



## Fatwa Institutions and Digital Family Law: Online Marriage and Divorce in Indonesia (NU, Muhammadiyah, and MUI)

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### Abstract

This research was important as it addressed the controversial issue of online marriage and divorce from an Islamic legal perspective, a topic that became increasingly relevant with the state's consideration of digitizing marital administration. The aim of this study was to analyze whether online marriage and divorce fulfilled the legal and religious requirements in Islam and how the three major Islamic institutions in Indonesia—Nahdlatul Ulama (NU), Muhammadiyah, and the Indonesian Ulema Council (MUI)—responded to this practice based on their respective methods of *ijtihad*. This research employed a qualitative method with a literature-based approach, analyzing fatwas, scholarly texts, and relevant legal sources. The findings revealed distinct differences in perspective: NU considered online marriage invalid due to non-fulfillment of essential conditions such as the requirement of being in one physical assembly, while Muhammadiyah allowed online marriage if all pillars and conditions were fulfilled, including uninterrupted *ijab* and *qabul*. MUI adopted a moderate stance, recognizing online marriage under specific conditions including government recognition. In terms of divorce, NU and MUI considered it valid outside the court under certain circumstances, whereas Muhammadiyah required it to go through the court system.

**Keywords:** Divorce, Muhammadiyah, MUI, NU, Online Marriage

### Abstrak

Penelitian ini penting karena membahas isu kontroversial mengenai pernikahan dan perceraian secara daring dalam perspektif hukum Islam, yang semakin relevan mengingat adanya wacana dari pemerintah untuk mendigitalkan administrasi perkawinan. Tujuan penelitian ini adalah untuk menganalisis apakah pernikahan dan perceraian daring memenuhi syarat-syarat hukum dan agama dalam Islam, serta bagaimana tiga lembaga Islam utama di Indonesia—Nahdlatul Ulama (NU), Muhammadiyah, dan Majelis Ulama Indonesia (MUI)—merespons praktik tersebut berdasarkan metode *ijtihad* masing-masing. Penelitian ini menggunakan metode kualitatif dengan pendekatan studi kepustakaan, melalui analisis fatwa, literatur keagamaan, dan sumber hukum yang relevan. Hasil penelitian menunjukkan adanya perbedaan pandangan: NU menyatakan bahwa pernikahan daring tidak sah karena tidak memenuhi syarat kehadiran fisik dalam satu majelis; Muhammadiyah membolehkan pernikahan daring selama semua rukun dan syarat dipenuhi, termasuk *ijab qabul* yang tidak terputus; sedangkan MUI mengambil posisi moderat dengan mengesahkan pernikahan daring selama memenuhi beberapa syarat, termasuk pengakuan dari pemerintah. Dalam hal perceraian, NU dan MUI menganggap talak di luar pengadilan sah dalam kondisi tertentu, sedangkan Muhammadiyah mewajibkan proses perceraian melalui pengadilan.

**Kata kunci:** Nikah Online, Talak, NU, Muhammadiyah, MUI



## A. INTRODUCTION

Currently, the rapid advancement of digital technology has transformed numerous facets of human existence, particularly within the realm of religion. The family is not a fixed institution. In recent decades, particularly in Asia (Jones, 2021), marriage rates have declined, divorce rates have escalated, and the attributes of marriage have evolved (Chen dkk., 2021), with technological advancement being a contributing factor. Consequently, this development has led to the emergence of online marriage and divorce. The facilitation of marriage and divorce via digital platforms has incited controversy and attracted significant condemnation from the public, particularly from an Islamic viewpoint. Islam is a comprehensive religion that regulates all facets of human existence, including matrimony. In Islam, marriage is prescribed with the purpose of perpetuating lineage and fostering a sustainable community generation (Zakiyyah & Mursalin, 2023). Reports of clandestine online marriages and/or online divorces have become increasingly prevalent in Hungary. In Indonesia, particularly during the COVID-19 pandemic, the occurrence of online weddings and divorces grew prevalent. For instance, the wedding ceremony of Kardiman and Febrianti in Kolaka Regency, Southeast Sulawesi, was conducted via video chat on Wednesday, March 25, 2020, as reported by CNN Indonesia.

Suara.com also reported an occurrence that astonished netizens: an online wedding event. The wedding ceremony was held through a video chat, bridging the distance between Malaysia and Indonesia, on Saturday, July 4, 2020. According to CNN Indonesia on Monday, September 23, 2024, the Indonesian Government, represented by Minister of Administrative and Bureaucratic Reform Abdullah Azwar Anas, was instructed by President Joko Widodo (Jokowi) to establish an online system for the management of all matters related to marriage and divorce. This directive has given rise to numerous new issues within the dynamics of life that are not addressed in the Qur'an and Hadith, which serve as references for Islamic law and guidance for Muslims (Bin Masood & Arshad, 2023). Consequently, it is imperative for Islamic scholars or fatwa institutions in Indonesia to formulate regulations pertaining to these emerging issues.

Along with the development of Islam, Islamic law underwent changes through the revelation of subsequent verses. However, these changes continue to uphold the

fundamental principles of Islamic law based on justice and imbued with mercy (Sholihah & Sanah, 2025). Religious fatwas play a significant role in providing solutions to various issues in religious life, especially in addressing contemporary religious problems. Through fatwas, the community is able to understand the obligations and actions that needed to be taken. In the context of thematic fatwas, various provisions are readily accessible. However, it cannot be denied that fatwas also functioned as alternative solutions for religious and social issues. Thus, a fatwa is defined as an answer, decision, or opinion given by a mufti regarding an event. In addition, a fatwa can also be interpreted as advice from a learned person, valuable lessons, or counsel. A fatwa provides clarity and concrete understanding for Muslims regarding religious teachings and their application in daily life (A. Wijaya, 2019).

In contemporary times, fatwa institutions hold greater significance than individual *ijtihad* (*ijtihad fardhi*) as they offer official guidance and possess authority acknowledged by Muslims, thus mitigating confusion within the community arising from divergent opinions among individual scholars. This institution is responsible for conducting comprehensive research and issuing determinations based on legal, social, and philosophical frameworks (Shuhufi dkk., 2022). Fatwas could be promulgated by non-governmental fatwa institutes, rendering them non-binding and up to the discretion of Muslims for adherence or disregard. Individuals are free to follow a fatwa issued by another organization or scholar if they find it more congruent with their beliefs. The fatwas issued by these institutions acquired binding legal authority only when they endorsed by the state. In such cases, the fatwa became a legal mandate that all Muslim are obligated to follow, with potential legal penalties for non-compliance. A fatwa issued by a non-governmental institution remained non-legally binding and allowing Muslims to either follow or ignore it (Mangunjaya & Praharawati, 2019). If someone feels more aligned with a different fatwa issued by another institution or scholar, they retain the right to follow it. However, the fatwas issued by these institutions only have binding legal force when adopted by the state. In this case, the fatwa becomes a legal provision that had to be observed by all Muslim citizens and could be enforced with legal sanctions if disregarded.

The response from the scholars can take the form of a fatwa issued through *ijtihad* or *istinbat*, because a fatwa is one of the five products of Islamic legal thought, alongside the study of *fiqh* books, court rulings, legislative products, and compilations of Islamic law. Although fatwas do not have binding power like positive law, the public often anticipates them because these fatwas usually respond to current issues faced by society, especially those related to daily practices. Fatwas that receive the most public attention generally originate from certain community organizations (*ormas*). The two largest Islamic organizations in Indonesia are Nahdlatul Ulama (hereinafter abbreviated as NU) and Muhammadiyah, each of which has its own fatwa institutions, namely Bahtsul Masail for NU and the Majelis Tarjih dan Tajdid for Muhammadiyah. In addition, the Indonesian Ulema Council (hereinafter abbreviated as MUI) is also expected to issue relevant fatwas. The existence of various fatwa institutions raises the question of whether they produce similar fatwas using the same methods or not. Of course, these three institutions play an important role in the dynamics of Islamic law in Indonesia (Sofiana, 2023).

In contrast to Middle Eastern nations where the state actively regulates fatwa institutes like Dar al-Ifta', Indonesia's fatwa system operates autonomously through the MUI, a conglomerate of Muhammadiyah and NU organizations. Because of their special arrangement, they are able to issue fatwas without interference from the government, underscoring the important distinctions between state administration and fatwa institutions. However, as in Egypt and other Middle Eastern nations, fatwa institutes frequently collaborate closely with their governments. The existence of NU and its fatwa institution, Bahtsul Masail, supports the *ahlussunnah waljama'ah* doctrine with a middle-ground perspective between reason and text. NU adopts a traditionalist stance, upholding the idea of maintaining previously established moral principles while embracing new, superior ones (Sofiana, 2023). by contrast, Muhammadiyah through its fatwa institution Majelis Tarjih, formulates legal *istinbath* using a multidisciplinary and interdisciplinary approach interpreted as *bayani*, *burhani*, and *irfani* approaches (Fikri dkk., 2022). According to the researcher, these two fatwa organizations serve as important guides for Indonesian society in making Islamic legal choices in the modern era.

This research is important to understand how each organization responds to this contemporary issue and how their *ijtihad* methods contribute to shaping Islamic law that

remains relevant to the current societal conditions. By analyzing the approaches of each organization, we can observe the dynamics of Islamic thought in Indonesia as it continues to evolve regarding the issue of online marriage and divorce. Previously, scholars have conducted studies discussing the legal aspects of online marriage and divorce practices, but these works have not explored in depth the differences in *ijtihad* methods among these organizations. For instance, the research written by (Akmal & Asti, 2021) titled *Problematika Nikah Siri, Nikah Online Dan Talak Siri Serta Implikasi Hukumnya Dalam Fikih Nikah*, focused on the legal implications of such practices. Similarly, Nisa (2022) in her research titled *Akad Nikah Online Perspektif Hukum Islam*, examined the issue from an Islamic legal perspective. Another relevant work is by Eichenberg et al. (2017) titled *From Online Dating to Online Divorce: An Overview of Couple and Family Relationships Shaped Through Digital Media*, which analyzed how Information and Communication Technology (ICT) affects couple and family relationships, from the initial stage of building a relationship to post-breakup behavior. Therefore, this research aims to fill that gap by providing a more in-depth comparative analysis.

The main issue that arises regarding online marriage and divorce is whether the practice aligns with Islamic law. In Islam, marriage and divorce are contracts that have serious legal consequences, so they must be carried out carefully and in accordance with established requirements. This raises two key research questions: First, does the implementation of online marriage and divorce fulfill the legal and religious requirements established in Islamic law? Second, how do major Islamic institutions in Indonesia—namely Nahdlatul Ulama (NU), Muhammadiyah, and the Indonesian Ulema Council (MUI)—respond to the practice of online marriage and divorce based on their respective methods of *ijtihad*? To answer these questions, this study will examine the perspectives and reasoning of these institutions, focusing on how their differing interpretative frameworks influence their views on the permissibility and validity of online marriage and divorce.

## **B. RESEARCH METHODOLOGY**

This research used a qualitative method with a literature study approach. Qualitative research methods are applied to examine objects in their natural conditions, where the researcher functions as the key instrument, data collection is conducted through triangulation, data analysis is carried out inductively, and qualitative research results emphasize meaning rather than generalization (Abdussamad, 2021). The research was designed to explore and understand how major Islamic institutions in Indonesia perceive and respond to the practice of online marriage and divorce within the framework of Islamic law. A literature-based approach was selected because the data analyzed in this study are entirely drawn from documents and relevant written sources. These included fatwas, religious decrees, and scholarly studies issued by Nahdlatul Ulama (NU), Muhammadiyah, and the Indonesian Ulema Council (MUI). Additional sources such as academic books, journal articles, and credible mass media reported that discuss the issue of online marriage and divorce are also incorporated.

In this research, the researcher acted as the main instrument, supported by a document analysis guide to systematically examine and categorize the contents of the materials reviewed. Data collection was undertaken by gathering official documents and relevant literature, both religious and academic that reflect the views and legal reasoning of the three institutions. The data were analyzed using qualitative content analysis techniques to identify the *ijtihad* approaches employed by each institution. Afterward, a comparative analysis was conducted to explore the similarities and differences in their interpretations and responses regarding the legality and validity of online marriage and divorce practices. To ensure the credibility of the data, triangulation was applied by comparing various types of sources—official fatwas, scholarly articles, and media publications. Additionally, peer debriefing and expert consultations were utilized to validate the accuracy and reliability of the researcher's interpretations and conclusions.

## **C. RESULT AND DISCUSSION**

### **1. Definition of Marriage and Divorce**

Marriage, which originates from the root word "nikah," has three main meanings (Shobaikah dkk., 2022) see also (Mutaqin & Sopyan, 2024). First, linguistically, "nikah" means to gather. Secondly, according to experts in *ushul fiqh*, from the Hanafi

perspective: Originally, marriage is understood as a physical relationship, while in a metaphorical sense, it is defined as a contract that legitimizes the relationship between a man and a woman. From the Shafi'i perspective, marriage is primarily understood as a contract that legitimizes the husband-wife relationship, while in a figurative sense, it is interpreted as a physical relationship. Lastly, according to the scholars of fiqh, marriage is defined as a binding contract between a man and a woman (Nikmatullah, 2023), aimed at legitimizing the husband-wife relationship based on the agreement and consent of both parties. This contract is intended to establish a household blessed by Allah SWT.

In Islamic law, several conditions must be fulfilled for the execution of the marriage contract. First, the marriage contract must begin with the offer (ijab), which is followed by the acceptance (qabul). Second, the content of the ijab and qabul must be consistent without any differences, and must be pronounced continuously without interruption. Additionally, the ijab and qabul must be articulated with clear wording. Lastly, the ijab and qabul ceremony between the groom and the marriage guardian must take place in a single assembly. A marriage contract is deemed valid if it meets all its pillars and conditions, which ultimately makes the marriage condition valid based on Islamic law (Azizul Anwar dkk., 2022). From the discussion above, it can be concluded that marriage must be accompanied by a contract that binds both parties.

Based on the definitions above, marriage is considered valid when it meets the essential elements and does not violate the applicable laws or regulations. A marriage contract is declared valid if it fulfills its pillars. Based on Article 14 of the Compilation of Islamic Law, the pillars of marriage are the prospective husband, the prospective wife, the marriage guardian, two witnesses, and the offer and acceptance. According to the opinion of Imam Ahmad bin Hambali from (Syaifuddin, 2020) "one assembly" is interpreted in a non-physical sense (not necessarily in one room) and the offer and acceptance can be expressed at one time or in one ceremony directly and should not be interrupted by other activities. From that opinion, marriage conducted through video conference or online can be considered valid according to the view of Imam Ahmad bin Hambali. This is because the marriage was regarded as taking place in one assembly, as long as the marriage proposal and acceptance are conducted without connectivity disruptions. To ensure this, a stable internet connection, devices such as computers or

other media connected to a projector, and speakers were required. The ability to see and hear the marriage vows clearly was regarded as an important condition that makes a wedding conducted via video conference considered as if it had been conducted in one assembly. However, it should be emphasized that the opinion of a single scholar was not sufficient to serve as a basis for deriving the legal ruling on online marriage. Therefore, the views of several fatwa institutions that had formulated this issue were needed.

Next, the word *talak* comes from the Arabic word *itlaq* (Fauzi, 2017), which means "to release." In religious terms, *talak* is defined as the act of dissolving the marital bond or the termination of the marriage relationship (Idris Siregar dkk., 2024). Divorce based on Article 114 of the Compilation of Islamic Law (KHI) is explained that divorce is the dissolution of the marital bond due to a divorce lawsuit by the wife or *talak* by the husband (Syaifuddin, 2020). Divorce can also be defined as the end of the marital bond permitted by religion in emergency conditions, when the marriage can no longer be maintained. This emergency situation refers to a scenario where various efforts have been made to reconcile the couple, but have not yielded results (Rasjid, 2012). It can be concluded that divorce is permitted in Islam but must be in accordance with the applicable regulations. Here, the researcher did not discuss the broader controversy of divorce law, but rather formulated the legal framework for online divorce within the scope of Islam.

Based on the number of divorces pronounced by the husband, there were three types of divorce, namely *raj'i* divorce, *ba'in* divorce, and *li'an* divorce (Syaifuddin, 2020). *Talak Raj'i* was defined as one or two-time *talak* that allowed the husband to reconcile with the wife during the *iddah* period without needing a new marriage contract. After the *iddah* period ended, reconciliation could still be carried out in the presence of two just witnesses. *Talak Ba'in* was defined as a divorce that does not allow the husband to reconcile with the wife. This occurred if the husband divorces the wife three times, if the wife has not been consummated, or due to *khulu* (ransom) from the wife. *Li'an* divorce occurs if the husband accuses the wife of adultery or denies paternity, while the wife denies the accusation. These three types of *talak* have different conditions and stipulations regarding the possibility of reconciliation or permanent divorce. Dahlan Idhami argued that the term "*talak*" means dissolving the marital bond using specific



phrases such as "talak" and "kinayah" (figurative speech) with the intention of divorce (Fauziyah, 2024). Next, the researcher described the legal implications when the divorce was pronounced through social media or online according to the perspectives of various Islamic fatwas in Indonesia.

## **2. NU Perspective (Nahdlatul Ulama)**

Initially, NU focused more on *ijtihad qouli* or text-based approaches, referring to the opinions of the school of thought imams. However, at the Mukhtamar in Bandar Lampung in 1994, NU made a breakthrough by adopting *ijtihad manhaji* or a rational-based approach, while still maintaining the patterns and methods of the imams of the schools of thought. The *ijtihad* model developed by NU respected the intellectual heritage of previous scholars while also considering the dynamics evolving in society (Abshor, 2016). Thus, NU, through Bahtsul Masail, helped resolve societal problems by providing policies and/or legal rulings according to their perspective.

The fatwa from the Bahtsul Masail NU institution stated that marriage contracts conducted over the internet were considered invalid. This was based on several considerations, namely: first, marriage through electronic media does not allow for the direct execution of the marriage contract, which involved the guardian and the groom. Second, witnesses cannot see and hear the execution of the marriage contract directly and are not present in the same assembly for the contract. Furthermore, in a marriage contract, a clear utterance was required, whereas marriage through electronic means was considered to contain elements of ambiguity (Emas, 2020).

Based on the interview conducted by (Edi dkk., 2024) on respondents about online marriage contracts, the Vice Chairman of PWNU Lampung, Juwendra Asdiansyah, explained that the validity of a marriage contract depended on the fulfillment of its pillars and conditions. If all pillars and conditions were met, the marriage contract was considered valid; conversely, if they were not met, the contract was invalid. The five pillars that must be fulfilled include the prospective husband, the prospective wife, the *ijab qabul* formula, the wife's guardian, and two witnesses, each of whom has specific requirements for the marriage contract to be valid. Furthermore, Juwendra Asdiansyah referred to the Bahtsul Masail PWNU East Java Decision held at the Surabaya Ministry of

Religious Affairs Training Office on 9-10 Jumada Tsani 1430 H/2-3 June 2009 AD. The decision concluded that online marriage contracts were considered invalid.

Next, regarding online divorce, the researcher cited from (M. T. Wijaya, 2023) in the Bahtsul Masail section by NU, which stated that according to Imam al-Syafi'i, Imam Malik, and Imam Abu Hanifah, divorce through writing fell into the category of kinayah (allusion) or non-sharih (unclear) expressions. Divorce in this manner was considered valid if accompanied by the husband's intention. Conversely, if there was no intention, then the divorce was not valid. For example, writings such as "You are divorced" or "I have divorced you." However, if the writing was accompanied by a verbal statement, then the divorce was considered valid and immediately takes effect. This was because a clear utterance of talak (divorce) was sufficient to make the talak valid, especially when combined with writing. Thus, it can be concluded that online divorce or talaq will be valid when someone wrote it down with intention and awareness. Furthermore, the Bahtsul Masail NU's decision regarding divorce outside the court fully referred to the criteria for the validity of divorce in classical jurisprudence. Divorce was considered valid wherever it occurred, provided it met the provisions established in the books of Islamic jurisprudence. Therefore, the husband was not required to report his divorce to the court.

### **3. Muhammadiyah Perspective**

Majelis Tarjih is an institution within Muhammadiyah that is tasked with handling religious issues, particularly in the field of jurisprudence. This institution was established and sanctioned at the 17th Muhammadiyah Congress in 1928 in Yogyakarta, with KH. Mas Mansur as its first chairman. Initially, this institution was known as Majelis Tarjih. However, a 1971 decree changed to Lajnah Tarjih. Then, at the 43rd Muktamar held in Aceh in 1995, this institution was developed into the Majelis Tarjih dan Pengembangan Pemikiran Islam (A. Wijaya, 2019).

In Muhammadiyah's view, *ijtihad* is interpreted as the use of reason in harmony with the principles of religious teachings. Meanwhile, methods such as *ijma'*, *qiyas*, *istihsan*, *istidlal*, and *maslahah mursalah*, which were considered sources of law by the imams of the schools of thought, were not regarded as sources of law by the Muhammadiyah Tarjih Council. On the contrary, these methods are treated as tools for deriving laws but are not binding. In establishing the criteria for *Sunnah*, Tarjih

Muhammadiyah relies to authentic hadiths. The *ijtihad* process is based on the thoughts of the Muhammadiyah Tarjih Council itself, not merely following the *ijtihad* of previous scholars. Nevertheless, the results of the *ijtihad* of previous scholars are still used as material for further study and research.

In addressing the issues of online marriage, the Fatwa of the *Tarjih* and *Tajdid* Council legalized online marriage. Quoting the statement of the Secretary General of the Central Leadership of Muhammadiyah, Abdul Mu'ti, in 2021 (Afandi, 2021) it was noted possible that in the future there will be a fatwa allowing online marriage contracts. This view is in line with Emas (2020) , who referred to his Fatwa from 2016 stating, "The scholars of the schools of thought agree that the marriage contract of *ijab* and *qabul* conducted through letters or messengers remains valid, even if both parties are distant." In this case, the assembly of the contract is understood as the place where the letter or messenger is delivered, which is considered a single assembly even though there is a time gap. Currently, with the advancement of communication technology, such as telephones and video calls, the *ijab* and *qabul* ceremony can be conducted directly through 3G network facilities, which enable both voice and visual communication. The *ijab* and *qabul* contract via video call is regarded as preferable because it allows the guardian and the prospective husband to hear and see each other directly, thus minimizing the potential for identity fraud. In this case, the marriage contract is considered valid according to Islamic law as long as it meets the other valid marriage conditions and pillars. In addition, a marriage contract represented via video call is also valid, as long as it meets the established requirements.

Based on the interview conducted by (Edi dkk., 2024) with H. Marzuki Noor, who served as the Regional Leader of Muhammadiyah Lampung for the 2015-2022 period, the concept of *ijab qabul* in one assembly in the first condition means that *ijab* and *qabul* must occur at the same time in a continuous manner. A marriage contract is considered to take place in one assembly if, after the guardian pronounces the *ijab*, the prospective husband immediately declares the *qabul* without a long pause. If there is too long of a pause, then the *qabul* is no longer considered a response to the *ijab*. The measure of a long pause is when there are indications that the prospective husband refuses to say *qabul*. Additionally, between the *ijab* and *qabul*, there should be no interruption by words

unrelated to the marriage contract, even if only slightly, even if both parties remain physically present in the same assembly

Online divorce according to the *Tarjih* and *Tajdid* Council of the Central Leadership of Muhammadiyah holds that divorce conducted outside the court is invalid. This view aligns with Indonesian law and the principle of Islamic jurisprudence. The obligation to record divorces through the court is considered an *urfqanuni* (legal custom) that has emerged due to changes in the times, thus becoming a reason for changes in Islamic law. Divorce through the court provides several benefits, such as ensuring that divorce is the last step to resolve family conflicts and ensuring that the reasons, pillars, and conditions of divorce are met. This process also serves as a preventive measure (*sadd az-zari'ah*) to avoid potential harm or damage in the future. This fatwa emphasizes the importance of the court as the place for the lawful execution of divorce, including presenting two just witnesses in accordance with Islamic law (Nurhidaya, 2023).

#### **4. Perspective of MUI (Majelis Ulama Indonesia)**

The Indonesian Ulema Council (MUI) was established on 7 Rajab 1395 Hijri, coinciding with July 26, 1975, in Jakarta (Hasyim, 2020). This institution was established as a result of the deliberations of scholars, intellectuals, and leaders from various regions in Indonesia. MUI serves as a platform for scholars, leaders, and Islamic intellectuals to guide, nurture, and protect the Muslim community in Indonesia.

According to the view of Imam Shafi'i, the Qur'an and Hadith are the primary sources of law that must be the main reference in all legal determinations. Meanwhile, *ijma'* (consensus of scholars) and *qiyas* (legal analogy) function as supplementary sources to resolve legal issues that are not explicitly addressed in the texts (Hanifah & Sayuti, 2025). The MUI Fatwa Commission issues fatwas using three main approaches, namely the Qath'i Nash approach, the Qauli approach, and the Manhaji approach (Wahyudi & Fajar, 2018). This Qath'i Nash approach relies on evidence found in the Qur'an and Hadith, especially if an issue has been explicitly explained in both sources. However, in its application, MUI only presents evidence from the Qur'an and authentic hadiths without conducting an in-depth analysis of the meaning (*dalalah*) of those evidences. In other words, MUI tends to only quote the text of the verses without further examining the interpretation or providing a broader explanation of their meanings.

Furthermore, this Qauli approach issues fatwas based on the opinions of the school imams as recorded in renowned fiqh books (*al-kutub al-mu'tabarah*). If the opinion is deemed sufficient in resolving a particular issue, then the MUI uses it as a reference. However, if the opinion is deemed irrelevant due to a change in illat (cause or legal reason), then a review of it will be conducted.

Lastly, there is the Manhaji Approach. This method establishes laws using the intellectual framework and methodologies formulated by the school of thought imams. In this approach, the MUI does not limit itself to the opinions of the four major imams of the schools of thought (Hanafi, Maliki, Shafi'i, and Hanbali), but also refers to views outside the four schools, such as the Imamiyah and Zahiri schools. In fact, in some cases, MUI even considers the collective opinions of various scholars. In addition, the books referenced by MUI are not restricted to works authored by the four imams and their followers. Thus, in issuing fatwas, the MUI adopts a flexible approach by considering a broader range of Islamic legal sources.

Based on the results of the Ijtima Ulama held by MUI on November 9-11, 2021, several current legal issues were discussed, one of which is the legality of online marriage (Sirait & Syahputra, 2024). The fatwa from the Ijtima Ulama regarding online marriage is as follows:

- a. The marriage contract is valid if it meets the conditions of *ijab qabul*, namely conducted in one place (*ittihad al-majlis*), with clear wording (*sharih*), and directly connected between *ijab* and *qabul* (*ittishal*)
- b. If the groom and the guardian cannot be physically present in the same location, the marriage contract can be performed through *tawkil* (representation)
- c. If the parties cannot be physically present and cannot delegate, an online marriage ceremony can be conducted under the following conditions:
  - 1) The marriage guardian, the groom, and two witnesses are connected through a virtual network that includes audio and visual (audio-visual)
  - 2) The execution of the contract is carried out simultaneously (in real-time)
  - 3) There is certainty regarding the identities of the parties that can be proven technically
  - 4) The marriage is acknowledged by the government.

5) Online marriages that do not meet the above requirements are considered invalid.

So, it can be concluded that MUI Fatwa indicates that online marriage can be legally recognized if it meets the established requirements, especially regarding government acknowledgement. This becomes an important issue due to the guarantee of recognition from the government. Of the three institutions that formulated the law on online marriage, it means that only *Bahtsul Masail* from NU differs and states the invalidity of online marriage.

Next, regarding online divorce, Abdul Jalil, MA., in the Symposium Series II: Diverging Opinions of MUI, NU, and Muhammadiyah Regarding divorce outside the court in 2024, divorce pronounced outside the court is still considered valid on the condition that the husband reports it to the Religious Court. This reporting aims to maintain public interest and ensure legal certainty. In this case, the Religious Court acts as an enforcer, supporter, and provider of legal certainty for divorce decrees issued outside the court. Thus, it can be concluded regarding the online divorce law from the three institutions, *Bahtsul Masail* NU allows divorce to be conducted anywhere and does not require reporting to the court. Unlike the Majelis Tarjih and Tajdid Muhammadiyah, the pronouncement of talak is considered valid when it goes through court procedures, so it cannot be manipulated by anyone.

Below, the author presents a comparative summary table of three fatwa institutions about the topics of online marriage and divorce:

**Table 1** Three fatwa institutions about the topics of online marriage and divorce

Aspect	Nahdlatul Ulama (NU)	Muhammadiyah	MUI (Majelis Ulama Indonesia)
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Ijtihad Approach	Uses <b>Qauli ijtihad</b> (text-based), and since 1994 also adopts <b>Manhaji ijtihad</b> (rational-based) while still upholding the methods of classical madhhab.	Ijtihad is based on revealed texts and rational thought. <b>Ijma', qiyas, istihsan</b> are considered tools, not primary legal sources. Emphasizes independent reasoning of the Tarjih Council.	Employs three approaches: <b>Qath'i Nash</b> (definitive textual evidence from Qur'an and Hadith), <b>Qauli</b> (opinions of classical scholars), <b>Manhaji</b> (methodological reasoning, open to views beyond the four schools of law including Imami and Zahiri schools).
View on Online Marriage	<b>Invalid</b> , because: It doesn't meet the requirement of physical presence ("same assembly"), Witnesses do not directly observe the contract, and <i>Ijab qabul</i> (offer and acceptance) is considered ambiguous	<b>Valid</b> , provided: <i>Ijab</i> and <i>qabul</i> happen in the same uninterrupted session, Conducted via video call/audio-visual means, and All marriage pillars and conditions are fulfilled.	<b>Valid</b> , under these conditions: <i>Ijab qabul</i> must be clear and in real-time, All parties (guardian, groom, witnesses) must be connected via audio-visual means, Identities must be verifiable, Official recognition from the government is required, and If these conditions are not met, the marriage is <b>invalid</b> .

Marriage Validity Requirements	Must have: prospective husband, prospective wife, guardian, two witnesses, and clear <i>ijab qabul</i> in one physical assembly	Must: have continuous <i>ijab</i> and <i>qabul</i> without delay, not be interrupted by unrelated speech, and avoid any pause that could imply rejection of the <i>qabul</i>	Must: be conducted in real-time, via audio-visual connection, have verified identities, receive official recognition from the government, and "same assembly" is understood as same moment and platform virtually
View on Online Divorce	<b>Valid</b> , even via writing/online, as long as the <b>intention</b> of divorce exists. Reporting to the court is <b>not required</b> .	<b>Invalid</b> if done outside the court. Divorce must go through formal legal procedures as part of <i>sadd az-zari'ah</i> (preventive principle) and <b>urf qanuni</b> (legal custom).	<b>Valid</b> , even if declared outside the court, but must be <b>reported to the Religious Court</b> to ensure public interest and legal certainty. The court ensures the legitimacy and legal force of the divorce.
Court Reporting Requirement	<b>Not required</b> . Divorce remains valid in Islamic law even if not recorded by the state.	<b>Mandatory. Divorce</b> must go through the court to prevent misuse and ensure legal validity.	<b>Must be reported</b> to the court for it to carry legal weight, even if the divorce is conducted privately or online.

From this table, it is showed that NU adopts a more conservative stance, Muhammadiyah is more adaptive to technological developments, and MUI holds a moderate position by emphasizing state legal recognition.



#### D. CONCLUSION

The study finds that the perspectives on online marriage and divorce among the three institutions are shaped by their distinct legal reasoning and interpretive traditions. NU, through *Bahtsul Masail*, maintains that online marriage is invalid due to its failure to meet the condition of *ittihad al-majlis* (same assembly) and contains potential ambiguity in *ijab qabul*. In contrast, Muhammadiyah, via the Majelis Tarjih, recognizes the validity of online marriage, provided that all essential requirements—including uninterrupted *ijab qabul*—are fulfilled through real-time audio-visual media. MUI adopts a moderate stance: online marriage is considered valid if conducted with clear *ijab qabul*, verified identities, real-time audio-visual communication, and state recognition. Regarding divorce, NU allows online divorce as long as the classical *fiqh* conditions are met, even without court involvement. Muhammadiyah, however, requires that divorce be conducted through the court system to ensure legal certainty and prevent abuse. MUI recognizes divorce outside the court but mandates that it be reported to the Religious Court.

The findings of this study have important implications for policy, especially considering the Indonesian government's initiative to digitize marriage and divorce administration. Any legal framework must take into account the diverse interpretations of religious institutions while ensuring procedural clarity, technological safeguards, and state recognition to balance religious legitimacy and legal certainty. Establishing a unified, Sharia-compliant digital marriage and divorce system could help minimize legal ambiguity and social conflict in Indonesia's pluralistic society. Further research is recommended to explore how these fatwas are implemented at the grassroots level and how digital infrastructure, user literacy, and local cultural factors influence the effectiveness and acceptance of online marriage and divorce practices. Additionally, future studies could examine how interfaith or cross-national marriages are affected by the evolving digital legal landscape in Islamic contexts.

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