, then get married. Because marriage is more about keeping the view and keeping the farji (female genitalia). Whoever is not able, then fast. Because fasting is a shield for him”.* (H.r. Muslim)

Online marriage can not fulfill one of the purposes of marriage, i.e to maintain views and keep *farji* (sexual organ). This is because the married couple only has married status but still cannot meet each other for biological needs.

Another purpose of marriage is to multiply offspring.<sup>37</sup> This is as said by the Prophet in a hadith:

تزوجوا الودود الولود فإني مكاثر بكم الأمم<sup>38</sup>  
*“Marry a woman who is merciful and fertile, because I am multiplying the people through your intermediaries”.* (Narated by Abu Daud)

Married people generally want to have children. Besides keeping the household from being lonely, having descendants may also continue someone's life as their children and grandchildren still remember their name. Online marriage cannot fulfill this purpose, i.e having children, because the married couple cannot meet for some reason.

### Online Marriage in the View of Fatwa Agencies of Egypt, Iraq, Syria, and Saudi Arabia

Online marriage is a new thing that has attracted the attention of world scholars in various countries. Several fatwa institutions in Islamic countries have studied this issue in depth to determine its legal status.

<sup>36</sup> Abū al-Husayn ibn al-Hajjāj al-Qushayrī al-Naysābūrī Muslim, *Shahih Muslim* (Beirut: Dār Ihyā' al-Turāth al-'Arabī, n.d.), p. 1018.

<sup>37</sup> al-Jurjāwī, p. 6.

<sup>38</sup> Abū Dāwud Sulaimān Ibn Asy'ats, *Sunan Abi Dāwud* (Delhi: al-Mathba'ah al-Anshāriyyah, 1324), 175.

Among the world fatwa institutions that have issued online marriage fatwas are *Dâr al-Iftâ' al-Mishriyyah* in Egypt, *Dâr al-Iftâ' al-'Irâqiyyah* in Iraq, *al-Majlis al-Islâmî al-Sûrî* in Syria, and *al-Lajnah al-Dâimah li al-Buhûth al-'Ilmiyyah wa al-Iftâ'* and *Majma' al-Fiqh al-Islâmî al-Daulî* in Saudi Arabia.

According to Fatwa *Dâr al-Iftâ' al-Mishriyyah* no: 9069, which was issued in May 1997 by the Mufti 'Âthiyyah Shaqr, a marriage contract, if it is carried out via a telephone line, is not valid because it is rather difficult to confirm that it is the voice of the groom, perhaps it's a copy or imitation. Even if the bride hears it, it is not certain that the two witnesses can hear it; except everyone can hear it on one frequency through the latest communication tools. Even so, it still feels difficult to verify. It's another case if the marriage is carried out with a communication device that can transfer sound and images simultaneously (video call), then in this case the marriage is considered valid. This is because, with the help of the application, the process of consent and qobûl can be verified by both parties. In addition, even though the marriage is carried out remotely, the parties can be considered present in one place as required by the fiqh scholars.<sup>39</sup>

The above fatwa was later corrected by the latest fatwa issued by *Dâr al-Iftâ' al-Mishriyyah* in 2021 which emphasized that online marriages are not considered valid under the *sharîa*. Khâlid Imrân as general secretary of *Dâr al-Iftâ' al-Mishriyyah* explained that marriage through electronic media is not considered valid because marriage conditions such as witness and *ishâr* (showing to a large audience) are not fulfilled. Apart from that, electronic marriage also has the potential to cause *dharar* (harm) in many ways.<sup>40</sup>

In Iraq, online marriage has also been studied by the country's scholars through a fatwa issued by *Dâr al-Iftâ' al-'Irâqiyyah* no: 1343

<sup>39</sup> Dâr Iftâ' al-Mishriyyah, 'Fatâwâ Dâr al-Iftâ' al-Mishriyyah' <<https://al-maktaba.org/book/432/4605#p5>> [accessed 12 May 2022].

<sup>40</sup> 'Iftâ' Mishr: al-Zawâj al-Iliktrâni Ghair Syar'i', *Alwatannews.Net*, 2021 <<https://alwatannews.net/Life-Style/article/916581/افتاء-مصر-الزواج-الإلكتروني-غير-شرعي>> [accessed 12 May 2022].

and was promulgated by the Iraqi state mufti, Mahdî Ibn Ahmad al-Shamaida'i on the 28th July 2019. The Mufti explained that the scholars differed on the implementation of the marriage contract using the latest technology media such as the telephone or the internet. Some circles forbid this kind of marriage because there are no witnesses who can explain that two people who contract by telephone at the same time are in the same place (*ittihâd al-majlis*). Some other groups also forbid this kind of marriage on the pretext of *ih̄tiyât* (caution), because voice imitation or manipulation may occur so there is an element of fraud.

Other scholars, in contrast, allow this kind of marriage on the condition that it is safe and protected from manipulation. This opinion is stated in the fatwa of Abdul 'Aziz bin Abdullâh bin Abdurrahman. According to this fatwa, it is permissible for a marriage contract to be made by telephone or the internet (online) if it can be ascertained that it is protected from elements of play, and that the groom, bride, including their guardians, are certain, and that the two witnesses can see and hear the words of *ijâb* and *qabûl*.<sup>41</sup>

In Suriah, the online marriage fatwa was also published by *al-Majlis al-Islâmî al-Sûrî* no: 21 on February 12, 2018. Some contemporary scholars allow this kind of contract, both via teleconference or other voice calling software, on condition that all of the following conditions are met, namely : (1) the continuity and validity of the contract; (2) the presence of the guardian, the bride, and two witnesses; (3) The witnesses from both sides of the bride and groom can witness and hear directly the conversation of the other party at the same time when the agreement is made. Starting from the moment when the guardian, or his representative, mentions the *ijâb* (consent) which is then followed immediately with *qabûl* (acceptance) by the groom, without any element of fraud or error. If the witness only hears consent from the guardian or *qabûl* from the groom, then the contract is invalid.<sup>42</sup>

<sup>41</sup> Dâr al-Ifâ' al-'Irâqiyah, 'Fatwa Raqm (1343)' <<https://www.h-iftaa.com/2019/07/3431-فتوى-رقم-1343>> [accessed 12 May 2022].

<sup>42</sup> al-Majlis al-Islâmî al-Sûrî, 'Hukm Aqd al-Zawâj Bi Wasâil al-Ittishâl al-Hadîthah' <<http://sy-sic.com/?p=7442>> [accessed 12 May 2022].

Al-Majlis al-Islâmî al-Sûrî asserts that marriages carried out via video calls have higher validity than using teleconferences or telephones. By using a video call, both parties can witness and see the continuity of the contract when the *ijâb* (consent) and *qabûl* (acceptance) are made. Apart from that, by using video calls, elements of fraud and errors can be avoided. The body chose this opinion on the condition that there must be an *uzhur* (obstacle) that makes it impossible to carry out the contract in the normal way. When there is no *uzhur*, online marriage should be avoided.<sup>43</sup>

In contrast, the fatwa of *al-Lajnah al-Dâimah li al-Buhûth al-Ilmiyyah wa al-Iftâ'* in Saudi Arabia and the fatwa of *Majma' al-Fiqh al-Islâmî al-Daulî In*, an international scholar association based in Saudi Arabia, explicitly do not allow online marriage;

*Lajnah al-Dâimah* prohibits online marriage by telephone for reasons of being careful because there are many frauds in this day and someone's skill at imitating other people's voices. Another reason is that the Shari'a pays special attention to protecting *farji* (genitals) and honor. Being careful in this matter is greater than in muamalah contracts, to realize the *maqâshid al-sharîa* and pay more attention to maintaining seriousness so as not to make a playfulness of nosy people.<sup>44</sup> Similarly, *Majma' al-Fiqh al-Islâmî al-Daulî* emphasized that carrying out the contract using modern communication tools is legal, even though the two parties to the contract are not gathered in one place, except for the marriage contract because it must be witnessed by two fair witnesses.<sup>45</sup>

Based on the explanation above, it can be inferred that among the fatwas forbidding online marriage are the fatwas issued by *al-Lajnah al-Dâimah li al-Buhûth al-Ilmiyyah wa al-Iftâ'* and *Majma' al-Fiqh al-Islâmî al-Daulî* located in Saudi Arabia. As for the fatwa of *Dâr al-Iftâ'*

<sup>43</sup> al-Majlis al-Islâmî al-Sûrî.

<sup>44</sup> Abdullah Ibn Muhammad al-Thayyar, Abdullâh Ibn Muhammad al-Mutlaq, and Muhammad Ibn Ibrâhîm al-Musa, *Kitâb Fiqh al-Muyassar* (Riyadh: Madâr al-Wathon, 2011), p. 23.

<sup>45</sup> Majma' al-Fiqh al-Islâmî al-Daulî, "Qarâr Bi Sya'ni Hukmi Ijrâi al-Uqûd Bi Âlâti al-Ittishal al-Hadîtsah," 20 Maret, 1990, <https://iifa-aifi.org/ar/1789.html>.



*al-Mishriyyah* in Egypt, there are two conflicting views between the old fatwa of 1997 and the most recent fatwa of 2021. The previous fatwa appreciated technological advances that made it possible to support online marriage in the future, Meanwhile, the latest fatwa rejects the use of technology for fear of damaging the main principle of marriage, namely that it must be carried out in the same place. The same thing happened in Iraq, according to a statement by *Dâr al-Iftâ' al-'Irâqiyyah* some Iraqi scholars forbade online marriage while other scholars allowed it. This last view was adopted by *Dâr al-Iftâ' al-'Irâqiyyah* with the provision that in such a marriage practice it can be ascertained that there is a groom and a guardian, there are two witnesses who hear the *ijâb* and *qabûl* and also ensure that there is no element of playfulness and fraud. *Majlis al-Islâmî al-Sûrî* in Syria has given the same permission on condition that there must be an *uzur* (obstacle) that hinders normal marriages practices (face-to-face) to take place If there is no *uzur*, such marriage practices are not permissible.

## Conclusion

Contemporary ulemas, including those who are members of fatwa institutions, have different opinions about the legal status of online marriage. Some scholars allow online marriage because they view a virtual meeting as similar to a meeting in one place (*ittihâd al-majlis*), which can be witnessed and safe from fraud.

In contrast, the majority of scholars prohibit online marriage because online marriage does not fulfill one of the conditions for marriage, namely *ittihâd al-majlis* (one place), and also cannot be witnessed by witnesses physically and essentially and is prone to fraud and playfulness. This tendency is in line with *maqâshid al-sharîa* because the goals of marriage include: *hifzh al-nasli*, maintaining views and *farji* as well as producing offspring, and multiplying them can not be realized in the practice of online marriage.

## Bibliography

- Abidin, Muh. Mukhlis, 'Paradigma Maqâsid Syariah Menjadi Disiplin Ilmu', *Tawazun: Journal of Sharia Economic Law*, 2.1 (2019), 73 <<https://doi.org/10.21043/tawazun.v2i1.5415>>.
- Ahmad Ibn al-Husain, Abû Syujâ', *Matn al-Gâyah Wa al-Taqrîb*. Beirut: Dâr al-Minhâj, 2005.
- Arif, Khairan Muhammad, 'Pengaruh Maqashid Syariah Terhadap Fiqh Muamalah dan Fatwa dalam Mewujudkan Moderasi Islam', *El-Arbah: Jurnal Ekonomi, Bisnis dan Perbankan Syariah*, 4.01 (2020), 1–16 <<https://doi.org/10.34005/elarbah.v4i01.1054>>.
- Bâjûrî, Ibrâhîm al-, *Hâsiyyah al-Bâjûrî 'alâ Ibn al-Qâsim*. Beirut: Dâr al-Minhâj, 2016.
- Dâr Iftâ' al-Mishriyyah, 'Fatâwâ Dâr al-Iftâ' al-Mishriyyah' <<https://al-maktaba.org/book/432/4605#p5>> [accessed 12 May 2022].
- Emas, Mahardika Putera, 'Problematika Akad Nikah Via Daring dan Penyelenggaraan Walimah Selama Masa Pandemi COVID-19', *Batulis Civil Law Rev*, 1.1 (2020), 68–78 <<https://doi.org/10.47268/ballrev.v1i1.387>>.
- Habîb, Muhammad al-, 'Muqaddimah al-Tahqîq', in *Maqâsid al-Syarî'ah al-Islâmiyyah*. Qatar: Wizârah al-Auqâf al-Islâmiyyah, 2004.
- Hishnî, Abû Bakr al-, *Kifâyah al-Akhyâr*. Beirut: Dâr al-Kutub al-'Ilmiyyah, 2001.
- Ibn 'Âtsur, Muḥammad Thâhir, *Maqâsid al-Syarî'ah al-Islâmiyyah*. Qatar: Wizârah al-Auqâf wa al-Syu'un al-Islâmiyyah, 2004.
- 'Iftâ' Mishr: al-Zawâj al-Iliktrânî Ghair Syar'î', *Alwatannews.Net*, 2021 <<https://alwatannews.net/Life-Style/article/916581/إفتاء-مصر-الزواج-الإلكتروني-غير-شرعي>> [accessed 12 May 2022].
- 'Irâqiyyah, Dâr al-Iftâ' al-, 'Fatwa Raqm (1343)' <<https://www.h-iftaa.com/2019/07/3431-فتوى-رقم-1343/>> [accessed 12 May 2022].
- Instruksi Menteri dalam Negeri Nomor 27 Tahun 2021 Tentang Pemberlakuan Pembatasan Kegiatan Masyarakat Level 4, Level 3, dan Level 2 Corona Virus Disease 2019 di Wilayah Jawa dan Bali*, 2021, pp. 1–23.

- Jazîrî, Abdurrahman al-, *al-Fiqh 'alâ Mazâhib al-Arba'ah*, 2nd edn. Beirut: Dâr al-Kutub al-'Ilmiyyah, 2003.
- Jurjâwî, Alî Ahmad al-, *Hikmah al-Tasyrî' Wa Falsafatuh*, 2nd edn. Beirut: Dâr al-Fikr, 2003.
- Kailânî, Abdurrahmân al-, *Qawâid al-Maqâsid 'Inda al-Imâm al-Syâthibi*. Damascus: Dâr al-Fikr, 2000.
- Levani, Yelvi, Aldo Dwi Prastya, Siska Mawaddatunnadila, Kota Wuhan, and Provinsi Huebei, 'Coronavirus Disease 2019 ( COVID-19 ): Patogenesis, Manifestasi Klinis dan Pilihan Terapi', *Jurnal Kedokteran dan Kesehatan*, 17.1 (2021), 44–57.
- Maghfuroh, Wahibatul, 'Akad Nikah Online dengan Menggunakan Via Live Streaming Perspektif Hukum Islam', *Jurnal Ilmiah Abwal Syakhshiyah*, 3.1 (2021).
- Majma' al-Fiqh al-Islâmî al-Daulî, 'Qarâr Bi Sya'ni Hukmi Ijrâi al-Uqûd Bi Âlâti al-Ittishâl al-Hâdisah', *20 Maret*, 1990 <<https://iifa-aifi.org/ar/1789.html>> [accessed 12 December 2021].
- Majlis al-Islâmî al-Sûrî al-, 'Hukm Aqd al-Zawâj Bi Wasâil al-Ittishâl al-Hadîthah' <<http://sy-sic.com/?p=7442>> [accessed 12 May 2022].
- MUI, 'Hukum Pernikahan Secara Online – Majelis Ulama Indonesia', *12 November*, 2021 <<https://mui.or.id/berita/32212/hukum-pernikahan-secara-online/>> [accessed 8 December 2021].
- Muslim, Abû al-Husayn ibn al-Hajjâj al-Qushayrî al-Naysâbûrî, *Shahîh Muslim*. Beirut: Dâr Ihya' al-Turâth al-'Arabî.
- Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2020 Tentang Pembatasan Sosial Berskala Besar dalam Rangka Percepatan Penanganan COVID-19*, 2019.
- Pranata, Mochamad Adrian, Neneng Nurhasanah, and Muhammad Yunus, 'Keabsahan Akad Nikah Melalui Video Call Menurut Hukum Islam', *Jurnal Riset Hukum Keluarga Islam*, 1.1 (2021), 21–26 <<https://doi.org/10.29313/jrhki.v1i1.85>>.
- Sahil, Irdlon, 'Analisa Hukum Islam dalam Meninggalkan Shalat Jum'at pada Masa Pandemi Corona Virus Disease 2019 (COVID-19)', *Mutawasith: Jurnal Hukum Islam*, 3.2 (2020) <<https://doi.org/10.47971/mjhi.v3i2.238>>.

- Sebayang, Rehia, 'Bukan Lockdown, Ini Cara Negara Ini Tangani Corona', *18 Maret*, 2020 <<https://www.cnbcindonesia.com/news/20200318120307-4-145765/bukan-lockdown-ini-cara-negara-ini-tangani-corona>> [accessed 8 December 2021].
- Sukur, Moch Halim, Bayu Kurniadi, and Ray Faradillahisari N, 'Penanganan Pelayanan Kesehatan di Masa Pandemi COVID-19 dalam Perspektif Hukum Kesehatan', *Journal Inicio Legis*, 1.1 (2020), 1–17.
- Sulaimân Ibn Asy'ats, Abû Dâwud, *Sunan Abî Dâwud*. Delhi: al-Mathba'ah al-Anshâriyyah, 1324.
- Surat Edaran Nomor: P- 003/DJ.III/Hk.00.7/04/2020 Tentang Pelaksanaan Protokol Penanganan COVID-19 pada Area Publik di Lingkungan Direktorat Jedral Bimbingan Masyarakat Islam*, 2020
- Syathîbî, Abû Ishâq al-, *al-Muwafaqât*. Dâr Ibn 'Affân, 1997.
- Syirbînî, Syamsu al-Dîn al-, *Mugnî al-Muhtâj Ilâ Ma'rifah Ma'ânî Alfâzî al-Minhâj*. Beirut: Dâr al-Ma'rifah, 1997.
- Tayyar, Abdullâh Ibn Muḥammad al-, Abdullâh Ibn Muḥammad al-Mutlaq, and Muḥammad Ibn Ibrâhîm al-Musa, *Kitab Fiqh al-Muyassar*. Riyadh: Madâr al-Wathon, 2011
- Taufiq, Muhamad, 'Nikah Sirri Perspektif Maqashid Syariah', *al-Manhaj: Journal of Indonesian Islamic Family Law*, 1.2 (2019), 114 <<https://doi.org/10.19105/al-manhaj.v1i2.3138>>.
- Tim detikcom, 'Daftar Negara Yang Lockdown Karena Corona', *18 Maret*, 2020 <<https://news.detik.com/berita/d-4956298/daftar-negara-yang-lockdown-karena-corona/1>> [accessed 8 December 2021].
- , "Ijab Kabul Yang Menegangkan", 'Pasangan Indonesia-Australia Nikah Lewat Zoom', *01 Juli*, 2020 <<https://news.detik.com/abc-australia/d-5075557/ijab-kabul-yang-menegangkan-pasangan-indonesia-australia-nikah-lewat-zoom>> [accessed 8 December 2021].
- Yayasan Kebajikan Publik (Hilful Fudhul), 'Shalat Jum'at Virtual Ke - 2', *10 Maret*, 2021 <<https://publicvirtue.id/blog/2021/03/10/shalat-jumat-virtual-2/>> [accessed 8 December 2021].
- Zaelani, A. Q., Disemadi, H. S., & Rumawi, M. The Company's Contribution to Overcome the Economic Crisis Due to Covid-19

Pandemic in Indonesia Through Corporate Social Responsibility Policy. *NeuroQuantology*, (2022), 457-466.

Zuhaylî, Muhammad Musthafâ al-, *al-Wajîs Fî Ushûl al-Fiqh al-Islâmî*. Damascus: Dâr al-Khair, 2006.

\_\_\_\_\_, Wahbah al-, *al-Fiqh al-Islâmî Wa Adillatuh*, 2nd edn. Damascus: Dâr al-Fikr, 1985.