



MARRIAGE PRACTICES IN THE DIGITAL AGE: A Comparative Analysis of Muhammadiyah and Nahdlatul Ulama's Fatwas on Online Marriage

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Abstract:

*Online marriage has become an interesting and controversial issue in Indonesian Muslim society. In response, Muhammadiyah and Nahdlatul Ulama have issued different fatwas. This article examines the differences in fatwas between Muhammadiyah and Nahdlatul Ulama on the validity of online marriage and the causes of the differences between the two fatwas. Using the *usul fiqh* approach and by utilizing the theory of legal *istinbath* and the theory of differences in understanding the *nash*, the following findings were obtained: First, Muhammadiyah in its fatwa emphasized that online marriages are legally valid, while Nahdlatul Ulama issued the opposite fatwa, that online marriages are invalid. Second, the differences in the fatwas of Muhammadiyah and Nahdlatul Ulama are caused by two things, namely differences in using the method of legal *istinbath* and also differences in interpreting the concept of unity of the assembly (*ittihad al-majlis*). On the other hand, this article also shows that on the issue of online marriage, Muhammadiyah's fatwa appears more progressive than Nahdlatul Ulama's fatwa, which tends to be conservative. However, the progressivism and conservatism of the Muhammadiyah and Nahdlatul Ulama fatwas do not represent the overall fatwa of the two religious organizations.*

Keywords: *Online Marriage; Assembly Unity; Fatwa; Muhammadiyah; Nahdlatul Ulama.*

Abstrak:

Pernikahan via online telah menjadi isu yang menarik dan sekaligus kontroversial dalam masyarakat muslim di Indonesia. Sebagai respons atas persoalan tersebut, Muhammadiyah dan Nahdlatul Ulama telah menetapkan fatwa yang berbeda atas persoalan tersebut. Artikel ini mengkaji perbedaan fatwa antara Muhammadiyah dan Nahdlatul Ulama atas keabsahan pernikahan via online dan penyebab terjadinya perbedaan di antara kedua fatwa tersebut. Menggunakan pendekatan *usul fikih* dan dengan memanfaatkan teori *istinbath* hukum dan teori perbedaan dalam memahami *nash*, diperoleh temuan sebagai berikut: *pertama*, Muhammadiyah dalam fatwanya menegaskan bahwa pernikahan via online adalah sah secara hukum, sementara Nahdlatul Ulama justru menetapkan fatwa yang sebaliknya, bahwa pernikahan via online adalah tidak sah. *Kedua*, perbedaan fatwa Muhammadiyah dan Nahdlatul Ulama tersebut disebabkan karena dua hal, yakni perbedaan dalam menggugung metode *istinbath* hukum dan juga perbedaan dalam menafsirkan konsep kesatuan majelis (*ittihad al-majlis*). Di sisi lain, artikel ini juga menunjukkan bahwa dalam persoalan pernikahan via online, fatwa Muhammadiyah tampak lebih progresif dibandingkan fatwa Nahdlatul Ulama yang cenderung konservatif. Akan tetapi progressivisme dan

konservatisme fatwa Muhammadiyah dan Nahdlatul Ulama ini tidak mewakili keseluruhan fatwa dari kedua organisasi keagamaan tersebut.

Kata kunci: *pernikahan via online; kesatuan majlis; fatwa; Muhammadiyah; Nahdlatul Ulama*

INTRODUCTION

One of the exciting and striking phenomena in marriages in Indonesia today is the emergence of online marriage contracts, which are carried out electronically because of the distance separating the parties involved in the marriage. Thus, the prospective groom and bride, guardians, and witnesses are not in the same place (Farid, 2018: 178). In Indonesia, the practice of online marriages has occurred several times. In May 1989, for example, Aria Sutarto, who was in the United States then, married online with Nurdiani in Indonesia (Nuroniya, 2017: 147). In 2006, the couple Syarif Abdurrahman Achmad and Dewi Tarumawati also did the same thing. At that time, the groom was in Pittsburgh, United States, while the bride was in Bandung, Indonesia (Muhajir, 2018: 11). Then, in 2007, Sirojuddin Arif, who was in Oxford got married online to Hakimatus Sa'diyah, who was in Cirebon (Muhajir, 2018: 18). The same practice also occurred in 2020 between the Kardiman bin Haeruddin who were in Bajoe, South Sulawesi and the bride who was in Kolaka, Southeast Sulawesi (Fuadi, 2013: 98).

In the context of Indonesian society, online marriage is considered unusual because the marriage process is generally carried out in one place (one majlis) which has been mutually agreed upon by both parties, the prospective husband and the prospective wife. Apart from that, it also does not yet have a solid regulatory basis in Indonesian legal provisions. In Law Number 1 of 1974 and the Compilation of Islamic Law (KHI), it is also stated that the marriage contract must be carried out in one assembly (Article 2 paragraph (1)). This indicates that online marriages are often considered not to fulfill one of the marriage requirements. Therefore, it is very natural that the practice of online marriages causes controversy and, at the same time, raises problems regarding its validity.

In response to this problem, Muhammadiyah and Nahdlatul Ulama issued different fatwas regarding the law on online marriage contracts. On 16 Jumadats Tsani 1429/ 20 June 2008, Muhammadiyah decided that online marriage contracts were valid (Fatwa Tarjih Muhammadiyah, 2008). Meanwhile, Nahdlatul Ulama in the XXXII Congress of 2010 stipulated a fatwa that the implementation of marriage contracts via electronic means is invalid (Muktamar Nahdlatul Ulama, 2010: 195.). Based on this, this article wants to examine further the different responses

and fatwas between Muhammadiyah and Nahdlatul Ulama regarding the legality of online marriage.

Several works have discussed the issue of online marriage. Works about online marriage can generally be divided into two. First, works that contain studies of the views of figures or clerics regarding the practice of online marriages, such as those carried out by Fatah Zukhrufi, who studied MA Sahal Mahfudz's views on marriages conducted online (Zukhrufi, (2012) and Ricki Ahmad Faisal Mukhtar who examine and compare the views of Huzaimah T Yanggo with MA Sahal Mahfudz regarding the law of marriage contracts via telecommunications media (Ahmad, 2017). Second, works that examine the practice of online marriage are seen from the perspective of the law that applies in Indonesia, such as Muhajir's work which examines the Decision South Jakarta Religious Court No. 1751/P/1989 concerning telephone marriages (Muhajir, 2018) and Misbahul Amin's work which examines the implementation of online marriage contracts from the perspective of *maqashid al-syariah* and Law Number 1 of 1974 concerning marriage (Amin, 2020).

The works mentioned above have indeed studied the issue of online marriage. However, these works mainly examine the views of figures regarding the law of carrying out online marriages or the practice of online marriage in terms of the legal provisions in force in Indonesia. There has not been a single work that examines the fatwas of religious organizations regarding the legality of online marriage practices. Therefore, a comparative study of religious fatwas from large organizations in Indonesia (Muhammadiyah and Nahdlatul Ulama) is a new study and is expected to complement and enrich existing studies regarding online marriage.

RESEARCH METHODE

This research is library research based on several primary and secondary data sources simultaneously. The primary data in this research is the fatwa or decision of the Majelis Tarjih dan Tajdid Muhammadiyah and the Lembaga Bahtsul Masail Nahdlatul Ulama regarding online marriage. These data will be extracted from literary sources, both printed and electronic, especially the *Ahkamul Fuqaha* book, which contains the fatwas of the Nahdlatul Ulama, and also the book Himpunan Putusan Majelis Tarjih dan Tajdid Muhamamdiyah, which contains decisions or fatwas from the Majelis Tarjih and Tajdid Muhammadiyah. Apart from that, primary data from this research was also extracted from the websites of the two organizations. Meanwhile, secondary data sources for this research include works related to marriage issues in general and online

marriages in particular, in the form of kitab, books, journal articles, research reports, and other literary sources related to the object of this research. (Ali, 2010: 106). The data that has been collected is then described and analyzed through a content analysis (Nugrahani, 2014: 143), about the focus of the study in this article.

This research uses a ushul fikih approach by simultaneously utilizing two theories: the legal istinbath theory and the *al-Ikhtilāf fī fahmi an-nash wa tafsihi* theory. In this case, the author will examine and analyze the sources and methods of legal istinbath used by the two organizations in determining fatwas regarding marriage online law. To further analyze the differences between Muhammadiyah and Nahdlatul Ulama fatwas regarding the validity of online marriage, the author also uses the theory of *al-Ikhtilāf fī fahmi an-nash wa tafsihi*. This theory explains that differences of opinion among ulama are often caused by, among other things, differences in interpreting or understanding legal texts (al-Sha'idi, 2011: 82-83). With these two theories, this article will be able to provide a more in-depth explanation of the legal istinbath method used by the Majelis Tarjih dan Tajdid Muhammadiyah and Lajnah Bahsul Masail Nahdlatul Ulama regarding online marriage law. This research will also reveal the factors causing differences in fatwas between the two religious organizations.

DISCUSSION

Marriage and Online Marriage in the Perspective of Fiqh and Indonesian Family Law

In fiqh literature, marriage is referred to by two words, namely *nikah* and *zawaj*. These two words are the terms most frequently used by Arabs and can be found in several ayat (verses) of the Qur'an (QS. an-Nisa [4] ayat 3 and 22; and QS. al-Ahzab [33] ayat 37). Linguistically, marriage (*nikah*) means getting together and having intercourse. Meanwhile, according to sharia, madzhab imams define marriage as a contract whereby sexual relations between a man and a woman become halal (al-Jaza'iri, 2003: IV: 7-10). In other words, marriage is a contract that contains permission to have fun between a man and a woman, by touching, kissing, hugging, and having intimate relations, provided that the woman is not a mahram in terms of lineage, marriage, and family (az-Zuhaili, 1985, VIII: 39; al-Jazairi, 2003, IV: 673). Apart from that, sharia marriage can also be interpreted as a contract that provides legal means for the ability to have family relations between a man and a woman, to provide mutual assistance, as well as to limit the rights of the owners and fulfill their respective obligations (Mardani, 2017: 24). The law regarding marriage is *mubah* or permissible. However, it is highly recommended to

everyone who can carry it out, as stated in the QS. an-Nisa [4]: 3; QS. an-Nur [24]:32 and the prophet's hadith (al-Bukhari, 1442 H: VII: 3).

The parties wishing to enter a marriage contract must fulfill the terms and conditions. This is confirmed by ulama and in legal provisions in Indonesia (Halim, 2010: 6). However, scholars have different opinions regarding the harmony of marriage. According to Hanafiyah scholars, the pillars of marriage only include consent and acceptance. Meanwhile, most scholars think that there are five pillars of marriage, namely the prospective bridegroom, the prospective bride, the guardian of the prospective bride, two witnesses, and the consent (az-Zuhaili, VIII: 45; al-Jazairi, IV: 16- 17).

Legal provisions in Indonesia refer to the views of the majority of ulama who determine the five pillars of marriage, namely: the prospective bridegroom, the prospective bride, the guardian of the prospective bride, two witnesses, and the consent (ijab-kabul) (KHI: Article 14). Meanwhile, regarding the conditions for marriage, legal provisions in Indonesia stipulate that a man who wishes to enter into a marriage must fulfill the following requirements: (a) mature, sensible, and independent (merdeka), (b) his identity is clear, and (c) he is not forced/of one's own will. The exact requirements also apply to prospective brides. The marriage guardian is required to be: (a) Muslim, (b) male, (c) mature and of sound mind, and (d) fair. Two witnesses who witness a marriage must meet the requirements: (a) mature, (b) independent, (c) male, (d) Muslim, and (e) hear the words of the two people performing the contract. Meanwhile, about ijab and kabul, Indonesian legal provisions stipulate that they must fulfill the requirements: (a) carried out in one assembly; (b) there is conformity between the qabul and ijab sentences; (c) the qabul utterance does not violate the ijab utterance in the sense that the intent and purpose are the same; (d) the person who said the sentence of consent must not take back what he said; (e) completed at the time of the contract.

Online marriages are the same as marriages in general. In language, it is a marriage where the marriage contract is carried out via telecommunications media via sound and/or video. Meanwhile, in terms of online marriage, a marriage contract is carried out by the groom and the bride via telecommunications media, either voice or video, because the two are in different places and generally far from each other (Sutrisno, et al, 2020: 117). The thing that differentiates between online marriages and marriages, in general, is only the contract, where the parties entering into the marriage contract in an online marriage are not in the same place. The practice of online marriage has various forms. Sometimes the guardian and the bride and groom are separated, and there are also times when the groom and the bride are far from each other. However, it is clear that one

or several parties carrying out the online marriage contract are not in the same place (Sutrisno, et al, 2020: 117; Farid, 2018), 178). Not carrying out the marriage contract in one place has given rise to differences of opinion among the ulama regarding its validity.

The differences of opinion of the ulama regarding the validity of marriages that are not performed in one assembly stem from differences in the meaning of the term unitary assembly (*ittihād al-majlis*) itself. In this regard, Sayyid Sabiq in his book *Fiqh Sunnah*, as quoted by Satria Effendy, believes that the unity of the assembly in marriage means that the *ijab* and *qabul* are carried out continuously in one marriage ceremony, not said at two separate intervals of time (Effendy, 2010: 3). With this meaning, marriages carried out separately, according to Hanafi scholars, are still considered valid, as long as there is continuity between *ijab* and *qabul*. In this case, al-Jaza'iri gave an example of the validity of marriages carried out via letter. According to him, the marriage is considered valid when a man sends a letter and makes a marriage contract with the woman he wants (*ijab*) and the bride, accompanied by witnesses, expresses her consent (*qabul*). This is based on the argument that the reading of the letter containing the statement of the marriage contract (*ijab*) and the bride's answer stating her consent (*qabul*) are heard directly by the witnesses and carried out continuously (al-Jaza'iri, IV: 18). The Shafi'i school of thought scholars stated different things. According to them, *majlis* unity means unity of place and, at the same time, continuity between *ijab* and *qabul*. Therefore, marriages carried out separately between the parties involved in the marriage (bride, bride, guardian, and witnesses) are considered invalid, even though the *ijab* and *qabul* are carried out sequentially. Therefore, an-Nawawi al-Dimasyqi, one of the scholars of the Shafi'i school of thought, stated that if one of the two parties carrying out the marriage contract pronounces their consent by shouting from a place that cannot be seen, and even though the shout can be heard by the party other parties (the bride and the witnesses) and if the bride immediately expressed her agreement (*qabul*) then this, according to her, is still invalid because testimony, in the Shafi'i school of thought, must be based on hearing and vision at the same time. Therefore, the requirement for the unity of the *majlis* in marriage, according to Shafi'i scholars, implies the continuity of the *ijab* and *qabul* and also the unity of the parties (physical presence) in one assembly (Effendy, 2010: 7). On the other hand, the Shafi'i school of thought scholars also argue that the marriage contract also contains an element of worship (*ta'abbud*) so that the practice of marriage must follow what was exemplified by the Prophet, namely carried out directly, or if this is not possible then through *tawkil* (representative), not in other ways (Effendy, 2010: 7).

Differences of opinion among religious sects regarding the validity of marriages performed in different places have continued into the modern era, as shown in the Nahdlatul Ulama fatwa and the decision of the Muhammadiyah Tarjih and Tajdid Council.

Muhammadiyah and the Validity of Online Marriage

Muhammadiyah discussed the issue of online marriage contracts through its fatwa institutions, namely the Majelis Tarjih dan Tajdid Muhammadiyah. Majelis Tarjih dan Tajdid is a jama'i ijtihad institution within the Muhammadiyah environment that deals with religious matters, especially in fikih (Al-Fatih, dkk, 2021: 102). As the name suggests, the task of this institution is to determine stronger laws or arjah (Berkah, 2012: 73), among legal provisions that often vary. Apart from that, Majelis Tarjih was also tasked with formulating the theological basis of Muhammadiyah's ideology (Jainuri, 2002: 107).

On Friday, 16 Jumadats-Tsaniyah 1429 H/20 June 2008 the Majelis Tarjih dan Tajdid Muhammadiyah decided that an online marriage contract is valid as long as it fulfills all the conditions for *ijab* and *qabul* and fulfills all the pillars and conditions of marriage (Muhammadiyah, 2008).

Regarding the concept of one assembly (*ittihād al-majlis*) in online marriage contracts, the Majelis Tarjih dan Tajdid explained that what is meant is that *ijab* and *qabul* occur at one time, not necessarily in one place. A contract of *ijab* and *qabul* is called one assembly if after the guardian has finished saying the *ijab*, the prospective husband immediately says *qabul*, in the sense that there is no long time lag between the two because if there is a long time lag between the *ijab* and *qabul* then the *qabul* is not considered as a response to the spoken word. As for the measure of the long time lag, the pause indicates the husband-to-be refuses to declare *qabul* (Muhammadiyah, 2008).

In this fatwa, Muhammadiyah analogizes the validity of online marriage contracts with the validity of marriage through letters. In this case, according to Muhammadiyah, the imam of the mazhab agrees on the validity of the marriage contract carried out by two far apart parties using letters or messengers. Based on this, Muhammadiyah considers that if a marriage contract using a letter or messenger is agreed upon permissibility by ulama mazhab, then a marriage contract via video call is certainly more appropriate to be allowed. The opinion of the Majelis Tarjih is based on the fact that the marriage contract using a letter or messenger still has a gap between the *ijab* and *qabul*. However, the contract is still considered one assembly (one time). In contrast, the marriage contract via a video call does not have a time lag between *ijab* and *qabul* and is

implemented at one time (Muhammadiyah, 2008). Apart from that, Muhammadiyah also considers that the implementation of a marriage contract via video call has several benefits that are not found in a marriage contract using a letter. In carrying out a marriage contract using a letter or messenger, the first party, namely the guardian, does not know directly about the qabul statement from the prospective husband. Meanwhile, in a marriage contract via video call, the guardian can find out directly (either by hearing sounds or seeing pictures) the qabul statement from the prospective husband and vice versa. Another advantage of video calls is that the parties, namely the guardian and the prospective husband, know for sure that those who carry out the ijab and qabul contracts are related parties. Meanwhile, counterfeiting may occur through letters or messengers (Muhammadiyah, 2008).

Based on the explanation above, the Majelis Tarjih considers that online marriage contracts are valid, provided that the contract has fulfilled all the pillars and requirements for a valid marriage. The validity of online marriage also applies to the contract of tawkil (representing) from the guardian to the representative if the guardian represents the marriage contract to other people and also ijab and qabul between the representatives of the bride and the groom (Muhammadiyah, 2008).

Nahdlatul Ulama and the Invalidity of Online Marriages

In 2010, Nahdlatul Ulama issued a fatwa regarding the invalidity of online marriages. The fatwa was issued at the Mukhtar Nahdlatul Ulama XXXII in Makassar, which was held on 25-27 March 2010 (Mukhtar Nahdlatul Ulama, 2010: 195). Nahdlatul Ulama discussed this issue through the Lembaga Bahsul Masail, an institution tasked with discussing maudlu'iyah (thematic) and waqi'iyah (actual) issues. In the Mukhtar Nahdlatul Ulama XXXII in Makassar, a fatwa was issued stating that muamalah contracts carried out by electronic means are legal, but this does not apply to marriage contracts, in the sense that marriage contracts carried out by electronic media are invalid. Regarding the invalidity of online marriage contracts, Nahdlatul Ulama put forward several arguments: (1) the two witnesses did not see and hear the implementation of the contract directly; (2) the witness was not present at the ceremony, and (3) in the marriage contract, the pronouncement of the contract is required to be sharih (clear) while the contract through an electronic device is classified as kinayah (vague) (Mukhtar Nahdlatul Ulama, 2010: 195). The decision of the Mukhtar Nahdlatul Ulama in 2010 was also strengthened by the decision of the Bahsul Masail PWNU Jawa Timur. In this case, the Lembaga Bahtsul Masail Jawa Timur explained that the assembly unit (*ittihād al-majlis*) which is a requirement for the

validity of a marriage contract cannot be engineered in any other way, including by online means (PWNU Jawa Timur, 2009, I: 898).

The fatwa regarding the invalidity of online marriage is based on opinions in several fiqh books, including the *Hasyiyah al-Bujairimi 'ala al-Khātib* and the *Al-Fawā'id al-Mukhtārah* by Habib Zain. In both books, it is stated that the marriage contract must be heard directly and clearly by the witnesses. Therefore, it cannot be done in the *kinayah* language. The telephone is *kinayah*. In some contracts, such as buying and selling contracts, messaging contracts, or rental contracts, telephone use can be justified and the contract is considered valid. However, the telephone is not valid to be used as a means or tool in a marriage contract because a marriage contract requires a clear pronunciation while the telephone is *kinayah*. In addition, in the marriage contract, it is also required that the witnesses can see directly to both parties, and this does not exist when the contract is carried out by using a telephone or something similar to a telephone (al-Bujairimi, X: 146-48 and Zain, 246).

The opinion above is also in line with the views or opinions of Wahbah az-Zuhaili. In the book *al-Fiqh al-Islāmi wa Adillatuh*, az-Zuhaili, citing the decision of the Islamic Fiqh Association Conference at the conference held in Jeddah, Saudi Arabia on 17-23 Sha'ban 1430 H./ 14-20 March 1990 M. He said (az-Zuhaili, VIII: 5174-5175):

1. If the transaction is complete between two people who are not in one place, and do not see and hear each other in real terms, and the media between the two is writing or letters or intermediaries that manifest via telegram, telex, fax, or computer, then in this case, the transaction can be valid when the *ijab* reaches the intended party and he has accepted (*qabul*).
2. If the transaction between the two parties is complete at the same time and the two are located far apart and this is done via telephone and wireless media the transaction between the two is considered a transaction between two people in the same *majlis*. This is covered in the laws that the fiqh experts have determined mentioned earlier.
3. If the person using this media issues an agreement that is limited by time, it is the same as he remains in the status of his *ijab* during that period and cannot withdraw his consent.
4. Whereas the above rules (*kadiyah*) do not cover marriage because in marriage it is required to see directly. Also in silver gold, because they have to accept each other. Also in the *salam* contract, you have to hand over the *ra'sul mal* in advance.

Some of the texts above state emphatically that in the current development of communication technology, mu'amalah contracts can be carried out through existing or available telecommunications media, and this is considered valid even though the parties to the contract are far apart. However, the existing telecommunications media cannot and is not legally used for marriage contracts. In the sense that the marriage contract is invalid if it is done online because the marriage contract requires the parties to be in the same assembly and can see and hear in person.

Disparity in Fatwas on Online Marriage: Between Conservatism and Progressivism

Muhammadiyah and Nahdlatul Ulama are the two largest Islamic religious organizations in Indonesia. Muhammadiyah was founded in Yogyakarta on 18 November 2012 AD, with the spirit of renewal and purification of religious teachings (Asy'ary, 2007: 40-41), while Nahdlatul Ulama was founded in Surabaya, East Java, on 31 January 2026 AD, with the spirit of maintaining and aligning religious teachings with tradition (Fealy - Barton, 1996: 1). These differences in organizational vision and orientation ultimately also influence differences in responding to religious issues, including differences in how to formulate and determine legal fatwas. Muhammadiyah, which carries the spirit of reform (*tajdid*), offers a method of formulating Islamic law through the bayani, burhani and irfani methods. The formulation method used by Muhammadiyah emphasizes the importance of making the Al-Qur'an and Sunnah the primary reference in establishing law and at the same time using rational reason in understanding social reality and legal problems faced by society. Meanwhile, Nahdlatul Ulama, which seeks to harmonize religious teachings with tradition and its strong attachment to religious sects, offers qauli, ilhaqi, and manhaji methods in formulating and enacting laws. The method of formulating and enacting law chosen by the Nahdlatul Ulama implies the necessity to use the opinions of school scholars, as stated in several fiqh books, as the primary reference in resolving the legal problems faced. However, this does not mean this organization ignores the Al-Qur'an and Sunnah as sources and references in establishing laws.

These differences in vision and methods of legal istinbath ultimately give rise to differences in perspectives in seeing and responding to existing realities and also in determining legal fatwas. One of these things can be seen in the differences in fatwas regarding the validity of online marriages.

Regarding the causes of differences in fatwas between Muhammadiyah which legalizes online marriages and Nahdlatul Ulama

which rejects the validity of online marriages, it can be explained as follows.

1. Differences in the legal istinbath methods used

One of the reasons for differences in fatwas between Muhammadiyah and Nahdlatul Ulama regarding online marriage is because of differences in the legal istinbath methods used. In this case, Muhammadiyah uses the burhani method in determining the law regarding the validity of online marriages. The burhani method is a method of establishing laws that are based on the power of reason through logical instruments to achieve benefit. In this case, Muhammadiyah analogizes the validity of online marriages with the validity of marriages by letter or through messengers which are considered valid by ulama from the Hanafi school of thought as explained above. According to Muhammadiyah, online marriages are more feasible than marriages by letter or messenger because online marriages are more valid and contain more benefits (Fatwa of the Majelis Tarjih dan Tajdid Muhammadiyah, 2008).

In this regard, the Majelis Tarjih dan Tajdid Muhammadiyah argued that marriage using a letter or messenger has a time gap between *ijab* and *qabul*. However, a contract by letter or messenger is still considered one assembly by the ulama. Meanwhile, the marriage contract is via video call, and the *ijab* and *qabul* are carried out simultaneously. Apart from that, in a *qabul* marriage contract via letter or messenger, the first party, namely the guardian, does not know directly about the *qabul* statement from the prospective husband. In contrast, in an online marriage contract, the guardian can find out directly (either hearing the voice or seeing a picture) the *qabul* statement from the prospective husband's side, and vice versa. Apart from that, the parties, namely the guardian and the prospective husband, can also know for sure that those who carry out the *ijab* and *qabul* contracts are related parties, whereas, through letters or messengers, forgery could occur. Therefore, if the marriage contract via letter or messenger is agreed to be permissible by madzhab scholars, then the marriage contract using video call (online) is more appropriate to be permitted (Muhammadiyah, 2008).

In contrast to the Majelis Tarjih dan Tajdid Muhammadiyah, the Lembaga Bahtsul Masail Nahdlatul Ulama uses the *qauli* method in determining fatwas regarding the invalidity of online marriages. The *qauli* method is one of the legal istinbath methods used by Nahdlatul Ulama when it wants to resolve the legal problems it faces. This was done by referring to the opinions of existing sectarian scholars

contained in mu'tabarah books (Zahro, 2004; Arifi, 2008: 194). This method is used and applied by Nahdlatul Ulama when faced with the issue of online marriage. This issue has been discussed and determined by the law by previous scholars as stated in various fiqh books, such as *Hasyiyah al-Bujairimi 'ala al-Khatib* (Juz X: 146-48), *Hasyiyah al-Bujairimi 'ala al-Minhaj* (XI: 476), *al-Fawā'id al-Mukhtārah*, 246); and *Mughni al-Muhtaj*, III: 186) then the Nahdlatul Ulama also issued a fatwa on the invalidity of online marriages by referring to the opinions of these scholars. The scholars in these books state that the muamalah contract may be carried out electronically (online), but this is not valid and invalid if applied to the marriage contract.

Based on the explanation above, it can be concluded that one of the causes of differences between Muhammadiyah and Nahdlatul Ulama regarding the law of carrying out online marriages is the difference in the legal istinbath method used. The Majelis Tarjih and Tajdid Muhammadiyah determined the fatwa based on burhani reasoning based on the power of reasoning and analogy (qiyas). At the same time, the Lembaga Bahtsul Masail Nahdlatul Ulama used the qauli method, namely referring and referring directly to the opinions of the ulama contained in several fiqh books.

2. Differences in interpreting the text

The difference in fatwa regarding online marriage law between the Majelis Tarjih and Tajdid Muhammadiyah and the Lembaga Bahtsul Masail Nahdlatul Ulama is also due to differences in interpreting nash or text. The nash in question is the word *ittihad al-majlis*. In this case, Muhammadiyah interprets *ittihad majlis* as a unity of time, not a unity of place. A marriage contract is said to be *ittihad al-majlis* if the guardian has finished saying the *ijab*, then the prospective husband immediately says the *qabul* without any long pause and must not be punctuated with any words unrelated to the marriage. Thus, *ittihad majlis* is interpreted by Muhammadiyah as a unity of time and continuity between *ijab* and *qabul*, not as a unity of place and the necessity for the parties to gather in one place. Therefore, as long as the *ijab* and *qabul* in the marriage contract are carried out at one time and are said sequentially, in the view of the Majelis Tarjih and Tajdid Muhammadiyah, it is considered to have fulfilled the prerequisites for *ittihad al-majlis* (Majelis Tarjih and Tajdid Muhammadiyah, 2008: 1).

On the other hand, Nahdlatul Ulama understood the word *ittihad al-majlis* as a continuation between *ijab* and *qabul* and at the same time unity of place. This means that *in marriage*, *ijab* and *qabul* must be done continuously and that the parties who perform the marriage contract must also be in one place. Therefore, online marriages, where

the parties performing the marriage contract are in different places, do not meet the requirements of unity of place (*ittihad al-majlis*). Therefore, his marriage was deemed invalid (Keputusan Mukhtar NU, 2010: 196). Keputusan Mukhtar Nahdlatul Ulama in 2010 was also reaffirmed in the PWN East Java fatwa which stated that the unity of the assembly could not be engineered in any other way (LBM PWN East Java, 2015: 898).

The concept of *ittihad al-majlis* used by Nahdlatul Ulama refers to the same concept in the Shafi'i school of thought. According to Shafi'iyah scholars, one of the essential requirements in a marriage contract is that there is continuity (*muttashil*) between the *ijab* and the *qabul*, therefore the pronunciation of the consent and the *qabul* in the same place (*makan*), and at the same time (*zaman*) is a must. This means that the essence of *ittihad al-majlis* concerns the unity or continuity of speech from both parties and at the same time the unity of the place of the parties entering into the contract.

The differences in fatwas between Muhammadiyah and Nahdlatul Ulama above, apart from being caused by differences in legal *Istinbath* methods and differences in interpreting the *lafadz* of the assembly unit (*ittihad al-majlis*), basically also reflect differences in the vision and perspective of the two organizations. Muhammadiyah, which carries the spirit of reform (*tajdid*) with the jargon of returning to the Al-Qur'an and Sunnah and emphasizes the importance of using rational reason in understanding social reality and legal problems, often appears to be more progressive in its legal fatwas. However, this does not mean that the Majelis Muhammadiyah Tarjih dan Tajdid ignore the opinions of previous ulama because the institution is tasked with formulating and enacting laws within the Muhammadiyah organization also often refers to the opinions of previous ulama, although it is not always stated openly. In the fatwa regarding the permissibility of online marriages, for example, the Majelis Tarjih dan Tajdid Muhammadiyah also used the views of the Hanafi school of thought ulama as one of its supports. Using an analogy (*qiyas*), the Majelis Tarjih dan Tajdid Muhammadiyah determines the validity of online marriages just like the validity of marriages via letter, as stated by the Hanafi school of thought scholars. This shows that the Majelis Tarjih dan Tajdid Muhammadiyah, in their fatwas regarding the validity of online marriages, also cannot escape the influence of the views of sectarian ulama. Apart from that, the progressivism of the fatwas of the Majelis Tarjih dan Tajdid Muhammadiyah does not apply in its entirety because several fatwas from these organizations are also conservative and even puritanical (Anwar, 2005).

On the other hand, Nahdlatul Ulama, which has a solid attachment to the opinions of sectarian ulama, especially the Syafi'i sect, which is known to be very strict and careful, has made its legal fatwas appear more conservative. This can be seen in the fatwa regarding the invalidity of online marriages, which refers entirely to the opinion of scholars from the Shafi'i school of thought. However, the Nahdlatul Ulama fatwa regarding online marriage, which appears conservative, is based more on the cautious attitude of the ulama within this organization. On the other hand, for the Syafi'i sect of ulama, which is the primary reference for ulama from the Nahdlatul Ulama circle, marriage is part of worship, and the marriage contract cannot be equated with the muamalah contract. Because marriage is part of worship, the practices and procedures must follow what was exemplified by the Prophet, namely carried out directly or through representatives (Effendy, 2010: 4), and not in other ways. Therefore, the Nahdlatul Ulama fatwa clearly states that muamalah (economic) contracts may be carried out via electronic media, but this is not valid for marriage contracts (Muktamar Nahdlatul Ulama, 2010: 195). This Nahdlatul Ulama fatwa is in line with the decision of the Islamic Fiqh Association Council at a conference held in Jeddah, Saudi Arabia on 17-23 Sha'ban 1430 H./ 14-20 March 1990 AD., as explained above.

Conclusions

Based on the discussion and analysis of the differences between Muhammadiyah and Nahdlatul Ulama fatwas regarding the validity and invalidity of online marriages, the following conclusions can be drawn: *First*, according to Muhammadiyah, online marriage law is valid as long as all the pillars and conditions of marriage are fulfilled. Meanwhile, according to Nahdlatul Ulama, online marriages are invalid because one of the conditions in the marriage contract is not fulfilled, namely unity of place (*ittihād al-majlis*). *Second*, the differences in fatwas between Muhammadiyah and Nahdlatul Ulama are caused by two things, namely differences in the use of legal extraction methods (*istinbāth al-ḥukm*) and differences in understanding the concept of *ittihād al-majlis*. Regarding the legal istinbath method used, Muhammadiyah uses the burhani method in determining the fatwa regarding the validity of online marriages, while Nahdlatul Ulama uses the qauli method in determining the fatwa regarding the invalidity of online marriages. Meanwhile, about understanding the concept of assembly unity (*ittihād al-majlis*), Muhammadiyah understands it as continuity between ijab and qabul while Nahdlatul Ulama understands it as continuity of ijab and qabul and at the same time unity of place in the contract. *Third*, the differences in fatwas between Muhammadiyah and Nahdlatul Ulama regarding the legality of online marriages also show differences in the vision of the two

organizations. Muhammadiyah, which carries a mission of reform (*tajdid*), has made its legal fatwas appear more progressive, while Nahdlatul Ulama, which carries a mission of harmony between Islamic teachings and tradition and has a very strong attachment to the opinions of sectarian ulama, especially the Syafi'i school, has made its legal fatwas visible. More conservative. However, the progressivism of the Muhammadiyah fatwa and the conservatism of the Nahdlatul Ulama fatwa on online marriage does not represent the overall character of the fatwas of the two religious organizations.

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