



## ***ANALYSIS IN THE LEGAL DYNAMICS OF COENANT VIA INTERNET IN INDONESIA***

## **ANALISIS DALAM DINAMIKA HUKUM AKAD NIKAH VIA INTERNET DI INDONESIA**

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### **Abstract**

*This research aims to analyze the juridical, philosophical and sociological aspects of the legal dynamics of coenant via the internet in Indonesia. This research uses a qualitative type with library research. Meanwhile, the research approach used is descriptive, juridical, philosophical and sociological analysis. The data analysis used is qualitative data analysis. The results of the research show that there are differences of opinion among Ulama regarding coenant via Internet which are based on differences in methods of understanding the texts of the Koran and hadith regarding*

*marriage, and are related to the development of science and technology. In Indonesia, from a juridical-philosophical perspective, the practice of coenant via the Internet is recognized as legal because all legal facilities and requirements have been fulfilled. However, from a sociological perspective, most Muslim communities in Indonesia still strongly believe marriage is a sacred moment. Therefore, even though the practice of coenant via teleconference is legally recognized, it is still difficult for society to accept it widely because the traditional paradigm related to the sacredness of marriage still dominates. As a legal state, strategic steps are needed to establish a clear and comprehensive legal status regarding the legality of carrying out marriages via the Internet. There is an excellent possibility in the future with advances in science and technology, it is not without reason that the Indonesian Muslim community uses the internet as an instrument in carrying out coenant.*

**Keywords:** *Fatwa, Law, Coenant, Internet*

### **Abstrak**

Penelitian ini bertujuan untuk menganalisis tinjauan yuridis, filosofis dan sosiologi dalam dinamika hukum akad nikah via internet di Indonesia. Adapun jenis penelitian ini menggunakan jenis kualitatif dengan studi kepustakaan (*library reseach*). Sedangkan pendekatan penelitian yang digunakan yaitu deskriptif analisis yuridis, filosofis dan sosiologis. Analisis data yang digunakan yaitu menggunakan analisis data kualitatif. Hasil penelitian menunjukkan bahwa terdapat perbedaan pendapat di kalangan ulama mengenai akad nikah melalui Internet yang didasari oleh perbedaan metode pemahaman teks Al-Qur'an dan hadis tentang perkawinan, serta berkaitan dengan perkembangan ilmu pengetahuan dan teknologi. Di Indonesia, dari sudut pandang yuridis-filosofis, praktik akad nikah melalui internet diakui sah karena seluruh fasilitas dan persyaratan hukum telah terpenuhi. Namun secara sosiologis, sebagian besar masyarakat Islam di Indonesia masih sangat meyakini pernikahan adalah momen sakral. Oleh karena itu, meskipun praktik akad nikah melalui telekonferensi sudah diakui secara hukum, namun masih sulit diterima dan diterima secara luas oleh masyarakat karena paradigma tradisional terkait kesakralan perkawinan masih mendominasi. Sebagai negara hukum, diperlukan langkah-langkah strategis untuk menetapkan status hukum yang jelas dan komprehensif mengenai legalitas melangsungkan perkawinan melalui Internet. Ada kemungkinan yang sangat baik di masa depan dengan kemajuan ilmu pengetahuan dan teknologi, bukan tanpa alasan masyarakat muslim Indonesia memanfaatkan internet sebagai instrumen dalam melangsungkan akad nikah.

**Kata kunci:** *Fatwa, Hukum, Akad Nikah, Internet*

## **INTRODUCTION**

The presence and development of science and technology in the industrial era 4.0 certainly have positive and negative sides. On the positive side, it can provide benefits and convenience to the community in various daily activities, such as office, state, educational, religious, cultural and other activities. As time goes by, religious activity becomes an object that does not escape the emergence of problems that attract the attention of scholars, and the government, namely coenant (*akad nikah*) via the internet . This case as something new exists and is considered strange and irrational, because the implementation is through instruments via a technological network called the internet. In practice, the

coenant is a religious and social practice that is considered sacred, so the implementation is not necessarily practiced only as long as it has been carried out (Farid, 2018)

The practice of a coenant via the internet is a marriage in which the process of the coenant uses internet instruments such as webcams, teleconferences. The term coenant is carried out with long-distance positions and conditions which make it impossible for the marriage to take place as usual, so that they decide to carry out the coenant via the internet.

The occurrence of coenant via the internet is a result of technological advances that are so rapid in human life. In 1989, marriage via the internet occurred in Indonesia with the case of a coenant in a long-distance position, namely a marriage carried out by Murdiani and Aryo Sutanto. At that time the coenant took place where the groom was in the United States, while the female candidate was in Kebayoran Baru, South Jakarta (Luthfi Assyaukanie, 1998)

In 2006, a similar marriage ceremony occurred using technology that was one step more advanced and sophisticated because it was via video teleconference. Apart from using sound, this technology is also able to show visualization through clear images in real-time. This even was carried out by the Wedding couple Syarif Abdurahman and Dewi Tarumawati on December 4, 2006. The groom at the time of the marriage ceremony was in America while the bride was positioned in Indonesia, thus makes. Them get married remotely through via internet teleconference (Sadiana, 2008).

Sirojuddin and their sister Iim Halimatus Sa'diyah did the same thing in 2007. With the same context and instrument, namely using modern technological advances via the internet. However, what is interesting in this case is that there is a difference from the previous case, where the guardian (wali nikah) was in Cirebon, Indonesia, while the bride and groom were at Oxford University, England (Muhammad Sabir, 2015). Ideally in Islam, normatively, the coenant is said to be valid if the coenant fulfills the elements in it, namely the consent is recited by the guardian, the *qabul* is recited by the groom, the consent and *qabul* must be witnessed by two witnesses and the people present at the ceremony of wedding assembly.

The most recent case occurred during Covid 19. Along with the ban on direct interactive activities between humans that was imposed in certain situations, several individuals tried to find positive solutions. One of the efforts made is when a husband and wife carry out their coenant online via teleconference.

The coenant process took place when the groom was in Surabaya, while the bride and her guardian were in Kolaka, Southeast Sulawesi, on March 25, 2020, according to the local time zone (TVOneNews, 2020).

The events and cases above gave rise to anxiety and argumentation from *fiqh* scholars, and Indonesian Islamic family law experts as a contemporary and newly emerging issue. Remember that long-distance coenant via the internet have never been found and carried out at the time of the Prophet, *Shohabat*. However, the *Shohabat* of the *salafus shalih* only provide one of the implied laws by being allowed to replace the perpetrator of the coenant (guardian or prospective groom) if the perpetrator of the coenant is unable to attend the ceremony. On the other hand, this problem also requires a clear and comprehensive legal status both in terms of the Islamic religion and in terms of official state law. Therefore, it is necessary to take concrete and practical steps in studying and understanding the problems of coenant via the Internet.

On the other hand, changes in the dynamics of life always follow the development of the times, and Islamic law also faces these changes. Regarding marriage, which is considered sacred, changes in its provisions cannot be made haphazardly according to individual wishes. When facing a coenant carried out via the Internet, the question arises regarding whether the coenant carried out by the bride and the groom is valid according to Islamic law. The rule that is generally accepted is that the validity of a marriage requires a consent ceremony carried out in the same location and face-to-face. Then in the final part, the author tries to provide a juridical, philosophical and sociological review as a basis for making and formulating the latest regulations or fatwas regarding the application of the provisions of coenant via teleconference.

## METHOD

This research uses a qualitative type with library data collection methods (library research) (A. Amrin, 2022), by explaining juridical, philosophical and sociological review of the legal dynamics of coenant via the internet in Indonesia. The approach used is a normative juridical, philosophical and sociological approaches. Source of data in this study is primary legal materials, which represent various *fiqh* views and fatwas issued by ulama regarding legal regulations related to coenant carried out via the Internet (Sugiyono, 2017). The data analysis by describing and analyzing the methods of the scholars in understanding the coenant via the Internet.

## DISCUSSION

### Marriage According to Islamic Religion

#### a. *Notion of marriage*

Etymologically, marriage means union, coenant , or intercourse and mixing(Kamil Muhammad', 2008) In terms of terminology, there are several opinions of scholars regarding the notion of marriage, namely: First, according to the Hanafiyah scholars, marriage is defined as a coenant that is useful for intentionally having mut'ah. that is, a man can dominate a woman with all his limbs to get pleasure and satisfaction.

*Second*, according to Syafi'iyah school marriage is a coenant using lafaz nikah or *zauj* which means to have, that is, by marriage, a person can have or get pleasure from his partner. Third, Imam Maliki defines marriage as a coenant that implies mut'ah to achieve satisfaction by not requiring a price. Fourth, Imam Hambali mentions that marriage is a coenant using marriage lafaz or *tazwij* to get satisfaction, meaning that a man can get satisfaction from a woman or vice versa (Moh. Fauzan Januri, 2013).

According to Islamic law, especially those regulated in Fiqh, the notion of marriage is a bond that justifies association and limits rights and obligations as well as mutual assistance between a man and a woman between the two of them who are not *mahram* (Sulaiman Rasjid, 1993). Furthermore, according to the provisions in Article 1 of Law Number 1 of 1974 concerning marriage, marriage is a physical and spiritual bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on Belief in the One Supreme God.

Furthermore, by the provisions of Article 2 (two) of Book I concerning marriage law, the Compilation of Islamic Law (KHI) has formulated the notion of marriage according to Islamic law as a very strong coenant or *miltsaaqon gholiidhan* to obey Allah's commands and its implementation as worship. Meanwhile, Article 3 (three) also stipulates that the purpose of marriage is to create a household life that is *sakinah, mawaddah, warahmah* (Abdurrahman, 1995). With some of the definitions of marriage above, it can be concluded that marriage is an agreement or coenant between a man and a woman carried out by a guardian according to the characteristics and conditions set by *syara'* to justify mixing between the two and to live as a household, which includes arrangements rights and obligations as well as mutual assistance from both parties.

## ***b. Marriage law in Islam***

The law of marriage when viewed in Islamic law depends on the circumstances and human situation. The law can be obligatory, sunnah, mubah, or haram. However, the law of marriage is mubah, which is a permissible act. Ibnu Qudamah divides humans in marriage law into 3 parts, namely First, marriage is obligatory, if a human feels unable to restrain lust or is worried about committing immoral acts (adultery), then he must marry him to protect his honor from something that brings him on a prohibition of a necessity that is obligatory.

*Second*, the legal marriage for him is sunnah, if he has lust for the opposite sex but he can restrain and protect himself from sinful acts (adultery). However, marriage is first and foremost for him rather than doing other sunnah acts. Third, the law is mubah, that is, it is recommended for him to marry and if he does not do so, it is more important. This marriage is for people who do not have lust, whether because they were born without having lust (people who are impotent, impotent and people who previously had because of illness or old age and others)(Sayuti Talib, 1986).

If it is reviewed based on the hadith of the Prophet that the Prophet Muhammad SAW said: *“O young people, whoever among you has the ability, then get married”*. This hadith shows that it is advisable to get married. Therefore, even though the origin of marriage is mubah (Slamet Abidin and H. Aminudin, 1999), but can change according to akhkamal khamsah (five laws) according to changes in circumstances, namely:

- 1) Marriage is mandatory. Marriage is obligatory for people who can increase piety to Allah SWT. Marriage is also obligatory for people who can protect and care for the soul and save it from actions and behavior that are forbidden.
- 2) Marriage is illegal. Marriage is forbidden for people who know that they are unable and able to carry out household life, carry out obligations outwardly such as providing maintenance, housing, clothing, and spiritual obligations, namely interfering with the wife, but if they marry, it is suspected that they will do so and cause harm to the parties. others, such as crazy people, people who like to kill, or have characteristics that can harm other parties, and so on (Kamal Mukhtar, 1987).
- 3) Marriage is sunnah. Marriage is a sunnah for people who are established and able, but they are still able to control themselves from actions that are

forbidden. In this case, marriage is better than single because it is not taught by Islamic teachings.

- 4) The law of mubah marriage is a person who is not prevented from getting married and the urge to marry has not endangered him, he is not obliged to marry and it is not illegal if he is not married (Kamal Mukhtar, 1987).

The description above it illustrates that the basis of marriage, according to Islam, can be obligatory, haram, sunnah, and permissible depending on the conditions and circumstances of the benefit or mafsada.

### c. **Terms and Pillars of the Validity of Marriage**

Marriage is declared valid if according to Allah's law and state law, it fulfills the pillars and conditions. The pillars and conditions for marriage according to Islamic law (Islamic law) are First, the woman who wants to marry is lawful for a man to marry and the person concerned is not a woman who is forbidden to marry because of a sibling, for example. Second, guardian of marriage. Third, there are witnesses in the marriage. Fourth, there is consent and *qabul*. Fifth, there is a dowry according to the Maliki school of thought. As for the compilation of Islamic law (KHI) Chapter IV concerning the pillars and conditions of marriage, are the prospective husband, the prospective wife, the marriage guardian, two witnesses, and the consent and *qabul*.

As for the conditions for the validity of the marriage coenant, it must meet four requirements according to Wahbah az-Zuhaili, namely First, it must meet the suitability and accuracy of the pronouncement of the consent *qabul* (Amrin Amrin, Muthoifin Muthoifin, Sudarno Shobron, 2020). This means that a marriage is not valid if there is a difference in the size of the dowry even though the dowry is not part of the pillars of the coenant. However, if the dowry is said in the coenant, of course, it becomes part of the *ijab*. Second, the person who recites the *ijab* cannot take back what he said. This means that when the coenant is required not to withdraw the words of consent before there are parties who say the sentence to pronounce the *qabul*. Third, completed at the time of the coenant. This means that it is not permissible to do a marriage ceremony in the future like I will marry you tomorrow, the day after tomorrow and so on. In addition, it is not recommended to enter into a coenant with conditions that do not exist, for example: I marry if someone or another party comes or for other similar reasons. Fourth, it is carried out in one place (assembly) or *ittihad al-majlis*.

## Overview Islamic Law Against Coenant Via Internet

A coenant via the Internet is a marriage in which the process of the coenant uses internet instruments such as webcams, teleconferences and the like. The term coenant is carried out with the condition that the two bride and groom are at a distance which makes it impossible for the wedding to take place as usual, thus forcing them to carry out the coenant via the internet.

The process of coenant via the internet is carried out by two parties using via the internet. The guardian acts as the one who pronounces his consent at a location/place, while the groom-to-be pronounces his *qabul* at a different place/location with a position that is far apart (M. Sabir, 2015). In a marriage via the internet the parties involved in the marriage are the bride and groom, guardians and witnesses who do not meet each other and meet face to face in one assembly (place). However, it is carried out in the form of visualization displays from both parties through internet instruments in the form of teleconferences, webcams, and the like.

Ideally, marriage in Islam must fulfill the pillars and conditions for a valid marriage comprehensively, but marriage using the internet creates problems, and the controversy in the discourse is that the problem lies in the instrument “via the internet” by equating (*qiyas*) with the interpretation of the concept of ittihad al-majelis (one place), so steps are needed to understand radically and deeply about the context of the meaning of ittihad al-assembly, it is necessary to explore the status of the legal issue to avoid mistakes in establishing a coenant law via the internet. The use of the internet must ensure that you can see clearly and directly according to the original, and also the words or pronunciations that are pronounced clearly and match their speech when speaking. However, it does not reduce the concept of a valid marriage condition.

Coenant via the internet are usually carried out if they meet the requirements and criteria, namely first, between the bride and groom who want to carry out the marriage coenant, they must be separated by a very large place and distance. Second, the distance is so far that both families can't be present at the coenant with conditions that do not support gathering and uniting in the ceremony venue.(Farid, 2018, ).With these criteria, you can enter into a coenant via the internet as usual. For him, marriage via the internet is appropriate as an alternative way and a solution, because he cannot carry out the coenant as usual due to distance and time reasons.



There is no difference in substance between ordinary marriage and marriage via the internet (online). The difference is only at the level of the essence of the place/assembly (*ittihad al-majelis*) in the implementation of the coenant, but for the rest, there is no difference or the same. In a coenant via the internet, there is a contradiction of opinion related to the use of the diction “assembly” and “time and condition or to be continued”. If viewed from the time it indicates that marriage is a worship that is *ta’abuddi* in nature which has been outlined by Allah SWT, so the law of marriage via the internet is invalid. Meanwhile, in terms of continued time, marriage online is legal.

Coenant via the internet had never been done during the Prophet’s time either regarding correspondence or using a representative. On the other hand, the friends, and the scholars do not have an opinion about this kind of marriage. This opinion requires that the coenant must be held in one assembly, that is, the male and female candidates must meet in person. Thus the scholars of this opinion say that the coenant via the internet is invalid.

Jumhur Ulama argues that a marriage is said to be valid if the coenant must fulfill the elements in it in the form of consent being recited by the guardian, *qabul* being recited by the groom, consent and *qabul* must be witnessed by two witnesses and people who are present at the wedding assembly. However, fiqh scholars have different interpretations of the diction “one assembly” whether it is interpreted physically namely physically it is defined as requiring two people or parties who have entered into a coenant to be in one place or room that is not limited by a restriction or non-physically namely non-physically it can be interpreted as activities carried out with consent and *qabul* must be carried out with one ceremony without being limited space and activities. Thus the coenant must be carried out continuously and may not be interspersed with other activities and activities that have nothing to do with the coenant process (Sumarjoko et al, 2017). Meanwhile, according to Imam Syafi’i, *ittihad al-majelis* is more inclined to understand and perceive it physically. This means that Imam Syafi’i saw that the coenant which was held with the guardian and the groom-to-be had to be in one room and be continuous so that they could see and look at each other. This is because both parties greet each other, see and know the coenant that is being carried out. Imam Syafi’i emphasized that the process of the coenant that takes place must be in one room with the duties and responsibilities of two people as witnesses who are one of the pillars of marriage. On the other hand, the two witnesses must know correctly and clearly what was said by the guardian and the prospective groom during the marriage ceremony

in that assembly. Thus Imam Syafi'i emphasized that a blind person in giving testimony in a coenant is unacceptable. Especially in the case of the coenant via the internet by Imam Syafi'i as an invalid coenant because he cannot fulfill the terms and conditions above.

Meanwhile, according to Imam Hambali, the coenant is interpreted as "one assembly" or *ittihad al-majelis* by interpreting it in a non-physical sense, namely that the coenant does not have to be in one room. However, in the case of consent and *qabul*, it must be carried out at one continuous time or in a direct ceremony and must not be interfered with/included by other activities. Meanwhile, according to the Imam Abu Hanifah school of thought, it is the same and in line with the opinion expressed by Imam Hambali, however, Imam Hambali emphasizes that two witnesses must hear, pay attention and understand correctly and clearly everything that is conveyed in the process of the marriage coenant, namely the process of consent and *qabul*. Because it all becomes a necessity for the two witnesses.

From the explanation above, it can be concluded that the opinions of the scholars/schools are divided into two opinions: first, the law is valid, originating from the Imam Hambali and Hanafiyah schools, which say that the coenant is via the internet, while the law is invalid, originating from the opinion of the Imam Shafi'i school.

### **Coenant Marriage Via the Internet in a Positive Legal View**

The scholars agree that marriage is said to be valid if it fulfills the pillars and conditions for a valid marriage that have been determined. In a positive legal perspective, namely Law Number 1 of 1997 concerning marriage, it does not discuss matters related to the pillars of marriage, but rather directs and emphasizes matters regarding the material and formal requirements of marriage. This can be seen in the marriage law such as the agreement of both parties and the age limit of the bride and groom as outlined in Chapter II articles 6 and 7 (Tajuddin, 2016). Even so, the Marriage Law considers that the validity of marriage will still be reviewed based on the rules and laws of each religion, namely that "marriage is valid if it is carried out according to each religion and belief" (Nansa Aulia Editorial Team, 2012).

The aspects of consent and *qabul* are also a part not discussed in the marriage law, as well as the issue of witnesses is not discussed clearly and concretely as one of the requirements in marriage. The new marriage law alludes to witnesses

in the chapter on the annulment of marriages, namely that “a party that takes place in front of an employee who is not a legal or authorized marriage registrar, an unauthorized marriage guardian, or that takes place without the presence of the two requested witnesses will cancel the marriage”. (Team of Nuansa Aulia, 2012).

The Marriage Law clearly states that every marriage that takes place must be recorded according to the applicable laws. Before carrying out a marriage coenant , one must pay attention to the requirements, that all data related to the coenant process must be legally recorded by the state through registration by a marriage registrar at the location where the coenant is taking place or the woman’s residence (domicile). If it is not fulfilled, there is a high possibility of a marriage that was in vain. This means that the marital status has no legal force (Maliki & Jahar, 2020).

If the Marriage Law does not explain the conditions for marriage, then the Compilation of Islamic Law (KHI) explains in detail all the conditions for marriage, even in its arrangement, it resembles the systematics of classical fiqh books (Amir Syarifuddun, 2007). Articles in KHI that explain consent and *qabul* in articles 27,28 and 29. Article 27 explains that the opinion of the jury of fiqh scholars outlines that the process of consent and *qabul* between the marriage guardian and the male candidate must be carried out in a clear sequence, and not intermittently. Articles 28 and 29 explain the permissibility of giving representation in guardianship rights to other parties if the coenant cannot be carried out directly by the marriage guardian concerned and gives the power of attorney to represent the prospective groom when pronouncing the *qabul* (Faisal et al, 2021). Based on this article, the status regarding arrangements that allow consent and *qabul* in different places or locations has not been obtained in a clear and detailed manner as a coenant via the Internet.

Cases of coenant via telephone or the Internet have occurred in Jakarta in the family of Prof. Baharudin Harahap. This case had become the object of controversy with the ratification of the coenant which was decided by the South Jakarta City Religious Court with decision number 1751/P/1989 by the head of the South Jakarta City Religious Court by coordinating and communicating with the clergy, Islamic family law experts, Ministry of Religion officials (Efa Laela Fakhria, 2009). The validation of the coenant is based on the consideration of fulfilling the conditions and pillars of marriage set by religion and marriage laws and regulations in the implementation of the marriage (Amen, 2020).

In KHI, the problem of witnesses seems to be the domination and tendency of one school of thought that leads to the Imam Syafi'i school by requiring that two witnesses must be present by seeing and signing the marriage certificate at the time and place where the coenant is carried out (Editor Team of Nuansa Aulia, 2012). In carrying out a coenant via the Internet or the like in the current era of digitalization known as Industry 4.0., the witness must witness the process of the coenant (consent and acceptance) and both parties directly.

The existence of KHI can be identified as an instrument that functions in providing explanation and elaboration as well as developing the law on marriage. Both are a unit that fills the void in legal status as a concrete form of progress. If the marriage bond is seen as a legally enforceable bond, then the existence of KHI as a complement in filling the deficiencies of the marriage law is mandatory to be appreciated as a form of perfecting the implementation of the law.

In the case of coenant via the Internet, proving the validity of the coenant is based on the use of electronic facilities. Although this problem is not explained in detail in the Marriage Law and Compilation of Islamic Law. With existence of Law Number 11 of 2008 concerning information and electronic transactions as a solution in providing solutions to problems that require legalization status that can occur in coenant via the internet (Sumarjoko et al., 2017).

### **Juridical, Philosophical and Sociological Perspectives Regarding Marriage via the Internet**

Every application of legal regulations that have been formalized, including in the context of Islamic law, must pay attention to three main dimensions. The first dimension is legal (juridical) certainty, which is related to positive law and is manifested in laws and regulations made by the House of Representatives (DPR) and the President, as well as in several regulations issued by the President and Regional Heads. Apart from that, legal certainty is also reflected in judges' decisions as part of jurisprudence. The second dimension is justice (philosophical), which includes the principles of justice that must be upheld in law. In the context of Islamic law, the values that support Islamic law are considered *maṣlahah*, which is the main goal in enforcing the law. *Maṣlahah* includes protecting religion, soul, mind, lineage and property. Anything that can damage these five goals is called *mafsadah*, which must be avoided. The third dimension is usefulness (sociological), which refers to the social impacts and benefits resulting from legal regulations. A legal regulation must produce benefits and advantages for society.

In the context of Islamic law, *maṣlaḥah* also highlights values that benefit society. Therefore, to achieve the desired benefits, a legal regulation, including Islamic law, must include this third dimension: legal certainty, justice and usefulness. This will ensure that the laws implemented are fair, in accordance with Islamic principles, and provide necessary benefits to society (Al-Ghazali, 1997).

In the context of the dimension of legal certainty (juridical) in Islam, ulama relies on two main authoritative sources, namely the Al-Qur'an and the *Sunnah* (traditions and teachings of the Prophet Muhammad) as the foundations of Islamic law. Apart from that, they also use *Ijtihad*, which is a process of legal interpretation and reasoning used by ulama to formulate laws related to events that do not have clear legal guidelines in the two main sources (Dahlan, 2017).

In the context of benefit, three forms need to be considered. first, *Maṣlaḥah Mu'tabarrah*: This is a benefit that is confirmed by the text (*nash*) in the Qur'an or Sunnah. In other words, this benefit is strengthened by the evidence contained in the main sources of Islamic law. Second, *Maṣlaḥah Mulghāh*: This is a benefit that is eliminated or abolished by the text (*nash*) in the Qur'an or Sunnah. This means that authoritative texts have shown that these benefits do not apply in certain contexts. Third, *Maṣlaḥah al-Mursaya*: This is a benefit that does not have clear confirmation or elimination from authoritative texts (*nash*) in the Qur'an or Sunnah. This means that this benefit is not prohibited by the text, but is also not directly reinforced. In cases like this, scholars can use their *Ijtihad* to determine whether the benefit applies in a particular situation (Al-Ghazali, 1997).

The dimension of legal (juridical) certainty in the context of benefits in Islamic law is divided into three forms, and according to the author, there is a preference for accommodating coenant via the Internet. This preference is considered to fall into the category of *maṣlaḥah al-murlah*. This category refers to benefits that do not have clear confirmation or elimination in the texts of the Qur'an or Sunnah. This means that there are no direct provisions in authoritative texts that explain coenant via the Internet.

In this case, legal certainty needs to be found through the *Ijtihad* process. *Ijtihad* is a process of reasoning and legal interpretation carried out by Islamic scholars to formulate laws related to situations or problems that do not have direct guidance in primary sources such as the Koran or Sunnah. In this case, the ulama has carried out *Ijtihad* to determine whether coenant via

teleconference can be accommodated within the framework of Islamic law and whether this action is in accordance with the principles of benefit and justice in Islam. Because the act does not have a passage that explicitly accommodates or eliminates it, scholars have involved their understanding of Islamic law, the principles of benefit, and justice in formulating their views. Therefore, in this case, the preference for coenant via the Internet or teleconference is an example of the ulama's efforts to seek legal certainty in the context of benefit and *Ijtihad* in Islamic law, even though the text does not provide clear guidance on this matter.

The (philosophical) dimension of justice in law is the most abstract part and is difficult to define clearly. In contrast to legal certainty which has firm manifestations, justice tends to be something that is more difficult to translate, because each law enforcer may have different views and interpretations of what is fair. The concept of justice in Islamic law has its roots in Allah's justice, which is reflected in Allah's message (teachings) and is manifested in Islamic sharia (law).

Majid Khadduri defines justice in Islam as that comes from Allah and reflected in His message and implemented through Shari'a. Within this framework of thought, there are two forms of justice. First, Substantive Justice: This refers to justice that originates from what is permitted (halal) and forbidden (haram) by Allah. Every action that is considered lawful by Allah is considered a just action, and vice versa. This reflects the moral and ethical rules in Islam that determine what is considered a just action and what is considered unjust. Second, Procedural Justice: This is an external aspect of Sharia (Islamic law) that tends to be realized according to the needs and situation of society. In this context, procedural justice is realized through actions that comply with established legal procedures. People who have competence and knowledge, such as mujtahids in formulating laws or judges in deciding legal cases, have an important role in ensuring the achievement of procedural justice (Khadduri, 1998).

In other words, justice in Islamic law involves the concept of justice originating from Allah and implemented through Islamic law, as well as a broader understanding of substantive and procedural justice. Justice in this context is not just about complying with legal procedures, but also about ensuring that actions and policies are by Islamic moral and ethical values.

In the context of the (philosophical) dimension of justice initiated by Majid Khadduri, it is acknowledged that views regarding coenant via teleconference

tend to be subjective and can change depending on the judgment of individuals, such as a mujtahid or a judge, regarding justice in this case. The concept of justice in Islamic law can vary depending on individual interpretations and their understanding of Islamic principles. Justice, as already mentioned, is a philosophical dimension that is often difficult to concretize in a particular context. Justice can be subjective and change depending on an individual's perspective. Therefore, it is difficult to ensure fairness in the context of coenant via teleconference absolutely and universally.

However, the author think that the coenant via teleconference has fulfilled the aspect of justice based on the way the teleconference media works and the explanations provided by the ulama, especially those from the four schools of Islamic law regarding the harmony and conditions of the marriage coenant . The author may be of the view that this process reflects justice within the framework of Islamic values and is by existing ethical principles. However, it is important to remember that views on justice in this context may vary between individuals and particular schools of Islamic law. Therefore, legal certainty and fairness in the context of coenant via teleconference may depend on the interpretation and views of each individual and the applicable Islamic legal authorities.

The usefulness (sociological) dimension in Islamic law is a dimension that focuses on the social impacts and benefits produced by legal regulations. In this context, benefit in Islamic law is divided into two aspects: the scale of benefit and the level of need. The scale of usefulness is divided into three types, first, *Maşlahah 'Āmmah*: This refers to general benefit or general benefits for society at large. This is a benefit that has an impact on welfare and social justice at a broader level. Second, *Maşlahah Khāṣṣah*: This is a special or specific benefit, which may only apply to a small part of society or certain groups. This includes more focused and specific benefits. Third, *Maşlahah Juz'iyah*: This refers to benefits that are narrower in nature and have an impact at the level of individuals or smaller entities. This is a benefit that is limited in scope (Raysuni, 2010).

The level of needs is also divided into three. First, *Maşlahah Darūriyah*: This is an urgent and important benefit, and is related to basic needs that must be met for the survival and continuity of society. Second, *Maşlahah Ḥajiyah*: Benefits that are more of a necessity that supports the smooth running of people's lives, even though they are not emergency like *maşlahah darūriyah*. Third, *Maşlahah Tahsīniyah*: This is a benefit that is more about increasing or improving society. This includes matters that may not be urgent, but support social progress and quality of life (Mafiah & Hidayati, 2023).

In Islamic law, social change is considered inevitable, and therefore, Islamic law must be able to adapt to these changes to ensure the benefit of society. Therefore, scholars use this framework to understand and evaluate various legal issues in order to ensure that the resulting legal regulations meet different benefit aspects according to the scale and level of relevant needs.

The usefulness (sociological) dimension in the legal context is very relevant and important in evaluating the implementation of established laws. As has been explained, laws that have been promulgated, whether in the form of fatwas or legislation, cannot always be implemented instantly without considering factors of public response and acceptance. These factors play an important role in understanding whether a law or fatwa will be accepted and implemented by individuals and society .

Society has a variety of views and different levels of needs. The benefits of a fatwa or law are not always uniform for everyone. What is considered beneficial for one individual or community group is not always considered the same by others. Therefore, the sociological aspect of law takes into account the diversity of views and needs of society. For example, in the context of coenant via teleconference, some clerics may have allowed it, but the public's response and acceptance may vary. For some people, a coenant via teleconference may be considered legally valid, but may not have the same meaning or sacred feeling as a conventional physical marriage. This is an example of how sociological factors influence the implementation of the law.

In this context, the level of need for a coenant via teleconference can be classified into *maṣlahah taḥsīniyah*, namely tertiary needs. This suggests that this form of marriage may be more focused on enhancing or improving the social life and quality of life of certain individuals or groups rather than being an urgent or important need. Awareness of these sociological factors is important in designing, implementing, and evaluating laws to suit societal needs and acceptance. Laws that are relevant and responsive to the diversity of society tend to be more successful in achieving the desired benefit goals.

Although the author tends to agree that coenant via teleconference can be considered validity, the author still believes that in the current context of Indonesian society, this idea may be difficult to accept. This is caused by a culture that has developed among society which considers marriages to be sacred to those carried out conventionally. Except in urgent situations, individuals may prefer to carry out their coenant in the traditional way.



Indonesian society has strong values and traditions related to marriage. Marriage is considered a sacred moment filled with meaning and symbolism, and it has become an important part of culture and people's lives. Therefore, the idea of carrying out a coenant via teleconference may not be the first choice for many individuals, especially if there are no urgent circumstances that force the use of this medium. The decision to undergo a traditional marriage card can also be influenced by social considerations and community views. Accepting changes in the implementation of coenant may require time and effort to change society's collective views regarding how a marriage should be performed. This can also depend on people's understanding and interpretation of religious values and local traditions.

Thus, while the validity of a coenant via teleconference can be a valid option in the view of Islamic law, cultural and social factors also play an important role in determining whether this option will be accepted and accepted by society at large. Indonesia as a legal country requires strategic steps to establish a clear and comprehensive legal status regarding the legality of carrying out marriages via the internet. There is a great possibility in the future with advances in science and technology, it is not without reason that the Indonesian Muslim community uses the internet as an instrument in carrying out marriage coenant s.

## **RECOMMENDATIONS**

Finally, there are several recommendations that the author conveys as follows: Even though online marriages are considered legal. However, it would be better if the wedding was held in person in general, meeting each other. This online wedding should be carried out if it is necessary and the parties cannot meet in person because of the long distance and reasons that make it impossible to hold a wedding as usual.

There is a need for legal updates to marriage laws by including new legal events that have not been explicitly regulated, such as online marriages. Regarding the provisions on physical or non-physical assembly, and in certain conditions that require non-physical presence, it does not reduce the validity of a marriage in order to provide legal legal certainty.

The public should be able to understand the impact of increasingly advanced developments which will also lead to developments in the law, this is intended so that the law itself is in accordance with the needs of the community, this is in accordance with the legal rules of ushul fiqh that the law will change and

adapt to the times. So the emergence of online wedding events is the impact of a development of the times.

## **CLOSING**

Based on the discussion above, it can be concluded that differences of opinion among ulama regarding coenant via teleconference are based on differences in methods of understanding the texts of the Koran and hadith regarding marriage, and are related to developments in science and technology. In Indonesia, from a juridical-philosophical perspective, the practice of coenant via the Internet is recognized as legal because all legal facilities and requirements have been fulfilled. However, from a sociological perspective, most Muslim communities in Indonesia still strongly believe marriage is a sacred moment. Therefore, even though the practice of coenant via teleconference is legally recognized, it is still difficult for society to accept widely because the traditional paradigm related to the sacredness of marriage still dominates. As a legal state, strategic steps are needed to establish a clear and comprehensive legal status regarding the legality of carrying out marriages via the Internet. There is a great possibility in the future with advances in science and technology, it is not without reason that the Indonesian Muslim community uses the internet as an instrument in carrying out marriage coenants.

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