



Marriage Contract Through Teleconferencing in The View of Contemporary Scholars

(Fatwa Study of *Majma' al-Fiqh al-Islami al-Dawli*)

Marzuki¹, Masnun Tahir², Sainun³, Syukri⁴

¹⁻⁴Universtias Islam Negeri Mataram, Indonesia

marzokey@gmail.com

Abstract

Getting Married via teleconference is considered as a practical solution for couples separated by distance. However, *Majma' al-Fiqh al-Islami al-Dawli* has issued a fatwa stating that teleconference marriage contracts are not permissible. This research aims to analyze the relevance of this fatwa in the context of modern Muslim society, by focusing on the problem formulation: 1) What was the opinion of the *Majma' al-Fiqh al-Islami al-Dawli* on the marriage contracts via teleconference, 2) How was the discourse of Islamic institutions and contemporary Ulama' regarding this issue, and 3) What was the relevance is this fatwa for today's Muslim society. The method used in this research was qualitative research. with a normative theological approach, emphasizing Qaidah Fiqhiyah such as *Taghayyur al-Fatwa bi Taghayyur al-Zaman wa al-Makan, Sadd Dhari'ah*, and *maslahah*, alongside a normative juridical approach based on Indonesian marriage law. Primary data were obtained from official documents of *Majma' al-Fiqh al-Islami al-Dawli*, complemented by secondary data. The result of this research showed that: 1) *Majma' al-Fiqh al-Islami al-Dawli* considers teleconference marriage contracts invalid, 2) there are differing opinions among contemporary Ulama and Islamic institutions, and 3) the fatwa is not relevant to the needs of modern Muslim society, especially in the context of globalization and technological advancements.

Keywords: marriage contract; teleconference; contemporary scholars

Article Info

Article History:

Received: 2025-03-06 Accepted: 2025-06-24 Publish: 2025-06-30



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).



:10.51590/waraqat.v10i1.998

Introduction

Marriage is a sacred moment that unites two different people into an ark called a household, it is an important event in the phase of human life, it is not an ordinary activity but worship that can be a source of happiness for both husband and wife. By getting married they can channel their biological needs so that their gaze is protected from staring at the opposite sex, as well as their genitals can be preserved from immorality. This is what the Messenger of Allah (may Allah's peace and blessings be upon him) said in a hadith:

عن عبد الله بن مسعود رضي الله عنه مرفوعاً: « يَا مَعْشَرَ الشَّبَابِ، مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ؛ فَإِنَّهُ لَهُ وَجَاءٌ ». (رواه البخاري)

Meaning: "Abdullāh ibn Mas'ūd reported: We were with the Prophet (may Allah's peace and blessings be upon him) when he said: "Whoever among you is able to get married, let him get married, for it subdues the gaze and protects the private parts. If he is not able to do so, then let him fast, for fasting will reduce his desire." (H.R. Bukhari No: 4778)¹

Marriage is also a means to eternal happiness in the Hereafter, as the Messenger of Allah (may Allah's peace and blessings be upon him) guarantees Paradise to those who guard their desires and tongues in this world.

عن سهل بن سعد رضي الله عنه عن رسول الله صلى الله عليه وسلم قال: « مَنْ يَضْمَنُ لِي مَا بَيْنَ رِجْلَيْهِ وَمَا بَيْنَ رِجْلَيْهِ أَضْمَنُ لَهُ الْجَنَّةَ » (رواه البخاري)

It means: 'Sahl ibn Sa'd (may Allah be pleased with him) reported that the Messenger of Allah (may Allah's peace and blessings be upon him) said: "Whoever can guarantee for me to guard what is between his jawbones and between his legs, I guarantee Paradise for him." (H.R. Bukhari no: 6109)

Sometimes, prospective couples face problems in getting married, including the fact that they live far away from their guardians. So that automatically marriage faces serious problems. Because among the pillars of marriage are; The existence of a guardian and the existence of *Ijab and qobul* (Ijab from the guardian and qobul from the prospective husband)².

With these conditions, a man who lives far away from his future wife and her guardian, as described above, will of course experience obstacles to carrying out the marriage contract. Therefore, some of them anticipate this by performing the marriage through the medium of online teleconferencing.

This was experienced by Rita Sri Mutiara Dewi (50 years old) and Wiriadi Sutrisno (52 years old) from North Sumatra, who work as Physiotherapists in a hospital in California, USA. Rita lives in Bandung, while Wiriadi lives in the United States. Because they were determined to get married, any distance was no barrier for them. Rita, who at that time worked as a teacher in Malaysia, deliberately returned home to Bandung, to carry out her marriage to be witnessed by her family as well as the marriage counsellor (penghulu). The two of them finally got married on Wednesday (11/12/2006) with the help of video conferencing through the Voice over Internet Protocol (VoIP) network, guided by the marriage counsellor (penghulu) with the support of a technician from PT Telkom Bandung, who helped prepare the technical needs of the virtual marriage³.

Another case was that of a police officer who performed his marriage contract via video call. This was done because the bride and groom were in different places. The groom, Briptu

¹ Abu Abdillah Muhammad bin Ismail Al-Bukhari, *Ṣaḥīḥ Bukhārī*, vol. 5 (Bayrūt: Dār Ibn Kaṭīr, 2002), 1950.

² Wahbah Al-Zuhailī, *al-Fiqḥ al-Islāmī wa Adillatuhu*, 12 ed., vol. 4 (Damaskus: Dār al-Fikr, 1433), 943–45.

³ nks, "Pasangan Indonesia Nikah di Internet," detikinet, diakses 27 Agustus 2024, <https://inet.detik.com/cyberlife/d-518858/pasangan-indonesia-nikah-di-internet>.

Andik Rianto, was in front of the headman in Pontianak. While Briptu Nova, the bride, was undergoing UNSAAT selection for UN assignment in Cikeas Bogor. The two of them were hundreds of kilometres apart during the *ijab-qabul* (marriage contract) procession⁴.

The same thing happened to Febrianti, a resident of Lamokato Village, Kolaka District, Kolaka Regency, and Kardiman, a resident of Bajoe, South Sulawesi Province, who works in Surabaya, East Java. The groom came to propose to Febrianti in Kolaka to determine the wedding time on 25 March 2020, after which Kardiman returned to Surabaya. Three days before the wedding, Kardiman returned to Kolaka. However, he was blocked at Makassar and Bajoe because the crossing routes were temporarily closed due to the coronavirus pandemic. The groom was forced to return to Surabaya because there were no crossings. Actually, he was allowed to enter Kolaka as long as he was willing to be isolated for 14 days but he did not agree because he only got a three-day permit from his office. Finally, they had their wedding over the phone on 25 March 2020, after agreeing with the marriage counsellor, the bride's parents, and the local government.

Of course, this is very helpful for the implementation of marriage in an efficient way, except that such a marriage contract is still a polemic both among Islamic institutions and contemporary scholars considering that one of the conditions for *ijab and qobul* is the existence of *ittihād al- majlis* (the presence of two parties to the contract in one place and time).

Among the world-level Islamic institutions that have conducted intensive studies on this issue is the *Majma' al-Fiqh al-Islāmī al-Dawli* Institution which states that the practice of marriage using modern telecommunication tools (internet) is only allowed for trade contracts, while marriage is not allowed, while on the other hand Indonesian Scholars Council (MUI) states: online marriage contracts can be valid if they meet the conditions: audio-visual connection, real-time, and certainty of the identity of the parties involved⁵.

This issue is important to study in order to provide a broader understanding of marriage through teleconferencing, especially in the context of social changes caused by technological developments and global challenges such as pandemics, work assignments or study abroad for prospective married couples.

The fatwa issued by the *Majma' al-Fiqh al-Islāmī al-Dawli* Institution is very worthy of being researched by academics and experts, considering that the *Majma' al-Fiqh al-Islāmī al-Dawli* Institution is an international institution with fifty-seven Islamic countries in the world, which of course its scientific products are used as a reference for scholars and institutions of the Islamic world, especially member countries of the institution, so that automatically the fatwa is very easily spread to all corners of the Islamic world. To then conduct an in-depth study using research instruments and supporting variables to determine the relevance of the fatwa issued by the *Majma' al-Fiqh al-Islāmī al-Dawli* institution to the social life of today's society.

⁴ Kompas Cyber Media, “[Fakta] Viral, Video Sepasang Polisi Menikah via ‘Video Call’ Halaman all,” *kompas.com*, 30 April 2018, <https://regional.kompas.com/read/2018/04/30/20450041/fakta-viral-video-sepasang-polisi-menikah-via-video-call>.

⁵ Majelis Ulama Indonesia, “Hukum Pernikahan Secara Online,” diakses 5 Oktober 2023, <https://mui.or.id/baca/mui/hukum-pernikahan-secara-online>.

Relevance Theory

Relevance according to KBBI (Kamus Besar Bahasa Indonesia) is an adjective derived from the word relevant, which means related; related; directly useful.⁶

Relevant is the nature of something that is appropriate and related. This means that something that is relevant has harmony and compatibility with what is being discussed. According to the Cambridge Dictionary, relevant refers to something that has a connection to the current event or discussion.

The word relevant often appears in a conversation or discussion or debate. In such contexts, "relevant" signifies that a statement or argument is considered to fit the topic at hand.

In addition, the term is also often used when discussing theories or works from the past. If a theory or work is still applicable to the current situation, then it is considered relevant.

Relevance Theory is a theory developed by Dan Sperber and Deirdre Wilson that focuses on how humans understand and process information in communication. This theory emphasises that in communication interactions, both speakers and listeners always seek the most relevant information with minimal processing effort. That is, humans tend to select and understand information that provides maximum cognitive effect with the least amount of effort⁷.

The Principle Taghayyur al-Fatwa bi Taghayyur al-Zamān wa al-Makān

The principle "*Taghayyur al-Fatwa bi Taghayyur al-Zaman wa al-Makan*" is a principle in Islamic law which states that fatwas (legal opinions) can change with the changing times and places. This principle indicates flexibility in the application of Islamic law, where consideration of the context of time and place plays an important role in formulating legal judgements.⁸

Explanation of the Principle: *Taghayyur al-Fatwa* (Change of Fatwa):

A fatwa is a legal answer or decision given by a mufti or scholar based on a particular situation. It is not rigid and may change based on new circumstances that arise with the times and changes in social, economic or cultural conditions.

1. Principle of Fiqh *al-Masyaqqah Tajlibu al-Taysir*

Principle of fiqh *al-Masyaqqah Tajlibu al-Taysir* means difficulty can bring convenience, is one of the theories that can be used as a basis for implementing marriage by utilising information technology facilities for prospective brides who face difficulties in presenting their guardians at the implementation of the marriage contract.

According to linguists (etymologists) *al-Masyaqqah* means *al-Ta'ab* which is fatigue, exhaustion, difficulty and hardship, as found in QS. An-Nahl verse 7:

وَتَحْمِيلُ أَثْقَالِكُمْ إِلَىٰ بَلَدٍ لَّمْ تَكُونُوا بِلِغِيهِ إِلَّا بِشِقِّ الْأَنْفُسِ إِنَّ رَبَّكُمْ لَرَءُوفٌ رَّحِيمٌ

Meaning, "He carries your burdens to a land which you cannot reach except with difficulty. Verily, your Lord is merciful and compassionate". (QS. An-Nahl [16]: 7)⁹

While *al-Taysir* is etymologically derived from the word *yusr* which means ease, as in the Prophet's hadith narrated by Bukhari in the chapter '*al-dīnu yusr*' (religion is easy):

أَعْنُ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِنَّ الدِّينَ يُسْرٌ، وَلَنْ يُشَادَّ الدِّينَ أَحَدٌ إِلَّا غَلَبَهُ ... (رواه البخاري)

⁶ KBBI Online, "Arti kata relevan - Kamus Besar Bahasa Indonesia (KBBI)," diakses 24 September 2024, <https://kbbi.web.id/relevan>.

⁷ Deirdre Wilson dan Dan Sperber, "Relevance Theory," dalam *UCL Working Papers in Linguistics*, vol. 14, 2004, 606–32, <https://doi.org/10.1002/9780470756959.ch27>.

⁸ Ibnu Qayyim Al-Jauziyah, *I'lālām al-Muwaqqin 'An Rabbi al-'Alamīn* (Saudi Arabia: Dār Ibn al-Jawzī li al-Nashr wa al-Tawzī', 1423), 41.

⁹ *Al Qura'n Al-'Azim*, 269.

Meaning: "Abu Hurayrah (may Allah be pleased with him) reported that the Prophet (may Allah's peace and blessings be upon him) said: 'Religion is easy; no one is radical in it unless he will be defeated.'" (HR. Bukhari No: 39)¹⁰

So the meaning of this principle is that difficulty leads to ease. What this means is that in cases where there is difficulty and hardship for the Muslim who is subject to the ruling, the Shariah alleviates it so that the Muslim who is subject to the ruling is able to do it.

2. *Al-Maslahah*

Among the main objectives of Sharia is to bring *maslahat*¹¹ to mankind, therefore any law made by the authorities, should be oriented towards the benefit of the people¹² in the principles of fiqh said:

تَصَرَّفُ الْإِمَامُ عَلَى الرَّعِيَّةِ مُنَوِّطٌ بِالْمَصْلَحَةِ

This means: "The government's policy towards the people must be orientated towards the benefit (of the people)"¹³

Maslahat in language (etymology) is Benefit, the opposite of the word *Mafsadat* (damage). Its plural form is *Maṣālib*.^{14 15 2} In terms of Terminology, according to al-Ghazālī, *maslahat* is as he described in his book *al-Mustaṣfa*:

نَعْنِي بِالْمَصْلَحَةِ الْمُحَافَظَةَ عَلَى مَقْصُودِ الشَّرْعِ وَمَقْصُودِ الشَّرْعِ مِنَ الْخَلْقِ خَمْسَةٌ: وَهُوَ أَنْ يَحْفَظَ عَلَيْهِمْ دِيْنَهُمْ وَنَفْسَهُمْ وَعَقْلَهُمْ وَنَسْلَهُمْ وَمَالَهُمْ، فَكُلُّ مَا يَتَضَمَّنُ حِفْظَ هَذِهِ الْأَصُولِ الْخَمْسَةِ فَهُوَ مَصْلَحَةٌ، وَكُلُّ مَا يُفَوِّتُ هَذِهِ الْأَصُولَ فَهُوَ مَفْسَدَةٌ وَدَفْعُهَا مَصْلَحَةٌ

"What we mean by *maslahat* is preserving the purpose of the *shāri'* and the *shāri'* purpose of the creation of creatures is five things; preserving their religion, souls, minds, offspring and property. Everything that is related to the preservation of these five things is *maslahat*, and everything that damages these things is damage and avoiding damage is *maslahat*.¹⁶

According to Najm al-Dīn al-Tūfī, this is what he describes in his book *al-Ta'yīn fī sharh al-Arba'in* :

هي السبب المؤدي إلى مقصود الشارع عبادة أو عادة .

"It is anything that leads to the intended purpose of the *Shāri'* (Allah, may He be glorified and exalted, and His Messenger, may Allah's peace and blessings be upon him) in both acts of worship and customs."¹⁷

According to al-Khuwarizmī, *maslahat* is as described by al-Shaukānī in his book *Irsbād al-Fuhūl ila Taḥqīq al-Ḥaq min 'Ilmi al-Uṣūl* :

وَالْمُرَادُ بِالْمَصْلَحَةِ: الْمُحَافَظَةُ عَلَى مَقْصُودِ الشَّرْعِ، بِدَفْعِ الْمَفْسَدِ عَنِ الْخَلْقِ

¹⁰ Abu Abdillāh Muhammad bin Ismā'il Al-Bukhari, *Ṣaḥīḥ Bukhārī* (Bayrūt: Dār Ibn Kaṭīr, 2002), 20.

¹¹ Muḥamad al-Taahir bin Muḥamad bin Muḥamad al-Tāhir Ibn 'Ashur, *Maqāsid al-sharāḥ al-Islāmiyah*, ed. oleh Muḥamad al-Habīb Ibn al-Khawja, vol. 3 (Qatar: Wizarah al-Awqāf wa al-Shu'un al-Islāmiyah, 2004), 194.

¹² Masnun Tahir, "Meredam Kemelut Kontroversi Nikah Sirri (Perspektif Maslahah)," *Al-Mawarid: Jurnal Hukum Islam* 11, no. 2 (2011), accessed September 4, 2024, <https://journal.uin.ac.id/JHI/article/view/2865>.

¹³ Jalāl al-Dīn 'abd al-Raḥman Al-Suyūṭī, *al-Ashbah wa al-Naẓā'ir fī Qawā'id wa Furū' Fiqhi al-Shāfi'i* (Bayrūt: Dār al-Kutub 'al-Ilmiyah, 1983), 121.

¹⁴ Zaen al-Dīn ibn Abu Bakr ibn Abdul Qādir Al Hanafiy Al-Rāzī, *Mukhtār Ṣiḥab* (Beirut: al-Makatabah al-'aṣriyyah, 1999), 178.

¹⁵ 'Abu al-Faḍl Al-Ifriqī Jamāl al-Dīn ibn Manẓur al-'Anṣārī al-Ruwayfī, *Lisān al-'Arab*, vol. 2 (Beirut: Dār Ṣadr, 1992), 578.

¹⁶ Abu Hamid Muhammad ibn Muhammad al-Ghazālī, *al-Mustaṣfa* (Beirut: Dārul Kutub al-Ilmiyah, 1993), 174.

¹⁷ Najm al-Dīn al-Tūfī, *al-Ta'yīn fī Sharḥi al-Arbain* (Beirut: Muassah al-Rayyaan, 1998), 239.

It means: 'What is meant by maslahat is maintaining the shar'i purpose by rejecting all forms of harm from the servant'¹⁸

According to al-Shatibī, maslahat is what he describes in his book *al-I'tisām*:

هي مَا فُهِمَ رِعَايَتُهُ فِي حَقِّ الْخَلْقِ مِنْ جَلْبِ الْمَصَالِحِ وَدَرْجِ الْمَفَاسِدِ عَلَى وَجْهِ لَا يَسْتَقِيلُ الْعَقْلُ بِدَرْكِهِ عَلَى حَالٍ، فَإِذَا لَمْ يَشْهَدِ الشَّيْءُ بِاعْتِبَارِ ذَلِكَ الْمَعْنَى، بَلْ شَهِدَ بِرَدِّهِ، كَانَ مَرْدُودًا بِاتِّفَاقٍ.

"It is an effort to benefit and prevent harm to the slave by means of understanding it by the intellect in a way that is not independent of the situation. So if the *Shariah* does not recognise this benefit and even annuls it, then this benefit is unanimously rejected."¹⁹

3. *Sadd al-Dhari'ah*

Sadd al-Dhari'ah is one of the sources of law that scholars use as a reinforcement of the agreed sources of law. *Sadd* in Arabic means closing the gap. *Dhari'ah*: In language means: *wasilah* or means or intermediary towards a goal.²⁰ In Shari'ah terms, *Sadd al-Dhari'ah* is the act of preventing something that is basically permissible but can be a means to achieve what is prohibited.²¹ The meaning is to close the roads that lead to damage in order to prevent it, even if the action does not have direct damage

4. The Ushul Fiqh principle *al-ḥukmu yadūru ma'a illatibi wujūdan aw 'adaman*.

This principle literally means: "The law revolves with its illat, the existence and absence of the law depends on the existence and absence of the illat."

This principle shows that a Shari'ah ruling does not apply absolutely and independently of the context, but follows the presence or absence of its cause ('illah). If the illat (reason for the law) exists, then the law applies. If the illat is absent, then the ruling is cancelled or changed.²²

5. Marriage

Marriage in Islamic Fiqh terminology is an agreement that allows a man to have sexual intercourse with a woman for whom there is no shar'i barrier. While in the terminology of the legislation of the Republic of Indonesia is: Marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on God Almighty.

Marriage in Islam is considered valid if the pillars and conditions are fulfilled.

The Compilation of Islamic Law regulates the conditions and pillars of marriage for the Muslim community in article 14, namely To carry out a marriage there must be; a) Prospective husband; b) Prospective Wife; c) Marriage guardian; d) Two witnesses and; e) Ijab and Qobul.²³ This is in line with what Imam Shafi'iy rahimahullah explained.²⁴

Conditions of Marriage:

Conditions related to the prospective husband and prospective wife: a) *Ta'yin*, i.e. the prospective bride and groom must be specifically determined by mentioning names, characteristics or by signs. b) *Tarādī* mutual consent between the two parties c) There is no

¹⁸ Muhammad ibn 'Ali ibn Muhammad ibn Abd allāh Al-Shawkānī, *Irshad al-Fuhul ila Tahqiq al-Haq min Ulmi al-Ushul*, vol. 2 (Damaskus: Dār al-Kitāb al-'Arabī, 1999), 184.

¹⁹ Ibrāhim ibn Musā ibn Muhammad Lakhmi Algharnaṭī Al-Shatibi, *al-I'tisām*, ed. oleh Salīm ibn al-Hilali, vol. 2 (Saudi Arabia: Dār ibn Affān, 1996), 609.

²⁰ Aḥmad ibn Muḥammad ibn 'Alī al-Fayūmī thumma al-Ḥamawī Abū al-'Abbās, *al-Miṣbah al-Munir fi Gharib al-Sharh al-Kabir*, vol. 1 (Bayrūt: al-Maktabah al-'Ilmiyyah, 1977), 207.

²¹ Wahbah Al-Zuhaylī, *Ushul al-Fiqh al-Islami*, 1 ed., vol. 2 (Dimashq: Dār al-Fikr, 1986), 873.

²² Al-Jauziyah, *I'lām al-Muwaqqin 'An Rabbi al-'Alamin*, 3.

²³ Tim Mahkamah Agung, *Himpunan Peraturan Perundang-undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Dengan Pengertian Dalam Pembahasannya* (Jakarta: Mahkamah Agung RI, 2011), 66–67.

²⁴ Majmu'ah Min al-Mualifin, *al-Mawsu'ah al-Fiqhiyah al-Kuwaytiyah*, vol. 41 (Kwait: Wizārah al-Awqaf wa al-Shu'un al-Islamiah, 1427), 68.

barrier between the two, such as a mahram relationship, the prospective groom already has four wives, the prospective bride is still someone's wife, different religions (there is a difference of opinion among scholars regarding the marriage of a Muslim man with a woman of the book, some allow and some prohibit) and so on.

a) The guardian must be a man whose guardianship is recognised in sharia, which includes: father, uncle, grandfather, son and so on, b) The guardian must be Muslim, c) The guardian must be aqil and baligh, the guardian must be a free person not a slave, d) The guardian must be a just person (not unjust).²⁵

Requirements related to witnesses: a) Witnesses to the marriage must be at least two men or one man and two women. b) Witnesses must be Muslims..

Conditions related to *ṣighat (ijāb - qobūl)*: Wahbah al-Zuhaili formulates that *ijāb-qobūl* is valid if it fulfils three requirements: a) Ijāb and qobūl must be substantially clear, indicating the intention of the person making the ijāb and qobūl. b) Conformity between ijāb and qobūl. The meaning of congruence here is related to mahal al-aqdī (the object of the contract). c) The continuity of the Ijab and Qobul, which means that after the Ijab is pronounced, it must be continuous and this is realised if the two parties to the contract are in one majlis.^{26 27}

6. Teleconferencing

Teleconferencing, in telecommunications terminology, according to Michael M.A. Mirabito and Barbara L. Morgenstern is an electronic-based meeting in real time between two or more people or machines connected by a telecommunications system that is usually a telephone line. Teleconferencing can be audio or video²⁸

7. Ulama

The term ulama comes from the Arabic: *'ulamā*, it is the plural form of *ālim* which means people of knowledge, are people who have and are experts in religious sciences and other general sciences related to the benefit of the people are scholars of Islamic doctrine and law. Ibn Jarir Al-Thabari in his book *Jami'ul Bayan* defines scholars as people whom Allah Subhānahu wa Ta'ālā has made as leaders of mankind with regard to matters of Islamic law, and the interpretation of religious knowledge in Islam in the world. According to Ibn al-Qayyim in *I'lamu al-Muwaqqi'in*, a scholar is an expert in Islamic jurisprudence, who has the right to issue a fatwa among the people, who occupies himself with studying Islamic rulings and deducing them, and who formulates the principles of halal and haram. Imam al-Juwainī gives a specific limitation to the meaning of ulama, he says that what is meant by ulama is fuqaha, namely experts in fiqh (religious) science. Similarly, in Indonesia, in line with Imam al-Juwainī's definition, people call ulama those who have expertise in religious sciences, especially fiqh, as well as people who have moral integrity, good character, and are close to the people. With these provisions, a person is categorised as 'alim or ulama by his people. As for those who are only experts in other sciences, they are more likely to be referred to as intellectuals or Muslim scholars and others.

Indonesian people call ulama with different designations in each region, in Java they call ulama Kyai, in Sunda Ajengan, in Aceh Tengku, in North Sumatra / Tapanuli Syaikh, in Minangkabau Buya, in Madura Nun or Bendara, in West Nusa Tenggara, South Kalimantan and Central Kalimantan they call Tuan Guru.

²⁵ Muhammad 'Abd al-Lathīf Qindīl, "Fiqh al-nikāḥ wa al-Fara'id," 139, diakses 22 Agustus 2024, <https://shamela.ws/book/8640/152>.

²⁶ Wahbah Al-Zuhailī, *al-Fiqh al-Islāmī wa Adillatuhu*, 12 ed., vol. 9 (Damaskus: Dār al-Fikr, 1433), 535–36.

²⁷ Kamal Bin Sayyid Salim, *Ṣaḥīḥ Fiqh al-Sunnah wa Adillatuhu wa Tawḍīḥ Madhāb al-A'immah*, vol. 3 (Kairo: al-Makatabah al-Tawfiqiah, 2003), 134.

²⁸ Michael M.A. Mirabito and Barbara L. Morgenstern, *The New Communications Technologies: Application, Policy and Impact* (USA: Elevation, 2012), 219.

Ulama in Islam based on the time period of his life is divided into two. First, scholars who lived after the death of the Prophet Muhammad (may Allah's peace and blessings be upon him) or the time of the Companions and the Tabi'in. They are called the salaf (early scholars). Secondly, Islamic scholars who lived after the year 300 H. until now or called khalaf scholars (contemporary scholars). Imam al-Zahabī divides them as *mutaqoddimin* and *mutaakbirin*.

There are four groups of scholars who are included in the category of salaf scholars (previous scholars), namely: the companions, *tabi'in*, *tabi'ut tabi'in*, *Aimmah* (imams) consisting of scholars who follow their path. While khalaf scholars (contemporary scholars) are scholars who lived after the year 300 H until now.

The type of research that the author conducts is library research, which is carried out by collecting information and data related to marriage contracts through teleconferences through various sources available in the library, such as documents (fatwa collections), books, magazines, and so on. It is also a study that examines various reference books and similar previous research to obtain a theoretical basis that supports the problem to be studied. This method is completed with three stages of analysis, namely: (1) deconstruction of fatwa arguments, (2) evaluation of the proportional application of fiqh principles such as *sadd al-dhari'ah*, and (3) triangulation with technological developments and social needs of the Muslim community. Data validity is ensured through authentication of official fatwa documents and contemporary fiqh primary literature.

This research is also conducted with a normative theological approach aimed at producing legal conclusions from the problems that the author examines based on the principles of Islamic fiqh, in addition to a normative juridical approach taken from the marriage legislation of the Republic of Indonesia.

Analysis Procedure

Step 1: Deconstructing the Fatwa - outlining the *Majma' al-Fiqh's* arguments textually. Step 2: Evaluation of Fiqh Principles - assessing whether the principles are used proportionally. Step 3: Socio-Technological Triangulation - matching current social and technological conditions with the context of the fatwa.

Validity is guaranteed by: Authenticity of official *Majma' al-Fiqh* documents taken directly from the official website of the *Majma' al-Fiqh* institution. Secondary data from journals, national fatwas, and contemporary fiqh literature.

The data collection method in this research is through documentation techniques, namely by searching for information or variables related to marriage contracts through certain teleconferences contained in notes, books, papers or articles, journals, and other similar sources.

The primary data of this writing comes from the fatwa of the *Majma' al-Fiqh al-Islāmi al-Dawli* institution. The secondary data that the author uses in this research comes from similar studies, articles and papers that discuss marriage through the internet media and matters related to the marriage being studied in this thesis.

Result and Discussion

The Fatwa of *Majma' al-Fiqh al-Islami al-Dawli* on the marriage contract through teleconferencing.

Performing a marriage contract through teleconferencing between the guardian and the groom is a contemporary issue that has certainly escaped the attention of previous scholars, as this phenomenon does not occur except in the present time after information technology has progressed more rapidly than ever before. Hence the need for *ijtihad* and analysis from the scholars to understand the issue.

The *Majma' al-Fiqh al-Islami al-Dawli* is an institution that is qualified to do so, because it is an international institution with members from 57 (fifty-seven) Islamic countries in the world.

Below is the fatwa on marriage contracts by teleconference No 52 (6/3) as quoted from the official website of the *Majma' al-Fiqh al-Islami al-Dawli* <https://iifa-aifi.org/ar/1789.html>:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله رب العالمين، والصلاة والسلام على سيدنا محمد خاتم النبيين، وعلى آله وصحبه أجمعين

قرار رقم: 52

بشأن حكم إجراء العقود بآلات الاتصال الحديثة

إن مجلس مجمع الفقه الإسلامي الدولي المنعقد في دورة مؤتمره السادس بجدة في المملكة العربية السعودية من 17-23 شعبان 1410 هـ الموافق 14-20 آذار (مارس) 1990م،

بعد اطلاعه على البحوث الواردة إلى المجمع بخصوص موضوع إجراء العقود بآلات الاتصال الحديثة، ونظرًا إلى التطور الكبير الذي حصل في وسائل الاتصال وجريان العمل بها في إبرام العقود لسرعة إنجاز المعاملات المالية والتصرفات،

وباستحضار ما تعرض له الفقهاء بشأن إبرام العقود بالخطاب وبالكتابة وبالإشارة وبالرسول، وما تقرر من أن التعاقد بين الحاضرين يشترط له اتحاد المجلس -عدا الوصية والإيصاء والوكالة- وتطابق الإيجاب والقبول، وعدم صدور ما يدل على إعراض أحد العاقدين عن التعاقد، والموالاتة بين الإيجاب والقبول بحسب العرف

قرر ما يلي:

إذا تم التعاقد بين غائبين لا يجمعهما مكان واحد، ولا يرى أحدهما الآخر معاينة، ولا يسمع كلامه، وكانت: أولاً وسيلة الاتصال بينهما الكتابة أو الرسالة أو السفارة (الرسول)، وينطبق ذلك على البرق والتلخيص والفاكس وشاشات الحاسب الآلي (الحاسوب)، ففي هذه الحالة ينعقد العقد عند وصول الإيجاب إلى الموجّه إليه وقبوله إذا تم التعاقد بين طرفين في وقت واحد وهما في مكانين متباعدين، وينطبق هذا على الهاتف واللاسلكي، ثانياً فإن التعاقد بينهما يعتبر تعاقداً بين حاضرين، وتطبق على هذه الحالة الأحكام الأصلية المقررة لدى الفقهاء المشار إليها في الديباجة.

إذا أصدر العارض، بهذه الوسائل، إيجاباً محدد المدة يكون ملزماً بالبقاء على إيجابه خلال تلك المدة، وليس: ثالثاً له الرجوع عنه.

إن القواعد السابقة لا تشمل النكاح لاشتراط الإشهاد فيه، ولا الصرف لاشتراط التقابض، ولا السلم رابعاً

لاشتراط تعجيل رأس المال.

ما يتعلق باحتمال التزيف أو التزوير أو الغلط يرجع فيه إلى القواعد العامة للإثبات: خامسًا
والله أعلم؛

The full translation is as follows :

*In the name of Allah
the Most Gracious, the Most Merciful
Praise be to Allah, the Lord of the Worlds, and peace and blessings be upon the Seal of the Prophets, his
family and companions.*

Decree No.: 52 (6/3)

*On the Ruling on the Execution of an Agreement
Using Modern Means of Communication*

*Indeed the Majma' al-Fiqh al-Islāmī al-Dawli at its sixth congress, in Jeddah, Kingdom of Saudi Arabia
on 17-23 Shaban 1410 H coinciding with 14-20 March 1990 M*

*After examining the studies received by the Majma' on the issue of executing contracts through modern
means of communication.*

*And taking into account the rapid developments that have taken place in the field of means of
communication and their use in the performance of contracts to expedite financial and other transactions.*

*And with reference to what the fuqaha have learnt about the performance of contracts through speech,
writing, gestures and messengers. It has also been established that the execution of a contract between those
present requires ittihad al-majlis (unity of assembly), with the exception of wills and proxies, and that there
must be conformity between Ijab and Qabul, and there must not be anything indicating rejection by one of
the parties to the contract, as well as continuity between Ijab and Qabul according to custom (urf).*

Resolved the following:

*Firstly: If the contract is done between two parties who are not in the same place, do not see each other
directly, and do not hear each other's voices. But the means of communication used are writing, messaging
(SMS/Chat) or messengers. This applies to the telegraph (Telegraph is a machine or device that uses
telegraphy technology to send and receive messages over long distances, usually using morse as a
communication code. The word 'telegraph' that is often heard today, is generally an electric telegraph. The
telegraph was invented by an American named Samuel F.B. Morse together with his assistant Alfred
Vail), telex, fax and computer screen (monitor), so in this case the contract is considered valid, when the
ijab reaches the intended party and is accepted by him.*

*Secondly: If the contract is done between two parties at the same time but in different places, such as by
telephone or radio communication, then the contract is considered a contract between two parties who are
present. In this case, the original ruling that has been established by the fuqaha' as mentioned in the
preamble applies.*

*Thirdly: If the party offering an ijab through these means sets a specific time limit, then he is bound to stick
to his ijab during that time limit and may not withdraw his ijab.*

*Fourthly: The above principles do not apply to marriage contracts because marriage contracts require
witnesses. It is not a Sharf (money exchange) transaction, which requires taqabud (immediate handover), nor
is it a salam (future trading) contract, which requires payment of capital in advance.*

*Fifth: Issues related to the possibility of manipulation, forgery, or misrepresentation are subject to the general
principles of evidence.*

Wallahu 'alam.

This fatwa is not only available on the official website of the *Majma' al-Fiqh al-Islāmī al-Dawli* institution, but it is also published in the magazine regularly published by the *Majma' al-Fiqh al-Islāmī al-Dawli*.²⁹

From the above fatwa, we can conclude that *Majma' al-Fiqh al-Islāmī al-Dawli* is of the opinion that the use of telecommunication media such as sms, chat, telephone and hand phone is permissible and is considered like two people conducting offline transactions even though the two parties are not in one majlis (place) to carry out transactions for sale and purchase contracts and the like. However, it does not apply to marriage contracts, on the grounds that marriage contracts must be attended by witnesses, and if this is not done, the marriage is not valid.

Arguments of the *Majma' al-Fiqh al-Islāmī al-Dawli* regarding the fatwa on teleconference marriage contracts

Among the arguments and reasons of the *Majma' al-Fiqh al-Islāmī al-Dawli* Institute is that the marriage contract must be witnessed and if it is done then the marriage is invalid, while marrying via teleconference the witness cannot be physically present and there is the potential for deception and fraud, as well as denial of marriage.

Based on the data that the author examines in addressing the issue of marriage contracts through teleconferencing that are authorised by the *Majma' al-Fiqh al-Islāmī al-Dawli* institution, It can be concluded that the opinions of Islamic institutions and other contemporary scholars are divided into two groups: Firstly, the group that agrees, and secondly, the group that disagrees. Analysis of the Different Views of Contemporary Institutions and Scholars Regarding the Implementation of Marriage Contracts Through Teleconferencing

Based on the above findings, the author can analyse that on the issue of marriage contracts through teleconferencing media, contemporary institutions and scholars are divided into two groups, there is a group that considers it invalid, as understood by: a). *Majma' al-Fiqh al-Islāmī al-Dawli'*, b). *al-Lajnah al-Dāimah Li al-Iftā bi al-Mamlakah al-'Arabiah al-Saūdiyah* (Standing Committee for Fatwa of the Kingdom of Arab Saud), c) *Dār iftā al- 'Urdun* (Jordanian Fatwa Committee), d). *Majma' al-Buḥūth al-Islāmīyah fi Miṣr* (Islamic Research Institute in Egypt) e). *Lajnah al-Iftā bi al-Jami'ah al-Islāmīyah bi Ghazḥah* (Fatwa Committee of Gazzah Islamic University), f). *Lajnah Bahtsul Masail (LBM) of Nahdhatul Ulama (NU)*, g). Dr Nasr Farid Wāṣil, Mufti of Egypt. There are also groups that consider it valid, including; a). *Al-Majlis al-Islāmī al-Sūrī* (Syrian Islamic Council), b). *Tarjih and Tajdid Council of Muhammadiyah*, c). Fatwa Commission of the Indonesian Ulema Council, d). *Majlis Kebangsaan Bagi Hal Ehwāl Ugama Islam Malaysia*, e). *Majlis Ugama Islam Singapore*, f). Executive Chamber of State of New York, g). Sheikh Abdul Aziz bin Abdullah bin Baz raḥimahū Allāh, h). Sheikh Kamal bin al-Sayyid Sālīm.

²⁹ Muḥammad al-Ḥājj al-Nāṣir, *ajllab Majma' al-Fiqhi al-Islāmī* (Saudi Arabia: Organisasi Konferensi Islam, 1986), 958.

The Arguments of Each Group

Each of them has strong arguments and reasons that are used as a basis for issuing fatwas or opinions, the following are the arguments of each group based on the findings of the author: Arguments from the group that considers that marriage contracts through teleconferencing media are not valid:

The marriage contract must be attended by witnesses, in a marriage that is conducted via teleconference the witnesses cannot be present at the marriage contract.

Marriage contracts through communication media are prone to fraud and manipulation.

The letter of consent (*ijab-qobul*) in a teleconference marriage is a *kinayah* (figurative) letter, whereas in a marriage contract, the letter of consent must be *ṣarih* (clear/ literal).

Islam is very cautious in matters related to the preservation of the private parts and honour, so teleconference marriage makes it easier for irresponsible people to channel their desires.

The teleconference marriage ceremony does not fulfil the pillars and conditions of marriage because the guardian, witnesses and the head of the marriage ceremony cannot be present to ensure the consent of the bride and groom and verify the data of each party involved in the marriage.

There is no direct *ittihād al-majlis* (unity of majlis) that would allow the two witnesses to see the two performers of the marriage contract, namely the husband-to-be and the guardian of the wife-to-be who is marrying him, and to hear the *ijab qobul sigbat* from them directly.

The precautionary principle based on the principle: *fa-al-aṣlu fī al-abdā': al-tahrim*

"The original ruling in matters of farji (sexual relations/marriage) is haram."

"What is meant by *al-abdā'* is farji (private parts), the plural of *buḍ* which means farji, as an allusion to women and marriage. This means that the original ruling on marriage is haram and forbidden, but it is permitted due to the need to preserve offspring. Therefore, Allah, the Almighty, does not make it permissible except in two ways: through the marriage contract or the ownership of a slave (right-hand property), and anything other than these two is forbidden."

The arguments of those who consider that the teleconference marriage contract is valid:

Both parties to the teleconference marriage contract were able to see and hear each other at the time of the marriage contract and when the *ijab* and *kabul* were pronounced, as understood by *Al-Majlis al-Islāmi al-Sūri* (Syrian Islamic Council).

Qiyas Aula, which is a qiyas that applies the ruling of the original case to the branch because the *illatum* of the branch is stronger than that of the original case, means that performing the marriage contract through the medium of teleconferencing is more likely to be recognised as valid, given that scholars consider marriage contracts done through writing or representation to be valid.

The marriage contract conducted through teleconferencing media is considered to have fulfilled the criteria of *ittihād al-majlis* even though *ittihād al-majāzī*.

That the performance of the marriage contract through teleconferencing is an administrative matter and does not detract from the validity of the marriage contract as long as the pillars and conditions are fulfilled.

That there is a counterpart to the teleconference marriage contract in traditional fiqh, the closest example of which is the sale and purchase contract between two people by calling out. Imam Nawawi (may Allah have mercy on him) said: "If two people call out to each other from a distance, and they enter into a sale and purchase transaction, then the sale and purchase is valid without any disagreement."³⁰

The reasons for the difference of opinion between them

Based on a study of the arguments presented by Islamic institutions and contemporary scholars regarding the issue of performing contracts by teleconference, the author finds that there are four fundamental issues that cause their differences of opinion regarding this matter:

Their understanding of the meaning of *ittihād al majlis*. Those who *understand ittihād al majlis* to include the same place and time argue that the execution of the contract through teleconferencing is invalid because the groom and guardian are not in the same room when carrying out the *ijab and qobul*, while those who understand *ittihād al majlis* to include only the same time, argue that the execution of the contract through teleconferencing is valid, because the *ijab and qobul* can be carried out and realised at the same time without any significant delay.

The potential for fraud and manipulation in the process of performing the marriage contract by teleconference. Those who believe that fraud and manipulation can occur in the execution of a teleconference marriage contract argue that the execution of a teleconference marriage contract is invalid because it is doubtful and is based on a hadith: Abu Muhammad Al-Hasan ibn 'Ali ibn Abi Talib (may Allah be pleased with him) reported: I have memorised from the Messenger of Allah (blessings and peace of Allah be upon him): "Leave what you doubt and do what you do not doubt. Verily, truthfulness is *thuma'ninah* (tranquillity), while lying is doubt." (HR: At-Tirmidhi and he said it is hasan ṣahih) Because human voices and images can be easily faked. Those who believe that fraud and manipulation can be easily prevented and avoided are of the opinion that the teleconference contract is valid.

Their understanding of whether the *Ijab-qabul* in the teleconference marriage contract is *kinayah* or *ṣarih* (clear), those who consider it *kinayah* are of the opinion that the teleconference marriage contract is invalid, while those who consider it *ṣarih* are of the opinion that the teleconference marriage contract is valid.

Those who understand that the teleconference marriage contract cannot have witnesses present to witness the *ijab and qobul* are of the opinion that the teleconference marriage contract is invalid because witnesses cannot be present, even though the presence of witnesses is one of the pillars of marriage. Those who believe that witnesses can be present during the teleconference marriage ceremony are of the opinion that the teleconference marriage ceremony is valid.

³⁰ Al-Imam Al-Hafizh Muhyiddin Abu Zakaria Yahya bin Syaraf bin Murri An-Nawawi, *al-Majmu' Sharh al-Muhadzab* (Cairo: Idārah al-Ṭibāh al-Munīriyah, 1344), 181.

Tarjih Differences in the Views of Institutions and Contemporary Scholars Regarding the Implementation of Marriage Acts Through Teleconferencing Along with Arguments

According to the author, a more precise understanding of *ittihād al majlis* cannot be limited to the meaning of equality of place alone, but it can also be interpreted as equality of time, because in the science of *ṣaraf* the word *majlis* comes from the word *jalasa - yajlisu - majlis* which has the meaning of *ism makān* (place word) and can also have the meaning of *ism zamān* (time word), so the fact of Arabic language principles supports interpreting the word *ittihād al majlis* with equality of time. And in terms of the tradition of the fuqaha, we can understand that *ittihād al majlis* is the focus of the two parties (in this case the prospective husband and the guardian of the prospective wife) involved in the contract on the substance of the *ijab and qobul* at the same time, so that when the guardian of the prospective wife says the *ijab sighat*, the prospective husband can immediately answer it with a *qobul*, there should be no significant pause, such as talking about other things with other people or doing other activities, even if he faints, it is considered out of the meaning of *ittihād al majlis*. The point is that the benchmark of *ittihād al majlis* is the similarity of time not place. In other words, if even though the two parties who make *ijab and qobul* are in different places, they can make *ijab and qobul* spontaneously at the same time, the difference in location does not affect the validity of the contract. On the other hand, even if the two parties who make *ijab and qobul* are in the same place, but cannot make *ijab and qobul* spontaneously at the same time, the contract is not valid.

As for the previous fuqaha, the majority of them seemed more inclined to interpret *ittihād al majlis* with the same place, because the social setting at that time did not support them to argue that *ittihād al majlis* was the same time, they could not describe that *ijab qobul* could be realised at one time without a significant pause if the two parties to the contract were not in the same place. However, nowadays, their concerns can be overcome because there are many communication facilities that can convey audio and visuals of people who are in different places far apart at the same time, including teleconferencing facilities that can gather all parties involved in the contract in one forum where each party can see the audience directly and can interact visually and audio with all parties.

As for the concerns of some Islamic institutions and other contemporary scholars regarding the possibility of fraud and manipulation, the author answers that this can be anticipated by involving the local KUA (Office of Religious Affairs) by presenting the head of the village to accompany the guardian of the prospective wife as well as the presence of the head of the village to verify the data of both prospective husbands, wives, guardians and witnesses, as well as to ensure the willingness of both parties to carry out the marriage. For the prospective husband, local officials can be present, such as the *dusun* (Kadus) for those who live in the regency or the neighbourhood head (Kaling) for those who live in the municipality or other parties who can be trusted to ensure that the prospective husband is the one known by the prospective wife and her family.

In relation to the *sighat*, the author argues that teleconferencing is a medium or means to bring together the *ijab and qobul* of the two parties to the contract; it is not the substance of the *sighat ijab*, because the substance of the *sighat* is the lafaz *ijab and qobul* itself.

As an example that the use of teleconferencing or other communication media does not affect the substance of the *ijab and qobul* conveyed is that in divorce, the scholars divide the words of divorce into *ṣarih* words and *ta'ridh* words (*kinayah*). The *ṣarih* words are those that say: 'I *talaq* (divorce) you', which is what a husband says to his wife when he wants to divorce her, while '*ta'ridh*' (*kinayah*) is what he says: 'return to your parents' house'. Divorce that is done with *ṣarih* words is valid from the perspective of Islamic fiqh, even if it is done through teleconferencing or other communication media that are able to present the husband's original voice clearly without the obstacle of disconnection or significant pauses, especially if it is accompanied by visual images, plus witnesses are also present at the conference. So that with these words in the perspective of Islamic fiqh the husband and wife are divorced. Meanwhile, divorce that is carried out with *ta'ridh* (*kinayah*) in the perspective of Islamic fiqh does not necessarily fall into *talaq* whether it is conveyed directly or through the medium of teleconferencing, but it is returned to the husband's intention when pronouncing the lafaz, whether what he meant by his words; 'go back to your parents' house' is just for friendship or as a warning or he meant to go home forever, aka divorce. If he means divorce, then it falls, i.e. when a husband divorces his wife by saying I *talaq* (divorce) you through the medium of teleconferencing and witnesses are present, then from the perspective of Islamic fiqh, divorce falls, but if he means friendship or a warning, then divorce does not fall.

Regarding the presence of witnesses in the execution of the marriage contract through teleconferencing, the author considers that it is very easy to do.

Advances in communication technology today allow many people, even up to hundreds of participants, to join a single virtual forum that supports real-time audio and visuals. Witnesses are an important element of the marriage contract according to the majority of scholars, as they are there to ensure that the marriage is legal, open and not hidden. Through online media, witnesses can directly witness the *ijab qabul* process, clearly hear the words of both parties, and visually see their interactions. This shows that the element of testimony can still be fulfilled properly. In fact, this technology has the added advantage that the entire process can be recorded as valid documentation. As long as the identity of the witnesses is clear, there is no element of fraud, and all *shar'i* requirements are fulfilled, then the presence of virtual witnesses is still considered valid according to the perspective of contemporary fiqh that accommodates technological developments for the benefit of the people.

Relevance Of The Fatwa Of The Majma' Al-Fiqh Al-Islami Al-Dawli Institution On Akad Nikah Through Teleconference For Muslim Communities Today

The fatwa issued by the *Majma' al-Fiqh al-Islami al-Dawli* Institution is very worthy of attention by researchers, researchers, academics and experts, considering that the *Majma' al-Fiqh al-Islami al-Dawli* Institution is an international institution, its scientific products are used as a reference by scholars of the Islamic world, so that automatically the frequency of spreading its fatwas is spread to all corners of the Islamic world. Researchers, academics and experts should conduct studies and research to find out the relevance of the enactment of the fatwa at this time, considering that the fatwa was issued in 1990 or thirty-four years ago.

Regarding the implementation of a marriage contract through communication media (teleconference), that *Majma' al-Fiqh al-Islami al-Dawli* stated that the implementation of such a marriage contract is considered invalid on the grounds that the implementation of a marriage contract requires the presence of witnesses. According to the author, the fatwa may have been in accordance with the conditions of the social and cultural setting of the community at that time, considering that at that time communication technology was still very limited, even if there was a use that might be popular at that time only limited to mobile phones and ordinary landlines. This is because the fatwa was issued in 1990, an era when the internet and teleconferencing media were just beginning to develop and not many people knew and used them.

The weaknesses of the 1990 technology included low video resolution, limited bandwidth, and no biometric verification system or data encryption. high latency, and no encryption. Teleconferencing at that time could not guarantee the validity of identity and the continuity of *ijab qabul*. This was a strong reason why the fatwa at that time rejected teleconference contracts. However, this condition is very different from the current digital era.

This is not the case with today's information technology: biometric verification, end-to-end encryption, and stable conferencing platforms, which allow for secure contracts.

Teleconferencing brings *maslahat*, which is the essence of *maqāṣid al-syarī'ah* and in accordance with the principle of *ḥifz al-nasl* in *maqāṣid al-syarī'ah*, which makes it easier for prospective brides and grooms who want to get married but are hampered by distance, by allowing teleconference marriage contracts to prevent them from *mafsadat* (adultery due to delayed marriage). So, the rigid application of the *sadd al-dhari'ah* principle in this case actually closes the *maslahat*.

Based on the analysis of the social, economic and technological context behind the fatwa when it was issued and considering the communication technology, lifestyle, and conditions of society have developed rapidly, especially in the digital era including teleconferencing technology that can unite and bring together parties who are far apart in one purpose in real time. And also considering the principle of *maqāṣid al-syarī'ah*, namely protecting religion, soul, mind, offspring, and property and based on the theory of relevance developed by Dan Sperber and Deirdre Wilson, the author argues that the fatwa issued by the *Majma' al-Fiqh al-Islami al-Dawli* institution regarding the implementation of marriage contracts through teleconferencing does not fulfil the principle of "maximum cognitive effect with minimum effort". The requirement to be physically present for the contract adds to the cognitive and administrative burden for couples who are far apart, even though current technology allows real-time visual and audio communication with a high degree of reliability.

This theory explains that humans in communication seek "maximum cognitive effect with minimum effort". Information is considered relevant if it provides great benefits with a less burdensome comprehension process. In this context, fatwas that require physical presence are considered less relevant if real-time audiovisual communication can be achieved through teleconferencing.

It is not a disgrace or a shortcoming of the *Majma' al-Fiqh al-Islami al-Dawli* institution if the author argues that the fatwa should be reviewed in accordance with the current conditions of Muslim life in terms of social, cultural and technological aspects, because it is appropriate that a fatwa which is an answer or legal decision given by a mufti either in the form of an individual or an institution based on a certain situation is not rigid, he should change based on new circumstances that arise along with the times and changes in social, economic or cultural conditions. This is in accordance with the principle '*Taghayyur al-Fatwa bi Taghayyur al-Zaman wa al-Makan*' which states that fatwas can change according to two things that are attached to the fatwa and the background of the issuance of the fatwa. *Zaman* (time) and *makan* (place) are two very important factors in the application of Islamic law. A fatwa that is relevant at one time may no longer be appropriate at another time due to changes in conditions, technology, or scientific developments. Similarly, a fatwa that is applicable in one place may not be applicable in another due to social, cultural and environmental differences. Similarly, the fatwa of *Majma' al-Fiqh al-Islami al-Dawli* on the execution of marriage contracts through teleconferencing is no longer appropriate today. This principle shows flexibility in the application of Islamic law, where consideration of the context of time and place plays an important role in formulating legal decisions.

Shaykh 'Abdul 'Aziz bin Baz explained that differences of opinion in *ijtihadiyyah* matters are something that is recognised in Islam. He said: "*Differences of opinion in ijthadiyya matters have been prevalent since time immemorial, and they should not be a cause of division or hatred among Muslims.*"³¹

He also stated that fatwas can change depending on changes in place, time, circumstances and intentions, as previous scholars have stated: "*Fatwas can change with the change of time, place, circumstances and intentions. This has been explained by scholars such as Ibn al-Qayyim and others.*"³²

Couples who perform marriages by teleconference are those who experience difficulties due to the distance between the bride and groom and their guardians, and every difficulty must be made easier, and how to make it easier is by giving them dispensation to perform marriages by teleconference. This is in line with the fiqh principle '*al Masyaqqah Tajlibu al-Taysir*' which means that difficulties can bring convenience.

The principle of *maslahah* (which is the main purpose of the *Shari'ah*) also strongly supports the analysis that the implementation of the marriage contract via teleconference is valid, because there is *maslahah* in it, namely the implementation of *maqasid al-shariah* in the form of *hifzu al-Nasl* (preserving offspring) and by allowing the bride and groom to carry out the marriage contract via teleconference, the door to damage in the form of free sex outside of marriage is closed.

Of course this is in line with the principles of *sadd al-dhariah* which is one of the various arguments that are the source of Islamic law.

One of the important ushul principles that is part of the instrument for analysing this fatwa is the principle: *al-hukmu yaduru ma'a 'illatibi wujudan aw 'adaman*, in the context of marriage contracts through teleconferencing: The illat of the prohibition of online contracts in the 1990 fatwa is that there is no guarantee of equality of assembly (*ittihadul majlis*), fears of fraud, or poor quality communication. But in today's era, when technology is very advanced, that illat is no longer relevant. So, based on this principle: The old fatwa ruling should no longer be applied, because the illat has disappeared.

This research closes the knowledge gap by integrating communication relevance theory into the study of contemporary fiqh marriage fatwas.

The author also offers a reinterpretation of the concept of *ittihād al-majlis* that is more in line with the era of real-time communication. Integrating relevance theory in the study of marriage fatwas (not much has been done). Offers a reinterpretation of *ittihād al-majlis* conceptually and technically. Encouraging the expansion of *maqāṣid al-sharī‘ah* to the digital realm.

Conclusion

Based on an intensive study of the issue of the implementation of marriage contracts through teleconferencing and the fatwa of *Majma' al-Fiqh al-Islāmī al-Dawli* related to it, the author can present the following conclusions:

Majma' al-Fiqh al-Islāmī al-Dawli is of the opinion that the execution of a marriage contract by teleconference is invalid on the grounds that marriage must be witnessed.

Majma' al-Fiqh al-Islāmī al-Dawli's opinion is in line with several contemporary institutions and scholars, such as *al-Lajnah al-Dāimah Li al-Iftā bi al-Mamlakah al-'Arabiah al-Saūdiyah* (Standing Committee for Fatwas of the Kingdom of Saud), *Dār iftā al-'Urdun* (Jordanian Fatwa Committee), *Majma' al-Buḥūth al-Islāmiyah fi Miṣr* (Islamic Research Institute in Egypt), *Lajnah al-Iftā bi al-Jāmi'ah al-Islāmiyah bi Ghazāh* (Fatwa Committee of the Islamic University of Gazzah), *Lajnah Bahsul Masail (LBM) of Nahdhatul Ulama (NU)* and Dr. Nasr Farid Wāṣil, Mufti of Egypt.

In addition to those who are in line, there are also those who have a different opinion, they actually consider the implementation of marriage contracts through teleconferencing valid, among them are; *Al-Majlis al-Islāmī al-Sūrī* (Syrian Islamic Council), *Tarjih and Tajdid Council of Muhammadiyah*, *Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia*, *Majlis Ugama Islam Singapore*, Executive Chamber of State of New York and Ash Sheikh Abdul Aziz bin Abdullah bin Baz.

Based on the arguments used by the two opposing sides, the author concludes that the strongest opinion in the current perspective is the opinion that states that the execution of a marriage contract via teleconference is valid.

Therefore, the author concludes that the opinion or fatwa of *Majma' al-Fiqh al-Islāmī al-Dawli*, which states that the implementation of a marriage contract through teleconference is invalid, is a fatwa that is not relevant for Muslim communities living today in an era where communication technology has developed rapidly.

Although the implementation of a marriage contract via teleconference is valid, it should only be done by those who have difficulty in being able to gather in one place. And the implementation must also pay attention to the applicable provisions, both normative and formal.

Reference

‘Abdul ‘Aziz bin Baz. *Majmu‘ Fatawa wa Maqalat Mutanawwi‘ah*. Vol. 3. Riyadh: Dar al-Watan, 2000.

———. *Majmu‘ Fatawa wa Maqalat Mutanawwi‘ah*. Vol. 4. Riyadh: Dar al-Watan, 2000.

Abū al-‘Abbās, Aḥmad ibn Muḥammad ibn ‘Alī al-Fayūmī thumma al-Ḥamawī. *al-Miṣbāḥ al-Munīr fi Gharīb al-Sharḥ al-Kabīr*. Vol. 1. 2 vol. Bayrūt: al-Maktabah al-‘Ilmiyyah, 1977.

Abu Hamid Muhammad ibn Muhammad al-Ghazālī. *al-Mustasfā*. Beirut: Dārul Kutub al-Ilmiyah, 1993.

Al Qur'an Al 'Azim. Jakarta: CV. Alfatih Berkah Cipta, 2022.

³¹ ‘Abdul ‘Aziz bin Baz, *Majmu‘ Fatawa wa Maqalat Mutanawwi‘ah*, vol. 3 (Riyadh: Dar al-Watan, 2000), 71.

³² ‘Abdul ‘Aziz bin Baz, *Majmu‘ Fatawa wa Maqalat Mutanawwi‘ah*, vol. 4 (Riyadh: Dar al-Watan, 2000), 20.

- Al-Bukhari, Abu Abdillah Muhammad bin Ismail. *Ṣaḥīḥ Bukhārī*. Vol. 5. 7 vol. Bayrūt: Dār Ibn Kaṭīr, 2002.
- . *Ṣaḥīḥ Bukhārī*. Bayrūt: Dār Ibn Kaṭīr, 2002.
- Al-Ifriqī, ‘Abu al-Faḍl, Jamāl al-Dīn ibn Manẓur al-‘Anṣārī al-Ruwayfī. *Lisān al-‘Arab*. Vol. 2. 15 vol. Beirut: Dār Ṣadr, 1992.
- Al-Jauziyah, Ibnu Qayyim. *I’lām al-Muwaqqin ‘An Rabbi al-‘Alamin*. Saudi Arabia: Dār Ibn al-Jawzī li al-Nashr wa al-Tawzī’, 1423.
- Al-Shatibi, Ibrāhīm ibn Musā ibn Muhammad Lakhmi Algharnaṭī. *al-I’tisām*. Disunting oleh Salīm ibn al-Hilali. Vol. 2. 2 vol. Saudi Arabia: Dār ibn Affān, 1996.
- Al-Shawkānī, Muhammad ibn ‘Ali ibn Muhammad ibn Abd allāh. *Irshād al-Fuhul ila Taḥqīq al-Ḥaq min ‘Ilmi al-Uṣul*. Vol. 2. 2 vol. Damaskus: Dār al-Kitāb al-‘Arabī, 1999.
- Al-Suyūṭī, Jalāl al-Dīn ‘abd al-Raḥman. *al-Ashbah wa al-Nazā’ir fī Qawā’id wa Furū’ Fiqhi al-Shāfi’i*. Bayrūt: Dār al-Kutub ‘al-Ilmiyah, 1983.
- Al-Zuhailī, Wahbah. *al-Fiqh al-Islāmī wa Adillatuhu*. 12 ed. Vol. 4. 10 vol. Damaskus: Dār al-Fikr, 1433.
- . *al-Fiqh al-Islāmī wa Adillatuhu*. 12 ed. Vol. 9. 10 vol. Damaskus: Dār al-Fikr, 1433.
- Al-Zuhaylī, Wahbah. *Uṣūl al-Fiqh al-Islāmī*. 1 ed. Vol. 2. 2 vol. Dimashq: Dār al-Fikr, 1986.
- An-Nawawi, Al-Imam Al-Hafizh Muhyiddin Abu Zakaria Yahya bin Syaraf bin Murri. *al-Majmu’ Sharh al-Muhadzab*. Cairo: Idārah al-Ṭibāah al-Munīriyah, 1344.
- KBBI Online. “Arti kata relevan - Kamus Besar Bahasa Indonesia (KBBI).” Diakses 24 September 2024. <https://kbbi.web.id/relevan>.
- Mahkamah Agung, Tim. *Himpunan Peraturan Perundang-undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Dengan Pengertian Dalam Pembahasannya*. Jakarta: Mahkamah Agung RI, 2011.
- Majelis Ulama Indonesia. “Hukum Pernikahan Secara Online.” Diakses 5 Oktober 2023. <https://mui.or.id/baca/mui/hukum-pernikahan-secara-online>.
- Majmu’ah Min al-Mualifin. *al-Mawsu’ah al-Fiqhiyah al-Kuwaytiyah*. Vol. 41. 45 vol. Kwait: Wizārah al-Awqāf wa al-Shu’un al-Islamiah, 1427.
- Media, Kompas Cyber. “[Fakta] Viral, Video Sepasang Polisi Menikah via ‘Video Call’ Halaman all.” [kompas.com](https://regional.kompas.com/read/2018/04/30/20450041/fakta-viral-video-sepasang-polisi-menikah-via-video-call), 30 April 2018.
- <https://regional.kompas.com/read/2018/04/30/20450041/fakta-viral-video-sepasang-polisi-menikah-via-video-call>.
- Mirabito, Michael M.A., dan Barbara L. Morgenstern. *The New Communications Technologies: Application, Policy and Impact*. USA: Elevier, 2012.
- Muhamad al-Taahir bin Muhamad bin Muhamad al-Tāhir Ibn ‘Ashur. *Maqāsid al-shariah al-Islāmīyah*. Disunting oleh Muhamad al-Habīb Ibn al-Khawja. Vol. 3. 3 vol. Qatar: Wizārah al-Awqāf wa al-Shu’un al-Islamiah, 2004.
- Muḥammad al-Ḥājj al-Nāṣir. *Majallah Majma’ al-Fiqhi al-Islāmī*. Saudi Arabia: Organisasi Konferensi Islam, 1986.
- Najm al-Dīn al-Ṭufī. *al-Ta’yīn fī Sharḥi al-Arba’in*. Beirut: Muassah al-Rayyaan, 1998.
- nks. “Pasangan Indonesia Nikah di Internet.” [detikinet](https://inet.detik.com/cyberlife/d-518858/pasangan-indonesia-nikah-di-internet). Diakses 27 Agustus 2024.
- <https://inet.detik.com/cyberlife/d-518858/pasangan-indonesia-nikah-di-internet>.
- Qindīl, Muhammad ‘Abd al-Lathīf. “Fiqh al-nikāḥ wa al-Fara’id.” Diakses 22 Agustus 2024. <https://shamela.ws/book/8640/152>.
- Salim, Kamal Bin Sayyid. *Ṣaḥīḥ Fiqh al-Sunnah wa Adillatuhu wa Tawdīḥ Madhāb al-A’immah*. Vol. 3. 4 vol. Kairo: al-Makatabah al-Tawfiqiah, 2003.

- Tahir, Masnun. “Meredam Kemelut Kontroversi Nikah Sirri (Perspektif Maslahah).” *Al-Mawarid: Jurnal Hukum Islam* 11, no. 2 (2011).
<https://journal.uii.ac.id/JHI/article/view/2865>.
- Wilson, Deirdre, dan Dan Sperber. “Relevance Theory.” Dalam *UCL Working Papers in Linguistics*, 14:606–32, 2004. <https://doi.org/10.1002/9780470756959.ch27>.
- Zaen al-Dīn ibn Abu Bakr ibn Abdul Qādir Al Hanafiy Al-Rāzī. *Mukhtār Ṣiḥab*. Beirut: al-Makatabah al-‘aṣriyyah, 1999.