

Marriage Contract Through Visualization

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MARRIAGE CONTRACT THROUGH VISUALIZATION OF ONLINE VIDEO CALL COMMUNICATION MEDIA ACCORDING TO MARRIAGE LAW AND ISLAMIC LAW IN INDONESIA

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ABSTRACT

Talks about marriage always attract attention, not because it contains discussions about sexuality, but because marriage is a sacred event in religious teachings. Not only as a civil bond between individuals in general, but a bond that has to worship values, and is the longest worship practice in Islamic history. Marriage is valid if the pillars and conditions are met, one of which is *ijab* and *qabul*. The problem point arises when the *ijab* and *qabul* pledged by the parties are not in the same assembly, but in different places remotely through online communication media video call. To solve this problem, this study uses approach normative theological and normative juridical. Data analysis was carried out qualitatively, and conclusions were drawn using deductive thinking. The results of this study are that the marriage contract through online communication media video call has basically fulfilled the pillars and requirements for a valid marriage and does not conflict with the compilation of Islamic law. However, scholars differ on the validity of the marriage contract through online communication media video calls. This difference of opinion is caused by different understandings of the meaning of "*Ittihad al-majlis*". One group of scholars defines it in a physical sense and another group in a non-physical sense.

Keywords: *Marriage Contract, Online Video Call Communication Media, Marriage Law, Islamic Law.*

A. INTRODUCTION

Thanks to the grace of Allah SWT., Man was created as the most perfect creature endowed with intellect and mind compared to other creatures, perfection to walk and be able to communicate and speak that distinguishes him from other creatures on earth, even his perfection is expressed in gestures in the Qur'an surah at-Tiin verse 4 that "man is a perfect and glorious being of all his creatures"(Depag RI., 2006).

Looking at the current development of the earth's surface, it can also be seen that the number of human populations on earth is growing and causing the spread of humans to various places separated by distance, even though humans are social creatures who need other creatures

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around them. And sociologically, humans cannot live alone, therefore every human being has advantages and disadvantages and requires other individuals to be able to cover their shortcomings by loving fellow human beings without distinguishing race, ethnicity, or physical differences.

Humans individual beings as well as social beings, always interact with creatures and the surrounding environment in meeting their needs. Among human needs that require interaction with other humans, namely the desire to continue their generation. Therefore, Allah SWT. provide a way through marriage to justify the relationship of men and women in order to ensure the continuity of human life in the world, as a motivation to fulfill human desires and protect their offspring (Shabuny, 2001; Susanto, et al., 2021).

Talks about marriage always attract attention, not because it contains discussions about sexuality, but because marriage is a sacred event in religious teachings. Even marriage is an effort given by Islamic teachings to maintain the correct regeneration process. Marriage according to the provisions of Islamic teachings is a very sacred bond, not just a relationship between a man and a woman to justify sexual relations. Allah SWT. mentions marriage with the phrase "mitsaqon ghalizan" (meaning a close promise), which is a bond of agreement between a husband and wife in navigating life together, so that if they are separated by death in this world, then for the obedient couple in carrying out their obligations and the commands of Allah SWT., it will still be met and will continue to live together forever in the hereafter (Shihab, 2002). This is because marriage is not only a civil bond between individuals in general, but a bond that has worship values (Rofiq, 2003), and is the longest worship practice in Islamic history (Susanto, et al., 2021).

Etymologically marriage means intercourse (A. Hasan, 2006). There is also the meaning of the agreement. In terminology, marriage according to Abu Hanifah is a contract that is confirmed to obtain pleasure from a woman, which is done intentionally. Inauguration here means an inauguration in accordance with the provisions of the Shari'a maker, not just an inauguration carried out by two people who make a contract (agreement) with the aim of just getting pleasure (Soimin, 2010).

According to the provisions of Law no. I of 1974 concerning marriage, Article I explains that marriage is an inner and an outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Supreme God (Samin & Numaya, 2010). Marriage is one of the worships ordained by Allah SWT. This applies generally to all creatures in this world, be it humans or other creatures. Marriage is God's way. Choose for humans as a way to continue the lineage and the next generation of humans (Syafa'at, 2014). M. Yunus explained that marriage is a contract that is carried out between the prospective husband and wife in order to fulfill the needs of his life in accordance with the provisions stipulated by the Shari'ah (Yunus, 1990).

The purpose of marriage itself is not only to fulfill biological needs but also to obey Allah's commands and His Messenger has the value of worship, namely fostering a prosperous

family that brings benefits to the perpetrators of marriage, descendants, and relatives. Marriage as a strong bond is required to create benefits for the community as well as the nation in general (Atabik & Mudhiyah, 2016; Musyafah, 2020). And one of the verses that is used as a reference to explain the purpose of marriage is the Koran surah al-Rum verse 21. The verse explains that it is one of the signs of Allah's power is to create everything in pairs through a marriage contract (becoming husband and wife). This distinguishes humans from animals. This verse talks about the purpose of marriage, namely, marriage aims to form a household that is *sakinah, mawaddah warahmah* (Mardani, 2011).

Marriage is valid if the pillars and conditions are met. As for what is included in the pillars of marriage, among others are: marriage is carried out by the bride and groom, the existence (*shighat*), namely the words of the female guardian or representative (*Ijab*), and accepted by the male or his representative (*qabul*), the presence of a guardian of the prospective wife, and the presence of two witnesses (Aspandi, 2017; Faizah, 2014; Maolana, 2018; Mukhsin, 2020). If any of the conditions are not met, then the marriage is considered invalid. Therefore, it is forbidden for both of them to gather (have sex). On the other hand, if all the pillars and conditions are met, then the marriage is valid (Hamid, 2012).

A marriage contract is declared valid if it fulfills two pillars, namely *Ijab* and *Qabul*, namely the pleasure and approval of men and women to marry. Marriage may take place with a variety of editorials that can be understood by both parties who do it. In essence, the words conveyed indicated a desire to get married, and the words were understood by both witnesses. For example, to accept the marriage, the prospective husband says I agree or I accept it or I approve of it". For lafazh *ijab*, the marriage guardian may say "I marry you", or "I marry you".

Islam provides a stipulation that the marriage contract carried out by the prospective bride and groom is considered valid with whatever language, speech, and actions are considered valid by many people. The same goes for other contracts. al-Albani explained that a marriage contract is valid if there is a statement of *ijab* and *qabul* which is understood by two witnesses, in any language. Marriage can also be done by means of grants, selling, or giving: as long as the person being spoken to understands the meaning. Because, a word is a contract, while a contract does not require a special wording that determines the validity of the contract. In fact, all lafazh may be used if the meaning of the lafazh can be understood as intended by syar'i, that is, there is a similarity between the lafazh used and its meaning in accordance with the shari'ah (al-'Awaishyah, 2008).

Seeing the development of the times and technology today, many people take advantage of technological developments that are used for the benefit of *muamalah* activities and other activities. Technological developments such as mobile phones are now a means to communicate and other interests without meeting and meeting each other physically, but it is enough through applications to video call be able to meet face to face to see and look at each other. The use of video calls for communication and *muamalah* transaction activities is commonly used in today's era, but it would be interesting if video calls were used to carry out a marriage contract, and it might feel strange and even rejected by some groups because of the implementation of a

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marriage contract is a contract that is seen as a sacred thing, and is not desired as long as it has only been carried out (A. Hasan, 2006).

The implementation of ³¹ the marriage contract through the visualization of communication media video call is a marriage contract that is held via video conference where the guardian pronounces the *ijab* pronunciation in one place and the husband pronounces the *qabul* pronunciation from another place that is far apart. The statement of consent from the guardian can be heard and seen clearly by the prospective husband; and vice versa, the words of the prospective husband's *qabul* can be heard and seen clearly by the female guardian (Dahlan, 1996). However, they are not in the same assembly.

The occurrence of the implementation of the marriage contract through the visualization of communication media video call is part of today's rapid technological advances. This progress makes it easier for a person to interact individually with other people, plus the current covid-19 pandemic period and the government has begun ³⁷ to enforce barriers between one region and another. The development of technology and ²¹ the impact of the Covid-19 pandemic has caused several young generations to take steps to carry out the planned marriage contract through the visualization of communication media video calls, such as several cases that occurred in 2020, namely the wedding of a married couple named Kardiman bin Haerudin and Febrianti Binti Hasanuddin. Kardiman is a Bajoe resident of South Sulawesi Province who is trying his luck in Surabaya, East Java, while Febrianti is a resident of Lamokato Village, Kolaka District, Kolaka Regency. They carried out a wedding procession on March 25, 2020 via video call (CNN Indonesia, 2020). Another case occurred between a couple of young men and women who were Dayah and Muliawati. Dayah the groom was in Malaysia for work, while Muliawati was in Kidang, Central Lombok, Nusa Tenggara Barat. The marriage contract ²¹ procession was carried out via media video call on Saturday, July 4, 2020, witnessed by the family of the bride and groom, the head of the village, witnesses, and several residents (Gunandha & Aditya, 2020).

Seeing several cases of marriage through the visualization of communication media video call, many community members questioned the validity of the marriage, some argued that it could be carried out because they could see each other's faces and meet face to face, even though not physically. However, another opinion says that the implementation of the marriage contract is not valid, the reason is that they do not carry it out in one assembly, even though Islam orders to carry out the marriage contract in one assembly, because Islam views marriage as a contract that is seen as sacred, so it is not can be carried out at random.

If it is linked between Islamic law and various cases that arise related to the marriage contract through the visualization of communication media video call, then in this context Islamic law is universal, then the law in question must also develop according to the needs of the community so that it is in accordance with the rules and *ushul fiqh* itself. . Therefore, through this study the author will examine further about the marriage contract through the visualization of communication media video call, which is studied through the view of marriage law and Islamic law in Indonesia, in which various opinions of scholars regarding the validity of the marriage contract will be studied.

B. METHOD

This study is library research, namely a research study whose data sources are obtained from the library room such as books, books, magazines, and other sources that have relevance to the study in this research. Meanwhile, the approach that will be used is approach normative theological and normative juridical. The approach normative theological is an approach where religious norms or rules are the main references. Christians in the Middle Ages regarded it as "The Queen of The Science", namely the most authoritative science, where all research and thought results must be in accordance with this theological line of thought, and if there is a dispute, religious views must be won (Abdullah, 1999; Mufidh, 2017). Approach normative theological that referred to in this study is Islamic law. While the normative juridical approach is an approach that is based on the main legal material by examining theories, concepts, legal principles, and laws and regulations related to this study. The legislation in question is Marriage Law Number I of 1974 concerning Marriage.

The data analysis method used in the study was qualitative data analysis. The analyzed data was then presented descriptively by depicting the actual and real research results without adding and subtracting the data. It was done to conclude from the results of the discussion. The conclusions were drawn using deductive thinking. According to Sutrisno Hadi, concluding by deductive thinking is a method of analyzing data using general nature, then, the nature of the general data is taken to a more specific conclusion point (Hanif & Susanto, 2020; Sutrisno, 2012).

C. DISCUSSION

Seeing the current technological developments has made it easier for humans to interact with each other. Especially after the development of online communication media video call which is part of the development of technological advances that have been developed by various application features on mobile phones, offering various benefits for us to communicate with each other and meet face to face without meeting in one place. The existence of this face-to-face communication service is welcomed positively by the wider community, because: considered to have many benefits for society in communicating. In Indonesia, the use of services video calls has been provided by various cellular phone operators such as Telkomsel and Indosat.

Online communication media, also video call is known as conferencing, is part of the teleconferencing world that is currently developing. Video conferencing is a video conference where the data that is transmitted is data that appears in the form of video and audiovisuals. Teleconferencing or video conferencing is a means that allows a number of people to talk to each other and meet face to face via a computer or mobile phone. By utilizing internet technology, video conferencing is very easy to implement. Each party who wants to communicate simply sits facing a computer or cellphone that has been equipped with a camera called a webcam (Kadir & Triwahyuni, 2005; Novayani, 2017).

Online communication media *video call* provides benefits for people who are far from family, relatives, and closest friends. Through this service *video call*, they can meet face to face

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directly through the media screen *video call* to release their longing. Even so, it was very able to treat the sense of wanting to meet between them. Service *Video call* is also very helpful to know the state and condition of a person compared with telephone services that can only be informed through sound media. This is certainly very helpful for people who want to know the condition of their relatives or relatives or friends who are separated by a long distance.

Online communication media services *Video call* can also provide various other benefits, such as the appearance of an event or events that are currently happening directly, either in the form of news or other conditions. But on the other hand, online communication media services are *video calls* widely misused for negative things by irresponsible people such as showing obscene acts through *video* and then being disseminated through online media, the aim is to incite, divide the people, and other purposes.

In addition to the various positive and negative benefits, there are also some people who use online communication media services *video call* to carry out the marriage contract. The implementation of the marriage contract through the use of online communication media *video call* is felt to be more effective and efficient, both in terms of costs, time, and energy, because the marriage contract does not have to be carried out in the same assembly, but can be done separately in different places. . The use of online communication media *video call* in the implementation of the marriage contract is very easy and with sound and picture quality that is quite clear and real. The marriage contract via *video call* is a more economical global and local communication via voice or video conferencing.

The implementation of the marriage contract through online communication media services is *video call* not without reason, besides being supported by technological advances currently developing, the marriage contract is also due to the Covid-19 pandemic, and to prevent its spread, the government has begun to impose barriers between regions. . Because of these causes, many young people and women who have planned the implementation of the previous marriage contract must carry out the marriage contract through online communication media services *video call*. This marriage contract then gave rise to various opinions about the validity of the contract.

Pronunciation of consent by the bride's guardian or *penghulu* and then continued with the pronunciation of *qabul* (for example I accept the marriage of so and so bint so and so with a dowry of so much paid in cash) by the groom at the implementation of the marriage contract is part of the Islamic religious marriage procession as well as one of the pillars of marriage that regulated in article 14 of the Compilation of Islamic Law (KHI). The *ijab* and *qabul* are generally carried out in one assembly, meaning that the *ijab* and *qabul* are carried out at the same time and witnessed by two witnesses. Pronunciation of *ijab* and *qabul* in one assembly, according to Abdul Moqsih Ghazali, a researcher at The Wahid Institute, termed *ijab* and *qabul* in one assembly, meaning, in one space and time (Zein, 2010).

According to the Compilation of Islamic Law (KHI) contained in Article 4 states that marriage is legal if it is carried out according to Islamic law, it is in accordance with the

provisions in Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage which states that marriage is legal if done according to their respective laws. Then Article 14 explains that to carry out a marriage there must be: a prospective husband; Future wife; guardian of marriage; Two witnesses; *ijab* and *qabul*.

Islamic law itself explains that the validity of legal action must meet two elements, namely pillars and conditions. Rukun, namely "Something that must exist, and determine whether or not the work (worship) is legal, and that something is included in the series of work. An example is the presence of a groom or a bride in marriage" (Ghazali, 2003; Jamil, 2011). As for the conditions, namely "Something must exist that determines the validity of a job (worship), but that something is not included in a series of work". For example, the prospective groom or bride must be Muslim. While legitimate is a job (worship) that meets the pillars and conditions. So marriage is said to be valid according to Islamic law if it fulfills all the pillars and conditions of marriage. Failure to fulfill the provisions regarding the pillars and conditions will make a marriage invalid.

The conditions for the validity of a marriage are if it has fulfilled the conditions determined by the law and Islamic law. In article 2 paragraph (1) of the Act, according to Islamic marriage law, what is used as a guide for the validity of a marriage is the fulfillment of the conditions and pillars of marriage based on Islamic religious law. In this case, Islamic law recognizes the difference between the conditions and the pillars of marriage. The pillars are part of the essence of marriage itself and if it is not fulfilled then the marriage will not occur (Ichsan, 1996). While the conditions of marriage are the basis for the validity of a marriage, if the conditions have been met, then the marriage is valid and gives rise to all rights and obligations as husband and wife. Broadly speaking, there are two conditions for a valid marriage, namely: The prospective bride is legally married by a man who wants to make her his wife. So, the woman is not a person who is forbidden to marry, either because it is forbidden to marry temporarily or permanently. And the marriage contract was attended by witnesses (Mukhtar, 2000).

Most scholars agree that the pillars of marriage consist of: a. There is a prospective husband and wife who will marry; b. There is a guardian from the bride's side. The marriage contract will be considered valid if there is a guardian or representative who will marry it; c. There are two witnesses. The implementation of the marriage contract will be valid if two witnesses witness the marriage contract; d. Sighat marriage contract, namely the consent of *Qabul* which is said by the guardian or his representative from the woman's side, and is answered by the groom (Ghazali, 2003).

The Compilation of Islamic Law (KHI) in Article 27 explains that *ijab* and *qabul* between the guardian and the prospective groom must be clearly consecutive and no time-lapse (Alimuddin, 2011). *Ijab* and *qabul* are fundamental elements for the validity of the marriage contract. *Ijab* is pronounced by the guardian, as a statement of willingness to give up his daughter to his prospective husband, as a statement of willingness to marry his prospective wife. It can also be interpreted that *Ijab* means surrendering the mandate from Allah SWT. to the

prospective husband, and *qabul* means a symbol for the willingness to accept the mandate from Allah SWT. with *ijab* and *qabul*, something that was previously forbidden becomes lawful.

Related to *ijab* and *qabul*, marriage must be done with *ijab* and *qabul* verbally. This is what is called a marriage contract (bond or marriage agreement). For mute people, marriage is valid with hand or head signs that can be understood. In marriage, *ijab* and *qabul* are the main pillars and the most important requirements. Without an *ijab* and *qabul* the marriage is invalid and becomes void, as for the conditions for *ijab* and *qabul*, namely: *Ijab* and *qabul* are carried out in one assembly. There should not be a long-distance between *ijab* and *qabul* which damages the unity of the marriage contract and the continuity of the contract; *Ijab* and *qabul* can be heard well by both parties and two witnesses; In a *shighat* (speech) there are two elements, first the *ijab* utterance from the guardian or his deputy with the word *zawwajtuka* or *ankahtuka*, and the second *qabul* from the prospective groom which is continued with the *shighat* (speech) *ijab*, the utterance can be with the words *tazawwajtu* or *nakahtu* (Hadi, 2015).

Still related to *ijab* and *qabul*, apart from dealing with *shighat* (speech) and the procedure for its implementation, there are other things that must be fulfilled so that the contract executed is valid according to Islamic law, one of which is *Ittihad al-majlis* (one majlis) (Aa, 2020; Az-Zuhaily, 1984). This requirement to unite in the assembly for the implementation of *ijab* and *qabul* is not fulfilled in the marriage contract through online communication media services *video call*, and then it becomes a debate among various groups because there are those who allow and some do not allow the implementation of the marriage contract through online communication media services *video call*.

There are some circles that analogize the *ijab* and *qabul* of marriage contracts with trade which according to Islam must also be carried out in one assembly. But now the buying and selling of exports and imports do not occur in one assembly, and in all Islamic countries, it is considered legal, as well as Abdus Salam Nawawi who realizes that current world developments can no longer limit *ijab* and *qabul* to be in one space and time. According to Abdus Salam, the essence of *ijab* and *qabul* is a contract or agreement (Zein, 2010). In essence, the marriage contract or *ijab qabul* is the same as the *ijab qabul* in buying and selling. In principle, there must be clear *ijab* and *qabul*. If the two parties to the contract are not in the same assembly, then through the help of technology the two can be connected very convincingly, then that is permissible (Faisal et al., 2021).

Regarding the implementation of *ijab* and *qabul* in one assembly, al-Jaziri cited the agreement of the *mujtahid* scholars regarding the requirement to unite in the assembly when pronouncing *ijab* and *qabul*, thus if the assembly does not unite between the assembly pronouncing *ijab* and the assembly saying *qabul*, the marriage contract is considered invalid or canceled. As for what is meant by unified "*assembly*" in this case there are two interpretations of what is meant by *Ittihad* (unified) assemblies, namely:

First, *Ittihad al-majlis* is meant that *ijab* and *qabul* must be carried out within the time interval contained in one contract ceremony. Marriage is not done in two separate time

intervals, in the sense that the consent is pronounced in one ceremony, then after the *ijab* ceremony is dissolved, the *qabul* is pronounced in the next event. In the latter case, although two consecutive events separately may be carried out in the same place, because the continuity between the *ijab* and *qabul* is interrupted, the marriage contract is invalid, thus, the requirement for a united assembly is concerning the necessity of continuity of time between *ijab* and *qabul*, not concerning the unity of the place. Because as mentioned earlier, although the place is united, if it is done two times, in two separate events, then the continuity between the implementation of the *ijab* and the implementation of the *qabul* has not materialized, and therefore the marriage contract is invalid. Sayyid Sabiq in his book *Fiqh as-Sunnah* in explaining the meaning of united assemblies for *ijab* to *qabul*, emphasizes understanding the meaning of united assemblies for *ijab* and *qabul*, emphasizing the notion that there should be no disconnection between *ijab* and *qabul* (Zein, 2010).

Related to this, al-Jaziri in clarifying the meaning of united assemblies in the Hanafi school gives an example, namely a man sends a marriage contract to one of the women he wants. After the letter arrived, then the contents of the letter were read in front of the female guardian and witnesses, and in the same assembly, after the contents of the letter were read, the female guardian immediately said the recipient (*qabul*) (Zein, 2010). The practice of the marriage contract according to the Hanafi scholars is considered valid, on the grounds that the reading of the consent contained in the letter of the prospective husband and the pronouncement of *qabul* from the female guardian, not from two consecutive ceremonies separately in terms of time. In this example, the process of pronouncing the marriage contract is first pronounced by the prospective husband, and after that the pronouncement of the contract from the female guardian, practice is permissible according to the Hanafi school. The utterance of the contract which is pronounced first is called *ijab*, either spoken by the guardian, or from the prospective husband, and the utterance of the contract which is called later is called *qabul*, whether it is spoken by the prospective husband, or the candidate by the guardian of the prospective wife. The most important thing in this example is the editorial written in the prospective husband's letter which is read and heard by the witnesses, and the reader of the letter is not a representative of the prospective husband. The contents of the letter read out are direct editorials in the form of the prospective husband's writing, this is in line with Said Sabiq's explanation that if one of the two parties who will perform the contract *occult marriage*, (cannot attend), then the solution, in addition to being able to send a representative It is also possible to write a letter to another party to convey the marriage contract. For those who receive the letter, if they agree to the contents of the letter, they must present witnesses and read the letter in front of them. According to Sayid Sabiq, the practice of marriage is legal, as long as the *qabul* is pronounced directly in one assembly (Zein, 2010).

Then according to the Hambali school of thought, the obligation of two witnesses is to hear and understand the *ijab* and *qabul* words of the contracting party and know very well that the words are from the contracting party. This means that witnesses are not required to see directly the two parties to the contract when the contract takes place. As an implication of this opinion, the practice of marriage contracts through online communication media *video call* can

be seen as a legal act, because the requirements for two people who are in a contract must hear and know clearly what each other says can be fulfilled through online communication media *video call*, as well as the obligation of two people. The witness hears and understands the intent of the utterance in a contract which can be fulfilled if the online communication media is *video call* given a clear voice (Dahlan, 1996).

⁶ Based on the explanation above, it can be concluded that the statement "unified assemblies" concerns the issue of the necessity of continuity between *ijab* and *qabul*. The requirement for united assemblies, if it is intended only for the continuity of time, then the united place is not the only thing to realize the continuity of time. For example, a guardian pronounces consent in one room, while the prospective husband pronounces *qabul* in another room when the contract is carried out at the same time, using loudspeakers, the continuity between *ijab* and *qabul* can clearly be ascertained. The consequence of this view is that two witnesses do not have to be able to see the parties performing the marriage contract.

Second. is the opinion that explains the unity of the assembly is implied not only in the continuity between the *ijab* and *qabul*, but is related to two witnesses who are required to be in one assembly and can see with their own eyes the process of implementing the *ijab* and *qabul*. Two witnesses are a condition for the validity of the marriage contract, the task of the witness according to the consensus of the ulama's opinion is to confidently ensure the implementation of the validity of the *ijab* and *qabul*, both from the editorial aspect or the *ijab* and *qabul* aspects spoken by both parties.

The validity of the editorial aspect can be ascertained by hearing it, but to ensure the editorial spoken by both parties in the implementation of the marriage contract can be ascertained by looking at the parties who say it with their own eyes. This opinion is held (*mutamad*) among mujtahid scholars, especially among the Shafi'iyah. As a consequence of this opinion, the testimony of a blind person cannot be accepted for the implementation of the marriage contract, this opinion is reinforced by one of the Fiqh experts from the Syafi'iyah circles named Ibn Hajar al-Haitami, the reason being that marriage testimony must be based on sight and hearing.

Based on the second opinion mentioned above, it needs to be reaffirmed that the requirement to unite assemblies at the time of carrying out the marriage contract is not only aimed at maintaining the continuity of the pronunciation of *ijab* and *qabul*, but also contains other requirements, namely *al-mu'ayanah*, namely both parties are present in one place because with that these requirements will be able to see clearly the pronunciation of *ijab* and *qabul* can be realized.

The first opinion mentioned above is that the scholars from the Hanafiyah group argue that *Ittihad al-majlis* is a series between *Ijab* and *qabul* that is carried out at one time, not in one place. This provides an understanding that the demands of *Ittihad al-majlis* are the continuity of time between *Ijab* and *Qabul*, not based on two people doing *Ijab* and *Qabul* in one physical place. It could be that the two places are far apart, but if there is a communication tool that

allows both of them to carry out the marriage process at the same time, then it is called an assembly, therefore the implementation of the marriage contract through communication media *video call* which is carried out in two different places by the parties. Parties are still considered a valid marriage contract, provided that the conditions and pillars of marriage have been met.

Ulama from the Muhammadiyah group when addressing this issue, issued a fatwa which was convened on Friday, 16 Jumadil I 1429 H or set on June 20, 2008. The fatwa emphasized the meaning of *ijtihad almajlis* which is one of the conditions for *Ijab-qabul*, which is one of the pillars of marriage. In the fatwa, Muhammadiyah allows marriage by using communication facilities such as telephone or cellphone, as well as internet media after they make an analogy to the *ijab-qabul* contract which is carried out by both parties who are far apart by means of letters or messengers (*Fatwa Tarjih Muhammadiyah*, n.d.).

Ulama from the Nahdatul Ulama (NU) group also responded to this issue as a result of technological advances, especially in the field of communication, which has inspired humans to carry out unusual marriage contracts. Through *Lajnah Bahtsul Masail*, NU usually gives judges' decisions regarding problems experienced by the community. The issue of the marriage contract through communication media *video call* with the internet has been decided in Makassar and in East Java, with the conclusion that it is not valid. According to NU scholars, the marriage contract is invalid, because it has been based on various considerations because marriage through electronic media tools cannot carry out the contract directly. Directly referred to is the involvement of the guardian and the groom. Then because the witnesses at the marriage contract did not see and hear the voice directly from the implementation of the contract and the witness was present at the contract assembly. In the marriage contract, clear wording is required. Marriage through communication media *video call* is classified (vaguely). However, NU has provided a solution, so that people who are busy or whose position they are in with their partner does not allow them to physically unite, but they can still carry out their contract. The solution is with the system *tawkil* (granting legal power of attorney), but on conditions that are safe and in accordance with *nafs al-Amri* (reality) (Muntaha AM, 2021).

The difference between the scholars in formulating the law of carrying out the marriage contract through communication media *video call* is due to differences in the understanding of the scholars in understanding the meaning of *Ittihad al-majlis*. Even though the marriage contract through communication media is *video call* carried out the same as the implementation of the marriage contract in general and the marriage contract that is represented or through a letter, the difference is only at the point that the parties carrying out the marriage contract are not in the same assembly, they are not physically facing to face in one assembly, but through communication media *video call*.

The provisions in Islamic law and the Compilation of Islamic Law (KHI) do not specifically explain the implementation of the marriage contract through online communication media *video calls*. According to the Compilation of Islamic Law, a marriage is said to be valid if it is carried out in accordance with the provisions in Islamic law, by fulfilling all the pillars of marriage that have been regulated in Article 14 of the KHI, such as the presence of a prospective husband and wife, a marriage guardian, two witnesses and a consent to consent.

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While the legal implementation of the marriage contract itself depends on whether or not it is in accordance with the legal basis contained in the guidance of the Qur'an and hadith, it can be translated into a more detailed and practical legal basis for fiqh, especially in the face of changing times.

According to the author's understanding, the implementation of the marriage contract through online communication media is a *video call* considered to have fulfilled the pillars and conditions determined by Islamic law. The problems that arise when discussing the validity of the marriage contract through online communication media are *video calls* none other than because according to Islamic law and several conditions in carrying out the marriage contract are fulfilled, namely: the contract begins with consent then followed by *qabul*. Then the material of *ijab* and *qabul* must not be different and the consent of *qabul* must be pronounced continuously without any pauses, *ijab* and *qabul* are spoken with clear lafazh, *ijab* and *qabul* between the prospective groom and marriage guardian must be pronounced in one assembly (Ramulyo, 1996).

If you refer to the provisions of the legislation in force in Indonesia, the procedure for implementing a marriage contract through online communication media *video call* is indeed not found in the applicable provisions, this means that the implementation of a marriage contract through online communication media *video call* is a new thing that has emerged due to developments in Indonesia. Technology so that its implementation is completely left to the perpetrators who carry out the marriage contract. It's just that if you refer to the opinions of the scholars who provide provisions for the implementation of the marriage contract, it is required to be in one assembly and continuous-time in the pronunciation of *ijab* and *qabul*, it causes some people to doubt the validity of the implementation of the marriage contract through online communication media *video call*. However, the author is more inclined to the opinion that marriages, where *ijab* and *qabul* are carried out through online communication media *video call*, are legal acts, because the provisions for *ijab* and *qabul* are not regulated in detail, it's just that the Compilation of Islamic Law provides several provisions regarding this in general, as contained in Article 27, Article 28, and Article 29. Where Article 27 of the Compilation of Islamic Law only explains that: "*Ijab and qabul between the guardian and the prospective groom must be clearly consecutive and not time-lapse*" (Alimuddin, 2011).

Referring to article 27 of the Compilation of Islamic Law, in principle, the marriage contract can be carried out using any language, provided that the language used is able to explain the will of the marriage contract of both parties and can be understood by the parties and witnesses to the marriage contract (Basyir, 2004). However, according to the consensus of the mazhab scholars that marriage can be said to be valid if it is carried out with a contract that includes *ijab* and *qabul* between the prospective bride (her guardian) and the prospective groom or his representative. According to mazhab scholars, *ijab* and *qabul* are carried out by saying the words "I marry" from the bride's side by her marriage guardian, and "I accept it" spoken by the prospective groom or his representative (Mughniyah, 1996).

It should be noted that when the process of pronouncing the words of *ijab* and *qabul* is carried out by the parties, the process must not be interspersed with other activities that can disrupt or damage the continuity of time and eliminate the meaning of one assembly in the *ijab* and *qabul* process. Because according to article 27 of the Compilation of Islamic Law that *ijab* and *qabul* must be carried out in succession and not at intervals, namely when the guardian of the prospective bride has finished saying the words of consent, then at that time it is continued with the pronunciation of the words *Qabul* by the groom or his representative.

Article 28 of the Compilation of Islamic Law explains that "The marriage contract is carried out personally by the marriage guardian concerned, the marriage guardian can represent others" (Alimuddin, 2011). This article explains that the marriage guardian of the prospective bride is obliged to attend the process of carrying out the *Ijab* and *Qabul*. The male parents of the prospective bride have the right to become female guardians, but if they are not available, they can be represented by a brother or uncle. The presence of the parents of the prospective bride and groom is one proof of the sincerity of parents in releasing their daughter to marry the man who will become her husband. Then, if it is associated with the implementation of consent and acceptance of the marriage contract through online communication media *video call*, the female guardian has indirectly submitted the consent to the groom in accordance with the provisions contained in Article 28 of the Compilation of Islamic Law.

Furthermore, article 29 of the Compilation of Islamic Law explains that: 1). Those who have the right to pronounce *Qabul* are the prospective bride and groom personally; 2). In certain cases the *Qabul* marriage statement can be represented to another man provided that the prospective groom gives a firm authorization in writing that the acceptance of the representative or the marriage contract is for the groom; 3). In the event that the prospective bride or guardian object to the groom's being represented, the marriage contract may not be held (Alimuddin, 2011).

Seeing the provisions contained in Article 29 of the Compilation of Islamic Law mentioned above, the marriage contract through online communication media *video call* has fulfilled the provisions in the first paragraph of the article. This can be seen from the pronunciation of *qabul* made by the groom, even though it is spoken through online communication media *video call*, but the groom has carried out his obligation to pronounce *qabul* lafadz in accordance with the provisions contained in article 29 of the Compilation of Islamic Law. The article only explains the right of the prospective groom to pronounce *qabul* when carrying out the marriage contract or can also represent to other men when unable to carry out these obligations, provided that the prospective bride or her guardian allows it. The article does not require the implementation of the marriage contract to be carried out by both parties face to face in one assembly.

Differences of opinion related to "one assembly" are actually more visible in the continuity of time when the pronunciation of *ijab* and *qabul* which is always maintained during the marriage contract through online communication media *video call*. This is based on and can be seen in a fact that can be seen in everyday life that the use of communication technology when associated with a marriage contract case through online communication media *video call*

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actually provides direct connection facilities, resulting in a conversation from several people such as without using communication media. Even at different distances that are difficult to reach directly, online communication media is *video call* capable of being a means to send voice and picture messages directly quickly, such as communication of people who are face to face in one place.

In addition, if you look at the phenomenon of marriage contracts through online communication media *video calls*, and other media that occur in Indonesia, there are no laws and regulations that regulate this. Regulations that apply in Indonesia such as article 10 paragraph 3 of the Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of the Marriage Law only explains that "The marriage procedure according to each religious law and belief, marriage is carried out in front of the registrar's employee and attended by both parties, witnesses". This provision provides various interpretations, such as being attended by two witnesses but in different places, or one witness coming during the proclamation of the *ijab* and the other witness coming during the pronouncing *qabul*, or only one of the *ijab* and *qabul*.

There is no Indonesian regulation that clearly regulates the marriage contract through online communication media *video call*, and is encouraged by the development of the times, technological advances, and various human needs, while legal norms do not yet have a specific argument for events that are developing in today's modern era, it can refer to a hadith of the Prophet Muhammad which reads: "*You know better about your world's affairs*". (HR. Muslim) (Baqi, tt.).

The hadith provides an illustration that related to the development of the future world, it is possible that the modern world will bring up legal events that are not explicitly regulated in the previous legal norms so that the creativity of judges is needed to find new laws to overcome these new problems. Likewise with Islamic law which has an elastic and not static character (M. A. Hasan, 1995), as Abu Ishak Al-Syatibi in Abdul Wahab's quote, Islam is a flexible and tolerant religion, because it contains properties that do not make it difficult for its adherents (Sulaiman, 1994).

In addition, the fiqh rules explain that legal changes follow the changing times, the rules read:

لَا يُنكَرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَانِ.

Meaning: *It cannot be denied that there is a change in law due to a change in time (period)* (Musbikin, 2001).

Based on the content of the fiqh rules mentioned above, it can be understood that the changing times will have their own impact on changes in applicable law, this is due to changes and developments of the times. The greatest hope for humans to be better. The changing times will indirectly demand the growth and development of a law that seeks to create a greater level of benefit than before. Because the law that has been in effect is a legal product that was

established in the past, so there is a need for adjustments to legal developments that occur in the present.

Based on the explanation above, the author can conclude that there are two opinions related to the phenomenon of marriage contracts through online communication media *video call*, where the opinion *first* explains that marriage contracts through online communication media are *video call* considered valid as marriage contracts in general, this reason is based on the fulfillment of the pillars and conditions for a valid marriage, including the implementation of *ijab* and *qabul* which is carried out non-physically, this opinion is held by some scholars from the Hambali, Hanafi, and Maliki groups. Then the opinion *second* explains that the marriage contract through online communication media is *video call* not valid, this opinion is widely held by scholars from the Syafi'i group based on the necessity of the prospective groom or his deputy, the prospective bride and her guardian, and witnesses to attend in person the process of implementing the marriage contract.

D. CONCLUSION

The results of this study conclude that the marriage contract through online communication media *video call* according to the marriage law and Islamic law in Indonesia has basically fulfilled the pillars and requirements for a valid marriage and does not conflict with the compilation of Islamic law. However, scholars differ on the validity of the marriage contract through online communication media *video calls*. This difference of opinion is caused by different understandings of the meaning of "*Ittihad al-majlis*". The Syafi'i scholars view the purpose of *ittihad al-majlis* in a physical sense, so that the prospective groom or his deputy, the bride's guardian, and two witnesses must be in one assembly when carrying out the marriage contract. Meanwhile, other groups of scholars such as Hambali, Hanafi, and Maliki view *Ittihad al-majlis* in a non-physical sense, so it does not have to be in one assembly, but consent and *qabul* can be pronounced at one time or one ceremony directly and should not be interrupted by other activities.

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