

ONLINE MARRIAGE AND CROSS-BORDER ISLAMIC FAMILY LAW: LEGAL CHALLENGES IN MUSLIM DIGITAL SOCIETIES

Nur Ilhamillaili Fisabilillah Miswa¹, Amsori², Tadzakka Ibnu Nabil³

¹ Faculty of Sharia, Universitas Islam Depok, Indonesia

² Faculty of Sharia, Universitas Islam Depok, Indonesia

³ Mahasiswa Faculty of Sharia, Universitas Islam Depok, Indonesia

✉ Corresponding author: nur.ilhamilaili@iaidepok.ac.id

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ABSTRACT

The rapid expansion of digital communication technologies has fundamentally reconfigured the terrain of Islamic family law, introducing novel and unresolved legal questions about the validity, enforceability, and cross-jurisdictional recognition of online marriage contracts (akad nikah daring). This article undertakes a systematic normative-empirical analysis of online marriage practices across transnational Muslim communities, examining the legal challenges that arise when ijab-qabul (offer and acceptance) is conducted via digital platforms across national borders. Drawing upon a qualitative content analysis of forty peer-reviewed academic sources, fatwa documentation from Egypt, Indonesia, Saudi Arabia, Iraq, and Syria, and a comparative doctrinal review of relevant national marriage legislation, the study evaluates whether the classical Islamic jurisprudential requirement of ittihad al-majlis (unity of session) can be functionally reinterpreted to accommodate synchronous digital communication. The article identifies five principal legal fault lines: (1) jurisdictional ambiguity in cross-border nikah, (2) authentication and identity verification deficits, (3) the doctrinal divergence between Sunni legal schools on the permissibility of remote contracting, (4) the absence of harmonized international legal frameworks for transnational Islamic matrimonial recognition, and (5) emergent risks in metaverse and blockchain-mediated matrimony. The findings demonstrate that while technological adaptation is both jurisprudentially permissible and socially necessary, current national legal architectures remain inadequately equipped to resolve the transnational complications generated by digital nikah. The article proposes a multilateral legal harmonization framework as a normative path forward for Muslim-majority and Muslim-minority jurisdictions alike.

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A. INTRODUCTION

The intersection of digital technology and Islamic jurisprudence represents one of the most contested and consequential legal frontiers of the twenty-first century, demanding scholarly attention that is simultaneously attentive to classical doctrinal foundations and responsive to the unprecedented practical realities generated by accelerating technological transformation. Among the many disruptions produced by the digital revolution, few carry the human weight and jurisprudential complexity of online marriage a phenomenon in which parties to a *nikāḥ* contract perform the *ījāb* (offer) and *qabūl* (acceptance) via video conferencing platforms, social media applications, or other synchronous digital communication channels, without occupying a shared physical space in the traditional sense. What was once a theoretical problem confined to the speculative margins of academic *fiqh* discourse has, particularly in the aftermath of the COVID-19 pandemic of 2020–2021, become a pressing and documented practical reality, with remote *nikāḥ* ceremonies recorded across the national borders of Indonesia, Malaysia, Singapore, Egypt, Saudi Arabia, the United Kingdom, the United States, and Australia (A. Hakim & Qodsiyah, 2022; L. Hakim & Qodsiyah, 2022; Wajidi & Mustafid, 2023b). The normalisation of digital communication as the primary medium of intimate and professional interaction during pandemic-imposed mobility restrictions accelerated a transition that was already underway, effectively transforming a marginal legal curiosity into a mainstream governance challenge for Islamic family law institutions, state registries, and Muslim communities on every inhabited continent. The central question whether a marriage contract concluded through a digital medium satisfies the substantive and procedural requirements of Islamic law admits no simple answer, and the divergence of scholarly and institutional responses across jurisdictions reflects the depth and genuine difficulty of the underlying jurisprudential issues.

The significance of online marriage as a legal phenomenon extends far beyond the procedural mechanics of contract formation, implicating instead the most foundational principles of Islamic jurisprudence concerning the nature of contractual consent, the spatial and temporal conditions required for valid matrimonial contracting, and the evidentiary and testimonial requirements that have historically served to safeguard the public, community-witnessed character of marriage in Islamic legal thought. Classical *fiqh* across the four major Sunni madhhabs Ḥanafī, Mālikī, Shāfi‘ī, and Ḥanbalī developed the doctrine of *ittiḥād al-majlis* (unity of the contractual session) as a cornerstone condition for the valid conclusion of the *nikāḥ* contract, premised upon the physical co-presence of the contracting parties and the requisite witnesses within a single, unified, and temporally continuous spatial context (H. Demir, 2025; Sarkouri et al., 2025). This doctrine was not merely a formal procedural requirement; it served substantive purposes deeply embedded in the classical understanding of contractual will and social accountability ensuring that consent was expressed spontaneously and directly, that witnesses could reliably attest to the unambiguous conclusion of a binding contract, and that the marriage was constituted as a public social fact rather than a private bilateral arrangement susceptible to subsequent denial or manipulation (Ibn Qudāmah, *al-Mughnī*; al-Nawawī, *al-Majmū‘*). The application of this doctrine to digitally mediated contexts in which the parties may be visually and aurally present to one another in real time yet physically separated by thousands of kilometres is neither self-evident nor uncontroversial, and the scholarly disagreement it has generated reflects a genuine tension between the textual and purposive dimensions of classical jurisprudential reasoning that no simple analogical extension can resolve.

The problem acquires additional layers of complexity when examined through the lens of transnational legal pluralism, a dimension that has received insufficient systematic attention in the existing literature. When a prospective husband domiciled in Riyadh exchanges *ījāb-qabūl* with a *walī* (marriage guardian) and prospective bride located in Jakarta, mediated through a video call facilitated by a digital *nikāḥ* platform operated from a server in the

Netherlands, at least two national legal systems those of Saudi Arabia and Indonesia become potentially applicable alongside the jurisprudential rules of whichever madhhab the parties follow, the private international law doctrines of whichever forum might subsequently be called upon to adjudicate a matrimonial dispute, and any applicable bilateral or multilateral agreements governing the mutual recognition of foreign marriages (Nasohah, 2024a; Parashar & Chaudhary, 2025). The resulting jurisdictional complexity is not merely an abstract legal puzzle for academic resolution; it carries direct and profound consequences for the lived realities of Muslim families. Whether the children of such a union will be recognised as legitimate under the law of either parent's domicile, whether a subsequent divorce will be enforceable in the jurisdiction where the wife resides, whether the wife will be entitled to maintenance, inheritance rights, or protective legal remedies, and whether the husband's obligations under the *nikāḥ* contract will be recognised by the courts of his home jurisdiction all of these consequential questions turn, in the first instance, on whether the marriage was validly contracted, a determination that different legal systems and different madhāhib may resolve in mutually irreconcilable ways (Nasir, 2009; Otto, 2010; Welchman, 2007). The human stakes of legal uncertainty in this domain are thus exceptionally high, engaging the most intimate dimensions of family formation, child welfare, and women's access to legal protection.

The existing scholarly literature on Islamic digital family law, while growing rapidly in volume since approximately 2018, remains characterised by fragmentation, jurisdictional parochialism, and a tendency to address doctrinal and governance dimensions in isolation from one another rather than as components of an integrated analytical problem. Contributions focused on Islamic jurisprudence have examined the *ittiḥād al-majlis* doctrine and its digital-age implications from within particular madhāhib traditions, often without engaging systematically with the comparative legal dimension or with the specific evidentiary challenges posed by cross-border digital *nikāḥ* (Al-Qaradawi, 2001; H. Demir, 2025; Mahmood, 2019). Jurisdiction-specific legal studies have documented the regulatory responses of individual Muslim-majority states including Malaysia's Shariah court digital hearing frameworks (Nasohah, 2024a), Indonesia's responses to *nikāḥ* via digital platforms (A. Hakim & Qodsiyah, 2022; Wajidi & Mustafid, 2023a), and Egypt's evolving position on electronic documentation in personal status proceedings (Parashar & Chaudhary, 2025) without producing comparative frameworks capable of identifying structural patterns, common challenges, or convergence opportunities across jurisdictions. Theoretical contributions from Islamic legal philosophy have addressed the broader question of technology and legal change in Islamic law (Hallaq, 2009; Kamali, 2008) without descending to the level of operational specificity required to guide courts, registrars, and legal practitioners confronting concrete cases. And the international private law literature, while providing sophisticated tools for analysing cross-border matrimonial matters in secular contexts (Clarkson & Hill, 2011; Fawcett et al., 2008), has not been systematically applied to the specific configuration of challenges generated by Islamic digital marriage. This disciplinary fragmentation represents a significant gap in the scholarly infrastructure available to the legislators, judges, Shari'ah scholars, and community leaders who are being asked to make consequential decisions about online *nikāḥ* with inadequate conceptual resources.

The present article makes four original and interrelated contributions designed to address the foregoing gaps in a comprehensive and methodologically rigorous manner. First, it provides a systematic comparative analysis of how five jurisdictions Indonesia, Malaysia, Egypt, Saudi Arabia, and Singapore, selected to represent the range of Muslim-majority and Muslim-minority legal contexts in which online marriage has emerged as a governance challenge have responded through their respective legal and regulatory frameworks, identifying both divergent approaches and areas of latent convergence that could support harmonisation efforts. Second, the article offers a structured and cross-madhābī doctrinal analysis of the *ittiḥād al-majlis* doctrine, examining with textual precision how each of the four major Sunni

schools grounded this requirement, what purposes it was designed to serve, and how contemporary scholars have sought to reinterpret or reconstruct it in light of the communicative capacities of synchronous digital technology an analysis that moves beyond the assertion of analogical equivalence to interrogate the adequacy of that equivalence claim against the doctrine's underlying rationale. Third, the article maps with systematic comprehensiveness the specific legal challenges generated by cross-border digital nikāḥ including questions of governing law selection, evidentiary authentication, walī jurisdiction, witness qualification across digital and spatial divides, and marriage registration in multiple legal systems and critically evaluates the sufficiency of existing legal mechanisms in addressing them. Fourth, and most constructively, the article proposes a framework for multilateral legal harmonisation that draws upon both the shared normative resources of the Islamic legal tradition and the methodological toolkit of international private law, offering a principled and institutionally realistic pathway toward greater legal certainty for Muslim families engaged in transnational matrimonial arrangements.

The urgency of these contributions is underscored by demographic and technological trajectories that show no sign of reversal. The global Muslim population, estimated at approximately 2 billion individuals as of 2024, is characterised by levels of transnational mobility and digital connectivity that are historically unprecedented, with millions of Muslims residing as diaspora communities in non-Muslim-majority states and maintaining family and marital ties that span multiple legal systems simultaneously (Pew Research Center, 2023; UNHCR, 2023). The proliferation of dedicated Islamic marriage applications and digital nikāḥ facilitation platforms including documented services operating across Southeast Asia, the Middle East, and Western diaspora communities has created a commercially organised infrastructure for online marriage that outpaces the regulatory frameworks designed to govern it (DinarStandard, 2024). The post-pandemic institutionalisation of hybrid and remote legal proceedings in multiple jurisdictions has further normalised digital marriage solemnisation as a procedurally routine matter even where its jurisprudential validity remains contested. In this environment, the absence of coherent, cross-jurisdictionally workable legal frameworks does not merely generate academic uncertainty; it produces real harm in the form of unrecognised marriages, stateless children, unenforceable maintenance obligations, and vulnerable women lacking access to the legal protections that valid marriage is designed to confer. The remainder of this article proceeds as follows: Section 2 reviews the relevant literature on Islamic digital family law and transnational Muslim matrimonial practice; Section 3 describes the mixed doctrinal and comparative methodology employed; Section 4 provides the substantive doctrinal and comparative legal analysis; Section 5 presents the primary findings regarding jurisdictional and cross-border legal challenges; Section 6 discusses theoretical and practical implications and proposes the harmonisation framework; and Section 7 concludes with recommendations for legislators, courts, and international Islamic legal bodies.

A. LITERATURE REVIEW

1. Islamic Family Law in the Digital Era: Scholarly Trajectories

Scholarly engagement with the intersection of Islamic family law and digital technology has accelerated substantially in the post-pandemic period, though important antecedents exist in earlier jurisprudential debates about telephonic marriage and marriage by correspondence. Musarrofa et al. (2024) identify the digital era as generating a cluster of problems for Islamic family law that collectively demand systematic renewal of the Compilation of Islamic Law (Kompilasi Hukum Islam) in Indonesia, arguing that existing legal frameworks were not designed to accommodate the communicative modalities characteristic of contemporary Muslim life. Their analysis identifies online marriage as one of several urgent problem areas alongside digital divorce, cybersex within marriage, and digital financial arrangements between spouses.

The specifically jurisprudential question of online nikah has attracted significant scholarly attention. Demir (2025) provides an exhaustive analysis of video online marriage contracts from the perspective of Islamic law, tracing the evolution of scholarly opinion from early debates about telephone nikah through contemporary video conferencing practices. His analysis concludes that the synchronous visual dimension of video marriage in which all parties can see and hear one another in real time provides a functionally adequate substitute for physical co-presence in terms of the requirements of immediacy and mutual sensory verification. Taufiq et al. (2023) approach the same question through the lens of *fiqh nawazil* (Islamic law applied to novel contemporary cases), situating online marriage within a methodological framework that emphasizes the capacity of Islamic jurisprudence to develop analogical reasoning across genuinely unprecedented factual scenarios.

The Indonesian scholarly context has been particularly productive. (Wajidi & Mustafid, 2023b) undertake a rigorous comparative analysis of the fatwas issued by Nahdlatul Ulama and Muhammadiyah Indonesia's two largest Muslim mass organizations regarding the legality of online marriage. Their study reveals a structured disagreement: Nahdlatul Ulama tends toward a more cautious position that conditions the validity of online nikah upon specific procedural safeguards, while Muhammadiyah adopts a more permissive stance grounded in the principle of facilitating religious practice. Khotimah et al. (2023) extend this analysis by examining the concept of *ittihad al-majlis* through the lens of contemporary Islamic jurisprudence, arguing for a reinterpretation of the unity of session requirement that accommodates digital co-presence. Sakdiyah (2023) applies the methodological tools of *usul al-fiqh* (Islamic legal theory) to the online marriage phenomenon, demonstrating that classical jurisprudential principles provide sufficient resources for a principled resolution of the digital contracting problem.

2. Cross-Border Dimensions and Jurisdictional Complexity

While the purely domestic question of online nikah has received considerable scholarly attention, the specifically transnational dimension involving parties in different legal jurisdictions has been comparatively underexplored. Nasohah (2024) maps the dynamics of Islamic family law in Southeast Asia, documenting the multiple, sometimes contradictory frameworks for marriage recognition that coexist within the ASEAN region and arguing that the absence of regional harmonization creates significant legal vulnerabilities for transnational Muslim families. Parashar & Chaudhary (2025) examine cross-border marriages and divorces from a broader comparative law perspective, identifying the conflict-of-laws challenges that arise when parties to a marriage are subject to different national legal systems.

The comparative study of fatwa responses to online marriage across different Muslim-majority countries is particularly illuminating. A. Hakim & Qodsiyah (2022) conduct a systematic analysis of fatwas from Egypt, Iraq, Syria, and Saudi Arabia on online marriage during the COVID-19 pandemic, revealing significant cross-national divergence in scholarly opinion. Egyptian scholars tended to permit online nikah under emergency conditions while maintaining reservations about its general application; Saudi scholars were more consistently restrictive; while Iraqi and Syrian fatwas showed greater flexibility. This divergence directly implicates the transnational recognition problem: a marriage validly contracted under Egyptian fatwa guidance may not be recognized under Saudi religious law, and vice versa.

The question of legal pluralism the coexistence of multiple legal systems within a single political space is particularly salient for Muslim minorities in non-Muslim majority countries. Silawati et al. (2024) analyze the application of Islamic family law to Muslim minorities in Singapore, a jurisdiction where Muslim personal law coexists with a secular civil legal system under the Administration of Muslim Law Act. Their analysis highlights

the particular difficulties that arise when Singapore Muslim residents contract marriages online with partners in foreign Muslim-majority jurisdictions, since recognition of such marriages must navigate both Islamic law requirements and Singapore civil law registration procedures. Sheibani (2023) examines the related phenomenon of secret marriage in Muslim-minority communities, which is directly relevant to the online marriage context insofar as digital nikah may be used to circumvent legal registration requirements.

3. Emerging Technological Frontiers: Blockchain, Metaverse, and Smart Contracts

The most recent wave of scholarship has begun to grapple with even more advanced technological developments that push Islamic family law into genuinely unprecedented territory. Gunawan et al. (2025) examine the concept of digital nikah mediated by smart contracts on blockchain platforms, raising profound questions about the legal personhood of automated contracting systems and the status of a marriage contract executed through algorithmically enforced digital protocols. Their analysis suggests that while blockchain-based marriage recording might provide solutions to some of the authentication and verification problems associated with conventional online nikah, it generates new jurisprudential challenges related to the requirement for human agency and conscious consent in Islamic matrimonial contracting.

Fikri et al. (2024) address the emergence of metaverse marriages matrimonial ceremonies conducted within virtual reality environments arguing that this represents a qualitatively new challenge that cannot be resolved through simple extension of existing online marriage jurisprudence. The metaverse context raises questions not only about the validity of the contract itself but also about the nature of the witnesses, the identity of the avatar-represented parties, and the legal relationship between a metaverse ceremony and any civil law registration requirement.

Across all these scholarly trajectories, a common theme emerges: the need for adaptive Islamic legal methodologies that can engage constructively with technological change without sacrificing the foundational values and requirements that give Islamic family law its normative coherence. Nafi, Nisa, and Rohman (2024) frame this tension as a choice between treating digitalization as an opportunity or a threat for Islamic family law, arguing that the appropriate response is neither uncritical adoption nor reactionary rejection but rather a principled jurisprudential engagement that applies established Islamic legal maxims to genuinely novel factual circumstances.

B. METHOD

1. Research Design

This study employs a normative-empirical qualitative methodology, combining doctrinal legal analysis with systematic content analysis of scholarly and jurisprudential sources. The normative dimension involves the systematic examination and interpretation of Islamic legal texts, fatwa documentation, and national marriage legislation relevant to online marriage and cross-border family law. The empirical dimension involves the systematic review and qualitative analysis of forty peer-reviewed academic sources identified through a structured database search.

The methodological approach draws upon the tradition of comparative Islamic law scholarship, which situates classical jurisprudential analysis within contemporary socio-legal contexts. This approach is appropriate for the study's subject matter because the central legal questions concerning online nikah and cross-border recognition cannot be resolved purely through textual analysis of classical Islamic legal sources or purely through examination of contemporary positive law, but require an integrative analysis that brings both dimensions into productive dialogue.

2. Data Sources and Selection Criteria

The primary scholarly sources for this study were identified through a systematic search of academic databases including Scopus, Web of Science, Google Scholar, and specialized Islamic law repositories. The search employed the following keyword clusters: (1) 'online marriage' AND 'Islamic law'; (2) 'nikah daring' OR 'digital nikah'; (3) 'cross-border' AND 'Muslim family law'; (4) 'ittihad al-majlis' AND 'digital'; (5) 'transnational Islamic matrimonial law'; and (6) 'metaverse marriage' AND 'Islamic jurisprudence'. Sources were selected according to the inclusion criteria of publication between 2020 and 2026, relevance to the core research themes of online nikah and cross-border Islamic family law, and availability in English, Indonesian, or Arabic.

Fatwa documentation was sourced from the official repositories of major fatwa-issuing bodies including Dar al-Ifta' al-Misriyyah (Egypt), the Islamic Fiqh Academy of the Organisation of Islamic Cooperation (OIC-IFA), the Majelis Ulama Indonesia (MUI), and the Majlis Agama Islam Wilayah Persekutuan (MAIWP) of Malaysia. National marriage legislation reviewed includes Indonesia's Marriage Law No. 1 of 1974 and its 2019 amendment, Malaysia's Islamic Family Law (Federal Territories) Act 1984, Singapore's Administration of Muslim Law Act, and Egypt's Personal Status Law.

Table 1. Distribution of Sources by Country/Region and Publication Period

Country/Region	Number of Sources	Publication Period	Primary Focus
Indonesia	14	2022–2026	Nikah daring, KHI reform, digital family law
Middle East (Egypt, Saudi Arabia, Iraq, Syria)	7	2022–2025	Fatwa analysis, comparative fiqh
Southeast Asia (Malaysia, Singapore)	5	2022–2025	Minority Muslim law, ASEAN harmonization
Comparative/International	8	2022–2026	Transnational family law, conflict of laws
Emerging Technologies (Blockchain, Metaverse)	4	2024–2026	Smart contracts, digital matrimony
General Islamic Digital Law	2	2023–2025	Islamic economic law, legal pluralism

Table 1. Distribution of reviewed sources by geographic focus, publication period, and thematic content.

Table 2. Research Framework: Key Analytical Dimensions

Analytical Dimension	Legal Instrument/Doctrine	Method of Analysis	Jurisdictions Covered
Doctrinal Validity of Online Nikah	Ittihad al-majlis, Fiqh nawazil	Comparative madhhab analysis	Hanafi, Maliki, Shafi'i, Hanbali
Cross-Border Recognition	Conflict of laws, PIL principles	Comparative statutory analysis	Indonesia, Malaysia, Singapore, Egypt, Saudi Arabia
Fatwa Divergence	National fatwa documentation	Systematic content analysis	Egypt, Iraq, Syria, Saudi Arabia, Indonesia
Authentication & Identity	Evidence law, usul al-fiqh	Normative gap analysis	All jurisdictions

Analytical Dimension	Legal Instrument/Doctrine	Method of Analysis	Jurisdictions Covered
Emerging Tech Challenges	Smart contracts, metaverse law	Prospective doctrinal analysis	Global/theoretical
Harmonization Feasibility	OIC frameworks, ASEAN law	Institutional analysis	International/regional

Table 2. Analytical framework dimensions, doctrinal instruments, methods, and jurisdictional coverage.

3. Analytical Procedure

The collected sources were analyzed using a structured qualitative content analysis procedure adapted from Mayring's (2014) qualitative content analysis framework and modified for Islamic legal studies. The analysis proceeded through three sequential stages. In the first stage (deductive category formation), an initial set of analytical categories was developed a priori based on the research questions and the key doctrinal concepts of Islamic matrimonial law: contract validity conditions, witness requirements, spatial-temporal conditions, jurisdictional attribution rules, and recognition mechanisms. In the second stage (inductive refinement), the categories were revised and expanded through iterative reading of the source materials to capture emergent themes not initially anticipated, including blockchain matrimony, social media-mediated nikah, and metaverse marriage. In the third stage (cross-source synthesis), the findings from individual sources were synthesized into coherent analytical narratives organized around the core research themes.

Doctrinal legal analysis followed the established methodology of comparative Islamic law scholarship, examining primary classical texts (particularly the major compilations of the four Sunni madhhabs) alongside contemporary jurisprudential opinion, scholarly commentary, and fatwa documentation. National legislation was analyzed using the tools of statutory interpretation adapted to civil law and common law jurisdictions respectively. The analysis maintains awareness of the methodological distinction between emic Islamic legal analysis (working within the assumptions and methodological frameworks of Islamic jurisprudence) and etic legal analysis (evaluating Islamic legal rules from the external perspective of comparative or international law).

4. Doctrinal Analysis: Ittihad al-Majlis and the Digital Challenge

a. Classical Requirements for Valid Nikah

The Islamic marriage contract (nikah or zawaj) occupies a distinctive position in Islamic jurisprudence as simultaneously a legal contract and a solemn religious act. Unlike purely commercial contracts in Islamic law, the nikah is characterized by a set of validity conditions that reflect its unique nature as a relationship-constituting act with profound consequences for personal status, inheritance, and filial affiliation. The classical Sunni legal tradition identifies five essential pillars (arkan) of a valid nikah: (1) the two contracting parties (the groom and the wali representing the bride); (2) the offer (ijab) from the wali; (3) the acceptance (qabul) from the groom; (4) the presence of at least two adult male Muslim witnesses of good character (or one male and two females in some schools); and (5) the mahr (dower) as a gift from the groom to the bride.

Beyond these substantive conditions, Islamic jurisprudence developed a procedural requirement that has become the central point of contention in debates about online marriage: the doctrine of ittihad al-majlis, variously translated as unity of the session, unity of the assembly, or unity of the contractual sitting. This doctrine holds that the ijab and qabul must be exchanged within a single, continuous, unified session meaning that the acceptance must follow the offer without undue interruption or temporal discontinuity, and without any of the essential parties abandoning the

session between offer and acceptance. The classical doctrine was articulated with physical co-presence as an assumed background condition, since the jurists who developed it were operating in a communicative environment in which meaningful transactional communication necessarily required physical proximity.

b. Doctrinal Positions Across the Four Sunni Schools

Significant parts of Thailand has historically required a stricter interpretation of physical co-presence. The Shafi'i position holds that the witnessing requirement demands that the witnesses directly perceive both the *ijab* and the *qabul* with their senses, and the school has generally been more cautious about extending this requirement to mediated forms of communication. However, contemporary Shafi'i scholars, particularly the four major Sunni schools of law diverge in instructive ways on the specific requirements of *ittihad al-majlis* and related questions, and these divergences have direct implications for the assessment of online *nikah*. The Hanafi school, which is predominant in South Asia, Central Asia, and much of the former Ottoman world, has traditionally required that the offer and acceptance occur in the same uninterrupted session but has been relatively flexible regarding the modality of communication. Some Hanafi jurists historically recognized the validity of marriage by correspondence (*kitaba*), provided that the written offer was read aloud in the presence of witnesses and the acceptance was made in the same session as the reading. This precedent has been invoked by contemporary Hanafi scholars as providing a basis for extending validity to telephone and video-mediated *nikah*.

The Shafi'i school, dominant in Southeast Asia particularly Indonesia, Malaysia, Brunei, and sigarly in Indonesia, have increasingly argued for a reinterpretation that treats high-quality synchronous video communication as functionally equivalent to sensory co-presence (Khotimah et al., 2023; Sakdiyah, 2023).

The Maliki school, predominant in North and West Africa, takes yet a different approach, placing greater emphasis on the public announcement (*'lan*) of marriage as a validity condition than on the specific session requirement. Maliki jurisprudence has historically permitted a somewhat more flexible approach to the spatial conditions of contracting, which some contemporary scholars have argued provides a basis for Maliki-influenced acceptance of online *nikah*. The Hanbali school, the basis of the official legal position in Saudi Arabia, has tended toward the most conservative interpretation of co-presence requirements, and Saudi official religious authorities have generally been more restrictive in their attitude toward online marriage (A. Hakim & Qodsiyah, 2022).

c. Contemporary Jurisprudential Reinterpretation: The Concept of Virtual Majlis

The most significant doctrinal development in contemporary Islamic legal discourse on online marriage is the concept of the virtual *majlis* the idea that a synchronous digital communication session can constitute a functionally equivalent substitute for physical co-presence in satisfying the *ittihad al-majlis* requirement. This concept has been articulated with particular sophistication by scholars working within the *fiqh nawazil* tradition, which develops Islamic legal rulings for genuinely novel situations that have no direct classical precedent.

The theoretical underpinning of the virtual *majlis* concept draws upon two complementary jurisprudential strategies. The first is the distinction, developed in classical *fiqh*, between the *maqasid* (objectives) of a legal ruling and its specific form or outward expression. The objective of *ittihad al-majlis* ensuring the mutual verification of parties' identities and the genuineness of their consent, and enabling the witnesses to directly perceive the exchange can be argued to be achievable through high-quality video communication, even if the specific historical form of the requirement (physical co-presence) cannot be replicated. The second strategy involves

the application of the principle of *al-masyaqqah tajlib al-taysir* (hardship justifies facilitation), articulated in the context of online nikah by Muir et al. (2023), who argue that the significant practical difficulties created by geographical separation provide a jurisprudential basis for accepting digital alternatives to physical co-presence.

Taufiq et al. (2023) synthesize these approaches within the *fiqh nawazil* framework, arguing that contemporary scholars possess both the methodological tools and the normative justification for recognizing the validity of online nikah conducted through synchronous audio-visual communication. However, they emphasize that this recognition must be conditioned upon specific safeguards: the witnesses must be able to verify the identities of all parties through the video connection; the audio and video quality must be sufficient to ensure genuine simultaneous perception; there must be no meaningful interruption in the session; and the digital record of the ceremony must be preserved as documentary evidence. İ. Demir (2025) reaches similar conclusions through a comprehensive analysis of video nikah from an Islamic legal perspective, concluding that the synchronous mutual visibility provided by high-quality video conferencing meets the substantive requirements of the witnessing and co-presence conditions.

C. RESULTS AND DISCUSSIONS

Results

1. The Jurisdictional Complexity Matrix

The most fundamental legal challenge generated by cross-border online nikah is jurisdictional: which legal system governs the validity of the marriage contract, and which courts or religious authorities have competence to adjudicate disputes arising from it? This question does not admit of a simple answer because a single digital nikah ceremony may implicate multiple, potentially conflicting legal systems simultaneously. Figure 1 below illustrates the jurisdictional complexity matrix that characterizes cross-border digital nikah.

Table 3. Jurisdictional Complexity Matrix for Cross-Border Digital Nikah

Jurisdictional Dimension	Relevant Legal Rule	Application in Digital Nikah	Key Challenge
Law of the Celebrant's Location	Lex loci celebrationis	Which party's location governs? Both are in different states.	No unified locus of celebration in digital transactions
Law of Domicile	Lex domicilii	Domicile of one or both parties may differ from residence or nationality	Parties may have multiple or unclear domiciles
Law of Nationality	Lex patriae / lex personalis	In Muslim countries, personal law often follows religious affiliation	Dual nationality or stateless persons create gaps
Religious Law of the Parties	Madhhab of the parties	Parties may follow different madhhabs	No international authority to resolve inter-madhhab conflicts
Law of Registration State	Civil registration law	State of registration may not recognize digital ceremony	Registration refusal creates de facto statelessness of marriage
Law of the Forum	Lex fori	Courts apply their own conflict-of-laws rules	Divergent PIL approaches produce inconsistent outcomes

Table 3. Jurisdictional dimensions, legal rules, digital nikah applications, and principal challenges.

As Table 3 illustrates, cross-border digital nikah simultaneously engages at least six distinct jurisdictional dimensions, each governed by potentially different legal rules. In the absence of a harmonized international framework—whether within the Organisation of Islamic Cooperation (OIC) or regional bodies such as ASEAN—the resolution of these jurisdictional conflicts is left to the ad hoc application of national conflict-of-laws rules, which vary substantially across jurisdictions (Nasohah, 2024a; Parashar & Chaudhary, 2025).

2. Authentication and Identity Verification Deficits

A second major legal challenge concerns the verification of parties' identities and the authenticity of their consent in digital matrimonial proceedings. In a physically conducted nikah, the witnesses directly observe the parties and can verify their identities through personal acquaintance or documentary evidence examined in person. The wali's authority to represent the bride can be verified through personal testimony and documentation reviewed on the spot. The emotional and volitional state of the parties—particularly the bride's free and uncoerced consent, which is a fundamental condition in Islamic law—can be assessed through direct observation of non-verbal behavioral cues.

All of these verification mechanisms are significantly complicated in digital contexts. Identity fraud—the possibility that a party to a digital nikah is not who they claim to be—represents a genuine risk that existing digital security technologies have not fully resolved. The impersonation of a wali, in particular, is a serious concern: if the person appearing on screen as the bride's father and marriage guardian is actually an impostor, the entire contract may be void *ab initio* under Islamic law. Sakdiyah (2023) argues that the application of *usul al-fiqh* principles to this problem suggests that the standard of proof required for digital witness verification should be at least equivalent to the standard applied in classical *fiqh* to written communications, which required additional corroborating evidence beyond the document itself.

The problem of consent verification is even more acute. In some reported cases of online nikah conducted under pandemic conditions, critics raised concerns that brides may have been subjected to coercion or manipulation that would not have been apparent to remote witnesses. The spatial separation of the parties—the bride in one physical environment, potentially under the influence of family members not visible to the camera, the groom in another—creates surveillance gaps that diminish the capacity of witnesses to assess genuine free consent. Abisatya & Prasetyo (2024) note that the existing vulnerability to *siri* marriage (secret or unregistered nikah) in digital contexts is exacerbated by these verification deficits, since digital nikah conducted without official oversight may be more easily used as a vehicle for marriages that circumvent legal registration requirements.

3. Cross-National Fatwa Divergence and Its Legal Consequences

The divergence in fatwa positions across Muslim-majority countries constitutes a third major legal challenge, with direct consequences for the transnational recognition of online marriages. As documented by A. Hakim & Qodsiyah (2022), the COVID-19 pandemic generated a wave of fatwa responses to the online nikah question that varied substantially across jurisdictions. This divergence is not merely a matter of scholarly opinion: in jurisdictions where religious law has public status and fatwa pronouncements have quasi-legal authority, divergent fatwa positions can produce directly contradictory legal consequences for the same marriage.

The most striking divergence is between Indonesia and Saudi Arabia. Indonesia's major Islamic organizations *Nahdlatul Ulama* and *Muhammadiyah* have both, under appropriate conditions, acknowledged the permissibility of online nikah, and Indonesian courts have in some cases recognized the validity of digitally contracted marriages. Saudi Arabia's official religious establishment has maintained a more conservative position, and

Saudi civil registration authorities have generally not recognized marriages contracted without physical co-presence of all parties (Wajidi & Mustafid, 2023a). This creates a recognition asymmetry: a marriage contracted online between a Saudi national and an Indonesian national, following Indonesian fatwa guidance, may be recognized in Indonesia but not in Saudi Arabia, leaving the parties in a state of legal limbo regarding their marital status in the groom's home country.

Table 4. Comparative Fatwa Positions on Online Nikah: Selected Muslim Jurisdictions

Country	Primary Fatwa Authority	General Position	Key Conditions	Legal Status
Indonesia	MUI, NU, Muhammadiyah	Conditionally Permissible	Synchronous AV connection; verified identities; witnesses present; notarial documentation	Recognized with registration
Egypt	Dar al-Ifta' al-Misriyyah	Permissible under Necessity	Emergency conditions; qualified officiant; documentary record	Provisionally recognized during pandemic
Saudi Arabia	Council of Senior Scholars	Generally Not Permitted	Physical co-presence of all parties required	Not recognized for registration
Malaysia	State Religious Authorities (varied)	Cautiously Permissible	Case-by-case assessment; state-level variation	Inconsistent: state-dependent
Singapore	MUIS (Majlis Ugama Islam Singapura)	Not Recognized Without ROMM Registration	Online ceremony must be followed by formal registration	Civil registration required for legal status
Iraq	Dar al-Ifta' al-Iraqi	Permissible with Conditions	Authenticated digital session; notarial record	Recognized with documentation

Table 4. Comparative fatwa positions on online nikah across selected Muslim-majority and Muslim-minority jurisdictions.

Table 4 reveals a pattern of jurisdictional fragmentation that directly undermines the legal security of transnational Muslim families. Even within Southeast Asia the world's most populous Muslim region there is no harmonized position on the permissibility of online nikah, with Indonesia adopting a more permissive stance than Malaysia's state-level variable approach, and Singapore maintaining a formal civil registration requirement that effectively renders stand-alone online nikah legally insufficient (Nasohah, 2024b; Silawati et al., 2024).

4. Emerging Challenges: Metaverse Marriages and Blockchain Nikah

The most technologically advanced challenges to Islamic matrimonial law arise from developments that have emerged only in the past few years: the deployment of virtual reality environments for matrimonial ceremonies and the use of blockchain-based smart contracts as marriage recording and enforcement mechanisms. Fikri et al. (2024) document the emergence of metaverse marriages ceremonies conducted by avatar representations of

the parties within virtual reality platforms such as Decentraland or Horizon Worlds and identify a cluster of distinctively novel legal challenges that these ceremonies generate.

In a metaverse marriage, the avatar representation of each party is a digital construct that may bear no verified relationship to the biological identity of the controlling human person. The witnesses to a metaverse nikah are themselves avatars, whose human correlates may be entirely unknown to the other parties. The concept of personal identity, which is foundational to Islamic matrimonial law the law requires knowing precisely who is contracting the marriage and in what legal capacity is profoundly destabilized by the avatar-mediated nature of metaverse interaction. Fikri et al. (2024) conclude that metaverse marriage is not currently recognizable under any established school of Islamic jurisprudence, and that its regulation will require the development of genuinely new jurisprudential frameworks.

The blockchain smart contract model presents a different but equally complex set of challenges. Gunawan et al. (2025) analyze the potential and limitations of blockchain-based marriage recording, noting that while the immutability and transparency of blockchain records could address some of the authentication problems associated with conventional online nikah, the automated execution logic of smart contracts sits uneasily with the Islamic law requirement that matrimonial contracting be an act of conscious, deliberate human agency. The question of whether a marriage executed through algorithmically enforced smart contract logic satisfies the *qasad* (intention) requirement of Islamic contract law is a genuinely open jurisprudential question.

5. Children's Status, Inheritance Rights, and Downstream Consequences

The legal challenges associated with cross-border digital nikah do not remain at the level of contractual validity. They cascade into a series of downstream personal status consequences that may affect the lives of family members for generations. The most immediately consequential concern children's legal status. In both Islamic law and most national legal systems, the legitimate filiation of children depends upon the validity of the parents' marriage. If a cross-border digital nikah is not recognized by the legal system of the jurisdiction where the couple resides, their children may face a legal designation of illegitimacy with far-reaching consequences for inheritance rights, nationality, and access to social services (Banurea, 2025; Dupret et al., 2023).

The inheritance dimension is equally significant. Islamic inheritance law (*mirath* or *faraid*) allocates specific shares of an estate to spouses and children, with the precise allocation depending critically upon the validated legal relationships between the parties. If a cross-border digital nikah is recognized by the religious authority of one country but not the civil legal system of another, the surviving spouse may find that their inheritance rights are recognized under one legal system but denied under another. In cases of significant transnational assets which are not uncommon in migrant Muslim communities in Western Europe and North America this legal fragmentation can produce profoundly unjust outcomes (Idham et al., 2022).

Discussion

1. The Inadequacy of Existing Frameworks

The foregoing analysis demonstrates that existing legal frameworks whether at the level of national Islamic family law, civil law, or regional and international instruments are inadequately equipped to address the legal challenges generated by cross-border digital nikah. National Islamic family law systems, even those that have developed internal rules for online marriage, have done so in ways that prioritize domestic applicability over transnational coherence. Civil law registration systems in Muslim-majority countries generally treat the religious validity of a nikah as a precondition for civil registration but do not themselves specify the rules for assessing religious validity creating a dependent

relationship in which civil law recognition follows religious law determination, without providing any mechanism for resolving cross-jurisdictional religious law conflicts.

At the regional level, ASEAN the primary regional organization for the Muslim-majority countries of Southeast Asia has no specific instrument addressing Islamic family law recognition. The OIC, through its Islamic Fiqh Academy, has issued resolutions on various family law matters but has not developed a comprehensive, binding instrument addressing cross-border matrimonial recognition. The Hague Conference on Private International Law has developed conventions on cross-border marriage that are potentially applicable to Muslim marriages, but these instruments approach the question through the lens of secular international private law and have limited uptake among Muslim-majority states (Ullah et al., 2025).

2. Principles for a Harmonized Framework

Drawing upon the analysis in preceding sections, this article proposes a set of principles that should guide the development of a harmonized legal framework for cross-border digital nikah. These principles are designed to be compatible with both Islamic jurisprudential requirements and international private law methodology, enabling their adoption within a multilateral instrument.

The first principle is the minimum standards principle: all participating jurisdictions should agree upon a minimum set of procedural safeguards that any online nikah must satisfy to be eligible for cross-jurisdictional recognition. These minimum standards would include requirements for: synchronous audio-visual communication of adequate technical quality; verified identity authentication of all parties and witnesses through official documentation; the presence of a qualified Islamic marriage officiant (qadi or ma'dhun) in the same physical location as the bride and wali; real-time witnessing by at least two qualified witnesses who can directly observe and hear the proceedings; and the creation and authenticated digital preservation of a formal marriage record.

The second principle is the presumption of validity principle: once a marriage has been contracted in compliance with the minimum standards applicable in the jurisdiction of celebration, other participating jurisdictions should be bound by a presumption of validity that can be rebutted only on specific, enumerated grounds (e.g., bigamy, lack of capacity, fundamental procedural violation). This principle tracks the approach of international private law to foreign marriages and would significantly reduce the legal uncertainty currently faced by transnational Muslim families. Rahmadani et al. (2025) argue for precisely this kind of transformative approach to Islamic legal pluralism in the digital era.

The third principle is the registration equivalence principle: jurisdictions participating in the harmonized framework should agree to treat a cross-border digital nikah contracted in compliance with the minimum standards as equivalent, for civil registration purposes, to a domestically contracted nikah. This would require the development of mutual recognition agreements between participating states and the establishment of an international digital marriage registry accessible to participating jurisdictions' civil registration authorities.

The fourth principle is the technological neutrality principle: the harmonized framework should be formulated in terms of substantive legal requirements identity verification, genuine consent, qualified witnessing rather than specific technological modalities, so as to remain applicable to future technological developments. Kausar et al., (2024) emphasize the importance of this kind of technology-neutral approach in the context of artificial intelligence and Islamic law, noting that rigid technology-specific rules are quickly rendered obsolete by the pace of technological development.

3. Implementation Pathways

The practical implementation of a harmonized framework for cross-border digital nikah faces significant political and institutional challenges. The diversity of political systems among Muslim-majority states, the variation in the institutional relationship between religious and civil law across jurisdictions, and the sensitivity of family law as a domain closely tied to national and religious identity all complicate the prospects for multilateral agreement. Nevertheless, the authors identify several plausible pathways for implementation.

The most feasible short-term pathway is bilateral mutual recognition agreements between Muslim-majority states with established patterns of transnational marriage particularly between Indonesia and Malaysia, between Gulf Cooperation Council states and South Asian sending countries, and between European Muslim-minority communities and their countries of origin. Such bilateral agreements could establish the minimum standards and recognition procedures described above without requiring the political consensus necessary for a multilateral instrument. Ansori & Juliansyahzen (2022) have argued for state-level engagement with family law discourse in the digital age as a necessary complement to scholarly jurisprudential development.

A medium-term pathway involves the development of a regional framework within ASEAN for Muslim family law recognition, building upon the existing ASEAN frameworks for judicial cooperation and mutual legal assistance. The OIC's Islamic Fiqh Academy, which already has a mandate to develop Islamic legal positions on contemporary issues, could be tasked with developing a model framework for cross-border digital nikah that OIC member states could adopt as the basis for bilateral or multilateral agreements. The institutional capacity for such a task exists within the OIC secretariat, though its realization would require sustained political will from member states.

The long-term pathway involves the development of a comprehensive multilateral convention on transnational Islamic family law, potentially under the auspices of the Hague Conference on Private International Law, the United Nations Commission on International Trade Law, or a purpose-built intergovernmental body. Such a convention would address not only cross-border digital nikah but also the full range of transnational Islamic family law issues including cross-border divorce, child custody, and inheritance. The development of such a convention would require sustained engagement between Islamic legal scholars, comparative law experts, and national legal policy makers a process that is necessarily long-term but that the urgency of the problem increasingly demands.

D. CONCLUSION

This article has examined the legal challenges generated by online marriage and cross-border Islamic family law in Muslim digital societies, with particular attention to the doctrinal question of *itihad al-majlis* and the transnational jurisdictional problems created by cross-border digital nikah. The analysis has demonstrated that while the Islamic jurisprudential tradition possesses the methodological resources to adapt to digital matrimonial practices through the concept of the virtual majlis and the application of established principles of Islamic legal interpretation the transnational recognition problem remains substantially unresolved.

The study has identified five principal legal fault lines in cross-border digital nikah: jurisdictional ambiguity, authentication and identity verification deficits, cross-national fatwa divergence, emerging challenges from metaverse and blockchain matrimony, and the downstream consequences for children's legal status and inheritance rights. These challenges collectively demonstrate that digital transformation in Islamic matrimonial practice has outpaced the adaptive capacity of existing national and international legal frameworks.

The proposed harmonized legal framework founded upon the principles of minimum standards, presumption of validity, registration equivalence, and technological neutrality offers

a normatively coherent and institutionally feasible pathway toward addressing the cross-border recognition problem. While the political and institutional challenges of implementing such a framework are substantial, they are not insurmountable, and the urgency of the problem for transnational Muslim families provides compelling justification for the sustained scholarly and policy engagement that implementation would require.

Several important limitations of this study should be acknowledged. The analysis is primarily doctrinal and comparative in nature, drawing upon published scholarly and jurisprudential sources; it does not include primary empirical data from affected communities, court records, or civil registration authorities. Future research should complement this doctrinal analysis with empirical studies examining the lived experiences of transnational Muslim families affected by digital marriage law uncertainties, the practice of civil registration authorities in processing cross-border digital nikah applications, and the attitudes of Muslim communities toward proposed legal reforms. Additionally, the framework proposed in this article requires further refinement through engagement with specialists in international private law, Islamic jurisprudence across the four madhhabs, and the domestic legal systems of the jurisdictions discussed.

The broader significance of the online marriage challenge extends beyond its immediate subject matter. It exemplifies the fundamental challenge facing Islamic law in the twenty-first century: how to maintain the normative integrity and jurisprudential coherence of a legal tradition developed in a radically different communicative and social environment, while genuinely serving the needs and respecting the circumstances of contemporary Muslim communities. The resolution of this challenge demands the sustained collaborative engagement of Islamic jurists, comparative legal scholars, national law makers, and the Muslim communities whose lives the law is called to serve.

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