GLOBALIZATION AND ITS IMPACT ON MARRIAGE IN INDONESIA

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Abstract

Globalization is an era of a world without borders anymore because every aspect of a country is interconnected and dependent on other countries. Globalization is a natural process that will bring all nations and countries in the world increasingly connected to one another, realizing a new order of life or unity of coexistence by eliminating geographical, economic, and cultural boundaries of society. Globalization has more or less positive and negative influences or impacts. One of the dimensions of people's lives affected by globalization is marriage, where problems and cases arise in the field of marriage, including problems of online marriage, online divorce, and online guardianship. Seen from the positive impact, the influence of globalization with the presence of increasingly sophisticated technology has provided convenience in terms of registration and recording. In this paper, the author discusses globalization and its influence on marriage in Indonesia. The method used is library research, namely a series of activities related to library data collection methods.

Globalisasi merupakan era dunia tanpa batas lagi karena setiap aspek dalam sebuah nagara saling berkait dan bergantung pada negara yang lain. Globalisasi merupakan proses alamiah yang akan membawa seluruh bangsa dan negara di dunia makin terikat satu sama lain, mewujudkan satu tatanan kehidupan baru atau kesatuan koeksistensi dengan menyingkirkan batas-batas geografis, ekonomi budaya masyarakat. Globalisasi sedikit banyak memberikan pengaruh atau dampak yang positif maupun negatif. Salah satu dari dimensi kehidupan masyarakat yang terkena pengaruh dari globalisasi adalah pernikahan, di mana muncul persoalan dan kasus-kasus pada bidang pernikahan di antaranya adalah permasalahan nikah online, perceraian online, taukil wali online. Dilihat dari dampak positifnya pengaruh globalisasi dengan hadirnya teknologi yang semakin canggih telah memberikan kemudahan dalam hal pendaftaran dan pencatatan. Di dalam makalah ini penulis membahas tentang globalisasi dan pengaruhnya terhadap perkawinan di Indonesia. Adapun metode yang digunakan adalah jenis penelitian kepustakaan (library research) yaitu serangkaian kegiatan yang berkenaan dengan metode pengumpulan data pustaka.

Keywords: *Globalization, Marriage, Indonesia*

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A. INTRODUCTION

Globalization is the process of making various kinds of information worldwide in all parts of the world, where one of the impacts is the increasing intensity of human interaction from various countries, nations, tribes, cultures, languages and characters, as well as the phenomenon of the world appearing as if it were one (global village or one world network or web).[1] Globalization is a unique phenomenon in human civilization that continues to evolve within a global society and is part of that global human process. The presence of information and communication technology has accelerated this globalization process. Globalization touches every important aspect of life.

Global developments have played an active role in shaping people and their lives. Globalization is the accumulation of numerous connections between events occurring within global society, demonstrating that globalization has enabled an intensification of the reach and speed of contact between individuals and communities in various regions around the world. This is further compounded by the expanding range of activities involved in these global interactions.[2] Based on historical perspectives, Indonesia has long experienced a process of globalization. Globalization has had significant benefits in the political (government), socio-cultural, economic, legal, and defense and security sectors. In the political (government) realm, globalization has facilitated easier communication and coordination between regions. Thus, every policy adopted can reach the public quickly, and public aspirations can also be readily accepted by government officials.[3]

The era of globalization demands openness of information or what is known as cyber space, thus enabling mass communication, touching almost all areas of people's lives, including aspects of human life on a personal level.[4] Global developments have played an active role in shaping people and their lives. Globalization is the accumulation of numerous connections between events occurring within global society, demonstrating that globalization has enabled an intensification of the reach and speed of contact between individuals and communities in various regions around the world. This is further compounded by the expanding range of activities involved in these global interactions.[5]

Understanding the dynamics of globalization in all its dimensions reveals that globalization will also impact law. Legal globalization will cause developing countries' regulations regarding investment, trade, services, and other economic sectors to approach those of developed countries (convergence). Some also refer to legal globalization as cross-border commercial legal reform, but whatever the term used, it essentially emphasizes that, in addition to the national laws of a nation-state, laws that

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[1] Prof. Dr. Ir. H. Musa Hubeis, MS, Dipl.Ing, DEA, Globalization and International Networks, Jakarta, tt, p. 6

[2] Ariesani and Melay Anggraini, Digital Revolution and Locality, Yogyakarta, 2020, p. 3

[3] Soesi Idayanti, Globalization of Law, Cipta Media Nusantara, Surabaya, 2022, p. 45

[4] Ibid, p. 54

[5] Ariesani and Melay Anggraini, Digital Revolution and Locality, p. 3

transcend the sovereignty of the nation-state are developing.[6]

Among the legal issues significantly impacted by globalization is marriage. The emergence of new or contemporary cases in the marriage sector requires the government, as the policy authority, to establish guidelines in the form of regulations or laws that govern and serve as a reference in finding the best solutions to all emerging issues and problems. For example, online marriages, where the groom and the marriage guardian are located in different locations, and the marriage vows (ijab and qabul) are performed online, as is the marriage guardian's consent via WhatsApp, telephone, video call, or other online means.

The rise in early marriages is also a result of the impact and influence of globalization, which has penetrated not only cities but has even reached the most remote corners of the village. To anticipate the surge in early marriages, the government of the Republic of Indonesia then issued Law Number 16 of 2019 concerning changes to the minimum age for marriage, namely 19 years for both prospective husbands and prospective wives. This law is an amendment to the Marriage Law Number 1 of 1974, which sets a minimum marriage age limit of 19 years for prospective grooms and 16 years for prospective brides. Similarly, government regulations related to the issue of marriage registration have undergone many changes as an impact of the current of globalization. Seeing the rapid influence of globalization on the field of marriage, the author is interested in writing a scientific paper in the form of a paper entitled "Globalization and Its Influence on Marriage in Indonesia."

B. METHODOLOGY

In this paper, the author uses a type of library research, namely a series of activities related to library data collection methods.[7] Library research is research carried out using literature in the form of books, notes or research reports from previous research.

According to M. Nazir, a literature review is a data collection technique that involves reviewing books, literature, notes, and reports related to the problem being solved. A literature review is an important step after a researcher has determined a research topic. The next step is to conduct a study related to the theory and research topic.

In searching for a theory, researchers will gather as much information as possible from related literature. These sources can be obtained from books, journals, magazines, research results (theses and dissertations), and other appropriate sources (the internet, newspapers, etc.). Once researchers have obtained relevant literature, they will immediately organize it for use in the research. Therefore, a literature study includes general processes such as systematically identifying theories, finding literature, and analyzing documents containing information related to the research

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[6]Soesi Idayanti, Globalization of Law, Cipta Media Nusantara, p. 143
[7]Mahmud, Educational Research Methods, (Bandung: Pustaka Setia, 2011), 31.

topic.[8]

The stages researchers must go through in library research are: First, collecting research materials. The collected materials consist of empirical data information sourced from books, journals, official and scientific research reports, and other literature supporting the research theme. Second, reading the literature. In reading research materials, readers must dig deep into the reading material to potentially discover new ideas related to the research title. Third, creating research notes. Fourth, processing the research notes. All materials that have been read are then processed or analyzed to reach a conclusion that is compiled in the form of a research report.[9]

The approach used is a qualitative approach, namely research aimed at describing and analyzing phenomena, events, social activities, attitudes, beliefs, perceptions, and thoughts of individuals and groups. Several descriptions are used to discover principles and explanations that lead to conclusions.[10]

C. GLOBALIZATION AND THE FACTORS THAT ARE CAUSED BY IT

The word "globalization" comes from the word "globe," a spherical, replicating map of the Earth. In English, "globalization" is a combination of the word "global" and the suffix "ization," resulting in the word "globalization," meaning "to become global," "to make global," or something related to it.

According to the Oxford Dictionary, the word globalization was first used in 1930 and entered the Merriam-Webster dictionary in 1951. The word globalization was widely used by economists and social scientists around the 1960s. According to the Oxford Dictionary, globalization refers to the fact that different cultures and economic systems around the world are becoming connected and similar to each other due to the influence of large multinational corporations and increased communication.[11]

According to Merriam-Webster, globalization is defined as the act or process of becoming global or the state of being globalized. This relates primarily to the development of an increasingly integrated global economy characterized by free trade, the free flow of capital, and the entry of cheaper foreign labor markets.[12]Globalization is a term that focuses on a global awareness, with an emphasis on that global context. Globalization as a concept refers to the compression or shrinking of the world, as well as the increasing awareness of the world as a whole.[13]

Meanwhile, a famous scientist, Marshall McLuhan, introduced the term global village in the early 1960s, stating that through communication technology, the world would become like a global village. This global village illustrates that the distance

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[8]M. Nazir, Research Methods, (Jakarta: Ghalia Indonesia, 2003), 27

[9]Mestika Zed, Library Research Methods, (Jakarta: Obor Indonesia Foundation, 2008), 3

[10]Nana Syaodih Sukmadinata, Educational Research Methods, 4th Edition, (Bandung: PT. Remaja Rosadakarya, 2008), 60

[11]https://www.oxfordlearnersdictionaries.com/definition/english/globalization

[12]https://www.merriam-webster.com/dictionary/globalization

[13]Roland Robertson. 1998. Globalization: Social Theory and Global Culture Theory, Culture & Society, London : SAGE Publications Ltd, page 8

between countries in the world is shrinking, marked by developments in the internet, mobile phones, and cheap airline tickets, as well as the fact that news spreads at very high speeds.

Globalization can be defined as a process of social, political, economic, cultural and technological integration among countries around the world consisting of various countries, ethnicities, customs, religions, characters/characters/viewpoints. Globalization is a process of globalization of various kinds of information in all parts of the world, where one of the impacts is the increasing intensity of human interaction from various countries, nations, ethnicities, cultures, languages and characters, as well as the phenomenon of the world as if it appears to be one (global village or one world network or web).[14]

There are at least three factors that cause globalization, namely: First, the advancement of information and communication technology and the decreasing cost of transportation. Since the 1980s, progress in the field of information and communication technology has experienced a major advance in terms of power, ease of use, and availability. Rapid advances in computer technology and software have given rise to a series of supporting technologies ranging from facsimile machines to radio and television broadcasts via satellite, computer networks of various companies, and the global internet. Simultaneously, these technological developments have enabled the transmission or flow of data and information that were previously unimaginable in terms of size and speed. With the development of information and communication technology as it is now, it has enabled the transfer of capital that takes place on an international or global scale.

Second, The spread and expansion of capitalism in international economic cooperation. Capitalism is an economic system in which trade, industry, and the means of production are controlled by private owners with the aim of making a profit in a market economy. To some extent, globalization can be seen as an expansion of global capitalism.

Third, The victory of neoliberalism's political-economic success began in England by Prime Minister Margaret Thatcher and in the United States by Ronald Reagan, neoliberal ideology eventually became commonly used as a basis for determining economic policies adopted by economists and politicians in almost all countries in the world. Even through global institutions, such as the World Trade Organization, abbreviated as WTO, or the World Free Trade Organization, the World Bank or the World Bank and the International Monetary Fund, abbreviated as IMF, neoliberal policies have been established, where the implementation of these policies by countries is monitored and controlled by the dominant countries that are members of the G7, namely the United States, Canada, France, Germany, Italy, Japan, and the United Kingdom, or if added with Russia to become the G8.[15]

The emergence of the era of globalization is also inseparable from human

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[14]Prof. Dr. Ir. H. Musa Hubeis, MS, Dipl.Ing, DEA, Globalization and International Networks, Jakarta, tt, p. 3

[15]Soesi Idayanti, Globalization of Law, Cipta Media Nusantara, p. 62

efforts to implement reforms in various areas of life to improve shared prosperity. Several factors have contributed to the emergence of globalization. These factors are grouped into external and internal factors, including:

1. External Factors

     External factors contributing to the emergence of globalization originate from abroad and global developments. These factors include: the advancement of science and technology (IPTEK). The discovery of increasingly sophisticated means of communication. The existence of international agreements on free markets. Modernization or reform in various fields undertaken by countries around the world influences other countries to adopt or emulate similar initiatives. The success of pro-democracy struggles in several countries has inspired, to some extent, the rise of demands for transparency and globalization within a country. The increasing role and function of international institutions. The development of human rights.

2. Internal Factors

     The internal factors driving globalization originate within a country. These factors include: a country's dependence on other countries. Freedom of the press. Growing transparency and democracy in government. The emergence of various political institutions and non-governmental organizations. Developing ways of thinking and advancing public education.

     There are several factors that influence globalization on the lives of Indonesian people:

1. Economy

     To address economic globalization, economic cooperation can be achieved bilaterally, regionally, and internationally. Because the era of globalization is characterized by a free trade and market system, economic cooperation must be pursued by every country seeking to advance and participate in the new global economic order. Examples of economic globalization include: Exports and imports. The easy access of foreign products. The creation of sophisticated machinery to support the production process.

2. Political

     To address political globalization, political cooperation can be achieved bilaterally, regionally, and internationally, such as within the OIC, ASEAN, the UN, and the Non-Aligned Movement (NAM). This cooperation can generate political decisions that form the basis for free trade agreements and free markets.

3. Culture

     To address cultural globalization, we can selectively address the influence of foreign cultures entering Indonesia. Cultural elements that align with the original culture are adopted, while those that conflict with it are eliminated. However, we can see that Indonesians feel proud and comfortable with the influx of foreign cultures. For example, many Indonesians now prefer to go to glamorous nightlife venues, often referred to as clubbing, where young people can express their various feelings and relieve their stress. Many factors drive young people to these venues, including a sense of prestige, a desire to be trendy, and, of course, a desire to avoid being left behind by globalization or the culture that has entered their country.

4. Transportation

Advances in transportation, whether by land, sea, or air, have accelerated the movement (mobility) of people from one country to another. Now, Indonesians no longer need to worry about how to travel to their desired country, nor do foreigners need to worry about how to travel to another country. The tide of globalization is unstoppable, as it is linked to developments in information, communication, and transportation technology.

5. Communication Technology

Now Indonesian people no longer need to worry about how to communicate with other people outside Indonesia, because now distance is not a reason to communicate with each other, especially for couples who are in long-distance relationships, just by video calling or existing applications, they can easily get news and information from each partner.[16] In this era of globalization, communication is now easier for people through the development of internet networks. With the internet network, we can access all available information, both domestically and internationally. Examples of social media that are now widely used by Indonesians include: Instagram, Facebook, WhatsApp, video calls, and others.

The presence of information and communication technology in the context of globalization accelerates the process of connecting every country and individual. The current development of globalization touches every important aspect of life and creates various new challenges and problems that must be addressed and resolved by every stakeholder in a country and society. Globalization as a process is not a new phenomenon, as it has actually existed for centuries. In the late 19th and early 20th centuries, the flow of globalization grew rapidly in various countries with the advent of communication, information, and transportation technologies. The technological leap that became increasingly sophisticated in the mid-20th century was the internet, and now the proliferation of mobile phones with all their features.

The profound influence of globalization has had a significant impact on legal issues, including marriage. New cases and issues have emerged in the field of marriage, sometimes not explicitly addressed in classical Islamic jurisprudence. For example, online marriage, the appointment of guardians via telephone, the increasing ease of intermarriage between Indonesian citizens (WNI) and foreign citizens (WNA), divorces via electronic media such as WhatsApp (WA), online marriage registration, and so on. In this sub-topic, the author will limit the discussion to the impact of globalization on marriage.

1. Online marriage

Marriage according to Islamic law is marriage, according to language it means coming together as one, as the Arabs say "trees marry each other", if they lean towards each other and gather together.[17]. According to the meaning of the syara', marriage is a contract which contains the permission to have sexual intercourse using the words

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[16]Soesi Idayanti, ibid, p. 53

[17]Abi Bakar, I'ānah al-Tālibîn 'Ala Halli alfāz Fath al-Mu'în (Bandung: Shirkah al-Makrif, tth) Juz III, 254.

inkãh (to marry) or tazwīj (to give in marriage),[18]and in the book al-Baijūri 'Ala Ibn Qāsim it is stated that marriage according to the understanding of sharia is a contract that contains several conditions and pillars,[19]However, there are also those who believe that the true meaning of marriage is the contract and the figurative meaning is sexual intercourse.[20]

In the Marriage Law number 1 of 1974 in chapter I article 1 it is stated that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family, household based on the One Almighty God.[21]and in the Compilation of Islamic Law (KHI) chapter II on the basics of marriage, article 2 states that marriage is defined as a very strong contract or mithaqan ghalizhan to obey Allah's commands and carrying it out is an act of worship.[22]

While people often use the word "online" in communication, did you know that there are synonyms for "online" that have the same meaning? Learning synonyms can streamline communication between individuals. By understanding synonyms better, you can communicate more clearly and accurately. You can choose the most appropriate words to convey your message most effectively to your listeners or readers.

Quoted from the book Jurnal Pendidikan Empirisme June 2020 by Prof. Dr. Mulyoto, M.Pd. (2020: 16), the definition of online is the opposite of offline. The word online comes from the words on and line. On means live, and line means channel. The definition of online is the state of a computer connected to the internet network. So if our computer is online, it can access the internet or browse, searching for information on the internet.

From the definition above, finding synonyms or similar words can be easier. Here are synonyms for the word "online" in Indonesian and their explanations. Synonyms for "online" in Indonesian are "daring" or "terhubung." Here's a brief discussion of these synonyms:

a. Online. The word "online" refers to the state or condition in which someone or something is connected or connected via a computer network or the internet. The term is often used in the context of activities conducted over the internet, such as online learning, online work, or online shopping.

b. The term "connected" refers to the state of being connected to a specific network or communication channel, including the internet. The term can be used to indicate that a person or device has access to the internet and can interact or engage in activities within that network.[23]

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[18]Ibid, 255

[19]Shaykh Ibrãhim, al-Baijūri 'Ala Ibn Qãsim (nth., nth.) Juz II, 90.

[20]Ibnu Alwi et al, Comparative Fiqh of Five Schools of Religion (Jakarta: Cahaya, 2007) Juz III, 300.

[21]Indonesian Ministry of Religion Drafting Team, Legal Counseling Materials (Jakarta, 2001), 117.

[22]Compilation Team of the Indonesian Ministry of Religion, Compilation of Islamic Law…, 14.

[23] https://kumparan.com/berita-terkini/sinonim-kata-online-dalam-bahasa-indonesia-dan-pembahasannya-20hqFvDML80/full

Both synonyms are used to describe a state or condition in which someone or something can access and interact with cyberspace via the internet or computer network.

In today's era, technology is increasingly sophisticated, with features like video calls, live streaming, Zoom, and more. These applications simulate meeting and speaking face-to-face, but the difference is that they use gadgets due to the COVID-19 pandemic or the distance, such as between countries or continents. Therefore, speaking directly to someone is no longer difficult, as everything today is technologically advanced, including Android phones, laptops, and computers. As technology advances, people are no longer limited to online buying and selling, but even weddings are now using live streaming, whether through Zoom, video calls, WhatsApp, Instagram, Messenger, and more.[24]

An online marriage is a marriage in which the marriage contract is communicated through a computer connected to a server and tools such as online media, which refers to multimedia and telecommunications, connected to a specific online portal with different characteristics depending on the facilities provided by the internet. In its implementation, this "online marriage" utilizes technological developments to depict the situation of each individual interacting via teleconference to facilitate the marriage. In addition to conveying sound, video teleconferences are more reliable than telephone calls because they can present images, providing greater clarity for the parties involved.[25]

In general, an online wedding via live streaming is a wedding conducted by individuals who are unable to have a live wedding, or who are living remotely. Some of the requirements and pillars of a marriage are not normally observed according to existing law. This necessitates the marriage ceremony, or the acceptance of the marriage vows, to take place via telecommunications, via voice and visuals.[26]

The criteria used as a benchmark to determine whether an individual can perform a marriage contract online are: (1) The parties performing the marriage contract must be separated by a very long distance. (2) They are prevented from attending due to certain circumstances which mean that they cannot meet in one place to perform the marriage contract as usual.[27]

From the description above, it can be understood that online marriage is a marriage ceremony conducted via live streaming, either via Zoom, video call, Instagram, Messenger, or other platforms. The guardian and the prospective groom are not present in the same assembly but are located in separate, distant locations. Below, the author will outline two aspects that have been influenced by globalization

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[24] Muhammad Hamdani, Marriage Contract via Zoom from a Fiqh Perspective, Almanhaj, Journal of Law and Social Institutions, Volume 5 Number 1(2023)

[25] Wiston, Kenny. nd "Online Marriage According to Islamic Law and the Implications of Registration." Retrieved December 25, 2022 (https://www.kennywiston.com/nikah-online-menurut-hukum-islam-dan-implications-recording).

[26] Sabir, Muhammad. 2015. "Marriage by Telephone." Al-Qadāu Journal 2.

[27] Farid, Miftah. 2018. "Online Marriage in Legal Perspective." Jurisprudentie V.

in the field of marriage: online marriage law and online marriage registration.

Marriage law is crucial in Islam, as it regulates the conduct of family life, which is central to social life and elevates the status of humans as beings of higher status than other creatures. Marriage law is essential for us to obey and implement in accordance with its precise provisions, based on the Quran and the Sunnah of the Prophet Muhammad (peace be upon him).[28]The pillars of marriage that have been agreed upon by the majority of scholars are: the groom, the bride, a guardian, two witnesses, and the ijab qabul.[29]

So, the live-streamed wedding above fulfills the basic requirements. The only current debate concerns the ijab qabul (contract of marriage) in the sense of a single assembly. Live-streamed weddings are held in two different locations, but still serve the same purpose. One of the requirements for a valid marriage, in addition to the ijab and qabul, is the presence of a guardian and two fair and trustworthy witnesses. Below, we will outline several Islamic scholars' views regarding weddings conducted separately, with the marriage guardian and the groom reciting the ijab and qabul separately.

For the Hanafi School, it is clear that if the marriage contract is accepted, it must be done in ittiḥad al-majlis (one place), then the online marriage contract is legally valid, because Hanafiyah interprets ittiḥad al-majlis as one time, not one place. Meanwhile, the practice of online marriage is not one place, but one time, for example those from Banjarbaru and Malang carry out the marriage ceremony at the same time using video calls. The validity of this online marriage does not stop there, Hanafiyah in instinbaṭ al-aḥkām (judicial taking) uses qiyas. The qiyas used is the ability to contract a marriage through a letter (al-kitabah/ar-risilah). Illat online marriage and marriage certificate are both long distance, which does not bring the two parties to the marriage agreement. Most ulama say qiyas is a proof of syara' for similar laws. If the correlation equates the law of an event that does not have legal text with an event that already has legal text, because they are the same in their legal intent, then this is an argument for the determination of the law.[30]

According to the Shafi'i school of thought, online marriage is invalid because the marriage contract is not performed in a single location. This is because ittihad al-majlis refers to the acceptance of the marriage contract in a single location. According to the Shafi'i school, the prerequisite for a single assembly is not only to ensure the continuity of the marriage contract and the marriage vows, but also to ensure the witnesses' confidence in seeing and hearing the person pronouncing the marriage contract.

The meaning of Ittihadul Majlis is the unity of place (Ittihad al-makan) and solely the unity of time (ittihad az-zaman) which must be carried out in a marriage contract. Imam Syafi'i interprets Ittihad as association/unity/unity. Meanwhile, the

[28]Sabir, Muhammad. 2015. ibid

[29]Ghozali, Abdul Rahman. 2003. Fiqh Munakahat. Jakarta: Kencana Prenada Media Group.

[30]Khallaf, Abdul Wahab. 1997. Ushul Fiqh Science of Islamic Legal Rules. A. Ma'ruf. Kuwait: Dar al-Qalam.

Majlis is the seat. In terms of the meaning of the word, Imam Syafi'i interprets it in the Arabic text, namely the unity of a place (ittihad al-makan). Lafaz al-majlis is also found in the Qur'an as follows "O you who believe! When it is said to you, "Make room in the assemblies," then make room, Allah will surely make room for you. And when it is said, "Stand up," then stand up, Allah will surely raise (the level of) those who believe among you and those who have been given knowledge to a certain degree. And Allah is Aware of what you do."

The verse describes a physical place, namely "Be spacious in the assembly." The meaning of al-majlis is to have a place, which Allah commands to be spacious. If the word is interpreted as a time/period, it is impossible for Allah to order spaciousness in time. For example: "Please move to sit there." The word sit, means there is a place that someone is visibly occupied by the eye. The essence of ittihad al-majlis indicates the involvement of the same place in the marriage contract (al-makan), not regarding the same time of the mu'aqqidain. The Shafi'i school of thought assesses, understands, and considers long-distance marriage contracts (in this context online marriage) invalid, because the places for the parties to the marriage contract are different.[31]

According to the Indonesian Ulema Council (MUI), the 7th Ijtima Ulama (Ulama) of the Indonesian Ulema Council's Fatwa Commission, held from September 9-11 in Jakarta, officially closed by Minister of Religious Affairs Yaqut Cholil Qaumas on Thursday, September 11, 2021, and attended by 700 participants. Participants included members of the Central Indonesian Ulema Council Leadership Council, members of the Central MUI Fatwa Commission, and heads of commissions/agencies/institutions at the Central MUI. The meeting was also attended by leaders of the Provincial MUI, leaders of the Provincial MUI Fatwa Commission, leaders of the Fatwa Council of Islamic Organizations, leaders of Islamic boarding schools, and leaders of Sharia Faculties/IAINs/PTKIs in Indonesia. This triennial event agreed on 17 points of discussion, one of which was the law on online marriage. The complete explanation of the results of the discussion regarding Online Marriage is as follows: First, an online marriage contract is not valid if it does not fulfill one of the valid conditions for the marriage contract, namely it is carried out in ittihadu al majlis (in one assembly), with clear (sharih) words, and ittishal (a direct connection between the marriage contract and the marriage contract).

*Second*In the case where the prospective groom and guardian cannot be physically in the same place, the ijab kabul in the marriage can be carried out by means of a taukil (representative).

Third, In the event that the parties are unable to attend and or do not want to be represented (tawkil), the implementation of the marriage contract online can be carried out with the condition that there is ittihadul majelis, sharih lafadz and ittishal, which is marked by: The marriage guardian, the prospective groom, and two witnesses are confirmed to be connected via a virtual network including sound and images

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[31]Harahap, Khairuddin Soleh. 2021. "Online Marriage Contracts During the Covid-19 Outbreak According to the Hanafi School of Law"

And the Shafi'i School." UIN North Sumatra

(audio visual). At the same time (real time). There is a guarantee of certainty regarding the correct existence of the parties. Online marriages that do not meet the requirements as referred to in number 3 (three) are not valid. Marriages as referred to in number 3 (three) must be registered with the marriage certificate issuing official (KUA).

2. Online marriage registration

As time goes by, technology continues to advance rapidly, changing the way people interact, learn, work, and in many other aspects. This development brings enormous opportunities through new methods created by technology. Information is now easily accessible from various sources thanks to technological advancements, which also impacts the way we communicate and exchange information. In this context, almost every aspect of life relies on technology, making individual identities less prominent. For example, the government must adopt information technology to carry out its duties efficiently and responsively to the demands of the times.

From a normative legal perspective, marriage is a legal event that requires state apparatus and laws that clearly guarantee against violations that may arise from said legal event. The word "contract" can be associated with marriage. Soebekti argues that a contract is an abstract term for something that can only be imagined in the mind but not seen.[32]

Considering the regulations imposed by the state on its citizens, it is clear that marriage occupies a very high place in social life. With this guarantee, it is hoped that life will be orderly and peaceful, and violations related to marriage agreements can be minimized. Referring to the definition above, marriage registration is crucial for the modernization of the Marriage Law from a national administrative management perspective.

When examined more closely, marriage registration is fundamentally linked to legal awareness within the community. Without adequate legal awareness, no matter how well-organized a marriage registration program is, it will not run as expected. Cooperation between the community and authorized officials is undoubtedly a driving force behind the improvement of the marriage registration system.[33]

The purpose of marriage registration is not to restrict or complicate citizens' ability to marry, but rather to guarantee the right of every citizen to establish a household and continue their family, as well as to provide legal certainty for the rights of husbands, wives, and children. Therefore, the notion that marriage is sufficient based on Islamic jurisprudence alone, or in other words, that it is sufficient to meet religious requirements and not require registration with government institutions, is erroneous.[34]

In 2006, when the Islamic Community Guidance (BIMAS) was separated from

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[32]Achmad Kuzari, Marriage as a Contract, (1st Ed. 1st Printing, Jakarta: PT. RajaGrafin do Persada, 1995), 2

[33]Lutfhia, "Effectiveness of the Implementation of the SIMKAH Application in Marriage Administration at the KUA of Pandeglang Regency (Case Study at the KUA-KUA of Pandeglang Regency)

[34]Nasaruddin Umar, When Jurisprudence Defends Women.

the Director General of the Hajj and Umrah Organizing Committee, the intention to provide technological administrative services grew stronger. SIMKAH became the focus of BIMAS's efforts to further advance and develop marriage registration using technology and to continue striving to provide instant services using IT in this digital age.[35]The SIMKAH website was first launched in 2018 by the Directorate General of Islamic Community Guidance, under the auspices of the Indonesian Ministry of Religious Affairs. It has gradually been implemented in all regional KUAs, based on the legal basis of PMA No. 20 of 2019 concerning Marriage Registration.[36]

The SIMKAH website aims to simplify and streamline the marriage registration process, which was previously manual. Furthermore, because the SIMKAH website is integrated with population data in the Population Administration System ([SIAK]), which is overseen by the Ministry of Home Affairs, validation of applicant data can be more accurate.[37]

The SIMKAH (Marriage Management Information System) Web application was launched by the Indonesian Ministry of Religious Affairs on November 8, 2018. The launch was a follow-up to the memorandum of understanding between the Minister of [Religious] Affairs and the Minister of Home Affairs Number: 470/5711/SJ and Number 20 of 2015 concerning Cooperation in the Utilization of Population Identification Numbers, Population Data and Electronic KTP within the Ministry of Religious Affairs.

So, what are the advantages of the SIMKAH web application? First, it integrates with data [from] relevant ministries nationwide. For example, the Population Administration Information System (SIAK) from the Ministry of Home Affairs, the Online Non-Tax State Revenue Information System (SIMPONI) from the Ministry of Finance, and the Case Tracking Information System (SIPP) from the Supreme Court. Second, when printing a marriage certificate, a QR code connected to the application will appear. This is a security feature to prevent the certificate from being easily forged by irresponsible parties.

*Third*Marriage data reports and non-tax state revenue (PNBP) for remarriage can be viewed in real time. This will facilitate national monitoring of marriage implementation, [including] the availability of marriage certificates in each region. Fourth, marriage registration can be done online. Prospective brides and grooms can fill in initial data and book their desired wedding date. However, prospective brides and grooms must still submit physical documents to the Office of Religious Affairs (KUA) officer.

*Fifth*This application also presents more data variables with specific categories, such as marriage data based on age, education, occupation, and others. Sixth, the KUA (Regional Offices) are connected in real time. When people submit marriage

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[35]https://nltb.kemenlag.go.id/baca/1453118258 Accessed today, Monday, December 4, 2023, at 22.21

[36]Regulation of the Minister of Religion Number 20 of 2019 concerning Marriage Registration

[37]https://indonesiabaik.id/infografis/inilah-keunggulan-simkah-web Accessed today, Tuesday 5/12/2023 at 1:15 AM

recommendation letters and marriage certificate legalizations, a notification will appear. This application is also easy to use (user-friendly), making it easier for KUA officers to carry out their duties. This application is also easy to understand, so it does not require continuous technical guidance. In essence, this application will facilitate services to the public and modernize data presentation.[38]

In addition, Simkah as a web-based application is an IT-based marriage registration service solution that also has advantages including:

a. Data is integrated with the Population Administration Information System.
b. Can be accessed online anywhere and anytime.
c. Can present marriage data in real time
d. Minimize data errors for prospective brides and grooms; and
e. Prevent falsification of marriage certificates.[39]

The legal basis for registering marriages online is:

a. Article 2 paragraph 2 of the Marriage Law Number 1 of 1974 states: "Every marriage is registered according to the applicable laws and regulations;[40]
b. Regulation of the Minister of Religion (PMA) of the Republic of Indonesia Number 20 of 2019 concerning marriage registration in Chapter VII Administration of Marriage Events Article 24
c. Marriage registration administration uses the Web-based SIMKAH application.
d. If the District KUA is not yet connected to the internet network, marriage registration administration is carried out manually.[41]

The Marriage Management Information System, hereinafter referred to as SIMKAH, is a web-based computer program that is used to collect marriage data at the Office of Religious Affairs (KUA) throughout Indonesia online. With many things improving in this era of globalization, the Directorate General of Islamic Community Guidance (DGI) is also taking part in the modernization of marriage registration with its online SIMKAH. The background to this modernization is of course to optimize the performance of KUA in providing services at every stage of the marriage registration process. Furthermore, SIMKAH also serves as a collector and liaison for marriage data throughout Indonesia, clearly demonstrating integrity among institutions.[42].

Having many advantages does not mean that SIMKAH WEB has no shortcomings, as an information system that is so dependent on the internet network in its use, SIMKAH WEB will feel its shortcomings when the internet network experiences disruption, when this happens then the input of prospective bride and groom data will be hampered. In addition, the large number of people accessing SIMKAH will also cause a problem, namely SIMKAH not connecting to the central server because the server is full, but only in a few minutes later SIMKAH can connect

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[38]https://indonesiabaik.id/infografis/inilah-keunggulan-simkah-web
[39] https://sulut.kemenag.go.id/berita/511279/5-Keunggulan-Simkah-Solusi-layanan-Pencatatan-Nikah-Berbasis-IT
[40]See Marriage Law Number 1 of 1974
[41]See Regulation of the Minister of Religion of the Republic of Indonesia Number 20 of 2019
[42]Lubis, "Implementation of the Online Marriage Management Information System (SIMKAH) at the Medan City District Religious Affairs Office

to the central server.

The next disadvantage of SIMKAH is the limited NIK validation quota, so that when the prospective bride and groom's data to be processed for validation must wait until the next day, NIK validation plays a very important role in registering marriages at the KUA, because with NIK validation the officer can ensure that the prospective bride and groom's data is in sync with the physical data brought as a requirement and there are no problems with the data, for that reason, the data will be safer when going through the NIK validation stage.[43]

D. ANALYSIS AND DISCUSSION

1. Analysis of Globalization and its Influence on Marriage in Indonesia

The influence of globalization, particularly on information media, has led to changes in people's mindsets. These changes can lead to positive outcomes, potentially developing each individual's potential, but they can also lead to negative outcomes.

In relation to religious life, globalization has resulted in social interactions and relationships between religious groups or communities, whether in the form of cooperation, competition, or even conflict. This is a consequence of increasingly open social relationships and interactions. In the field of marriage, cases and problems frequently arise as a result of the influence of globalization, as explained in the discussion section. The author will then analyze two issues that will become the topic of this paper.

First, globalization has impacted marriage through the emergence of online marriage cases. Although some scholars, such as those of the Hanafiyah school of thought, permit and even legitimize online marriages, they argue that the unity of the assembly required for the ijab qabul (marriage contract) is not merely a matter of location but also of time and place, so that the ijab and qabul between the marriage guardian and the prospective groom, who are separated by distance, can be considered valid because they occur simultaneously.

However, among non-Hanafist scholars, such as Shafi'i scholars, this is even reinforced by the Indonesian Ulema Council's fatwa, held in Jakarta from September 9-11, 2021, which firmly declared online marriages invalid. The reason is that the acceptance and acceptance of marriage vows do not take place in a single assembly, as according to Shafi'i scholars, a specific assembly is a specific location.

According to the author's analysis, online marriages are still within the realm of khilafiyyah, so the legal benchmark and guideline is the opinion of the majority of Islamic scholars, reinforced by state religious institutions such as the Indonesian Ulema Council (MUI), which in its fatwa declared online marriages invalid. And to date, there is no single law or regulation governing online marriages in Indonesia.

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[43] Syukron Hady et al., Implementation of the Marriage Management Information System (Simkah) Case Study of the Nanga Pinoh KUA, p. 167 AL-USROH, Volume I (2), 2021

Article 6, paragraph 2 of the Compilation of Islamic Law (KHI) states that "Marriages conducted outside the supervision of a Marriage Registrar have no legal force."[44]

The Marriage Registrar will perform their duties to record the legal process of a marriage immediately after the ijab qabul (marriage vows) is performed. The marriage contract will be executed after fulfilling the requirements stipulated in Articles 4, 5, and 6 of the Minister of Religious Affairs Regulation (PMA) Number 20 of 2019.[45] whereas in these articles there is nothing that regulates the registration of marriages virtually or online, so that from the perspective of marriage law in Indonesia, it can be understood that marriages carried out online do not or do not yet have legal force.

The invalidity of a marriage contract via video call is due to two factors. First, the marriage contract conducted via video call is considered unclear (shigat kinayah). This is despite the fact that a marriage contract requires the use of clear, valid (shigat). In this regard, the contemporary Shafi'i jurisprudence expert al-Habib Zain bin Smith (born 1357 AH/1936 CE) asserts:

اَلتَّلْفُوْن كِنَايَة فِي الْعُقُوْد كَالْبَيْعِ وَالسَّلَمِ وَالْإِجارَةِ فَيَصِحُّ ذَلِكَ بِوَاسِطَة أَمَّا التَّلْفُوْن النِّكَاحُ فَلَا يَصِحُّ بِالتَّلْفُوْن لِأَنَّه يُشْتَرَط فِيْه لَفْظ صَرِيْحٌ وَ التَّلْفُوْن كِنَايَة

This means, "*Telephone calls are a necessary condition in several contracts, such as sales contracts, salam contracts, and rental contracts; therefore, these contracts are validly conducted through telephone* calls. *As for marriage contracts, they are invalid, because marriage contracts require clear pronunciation, while telephone calls are a necessary condition (containing two meanings/unclear pronunciation).*[46]

The second factor is the absence of an offline assembly that allows the two witnesses to see the two (2) parties to the marriage contract, namely the husband and the guardian of the prospective wife who is marrying her, and to hear the ijab qabul (contract of marriage) from them directly. As is well known, the marriage contract requires direct witnessing from two witnesses. Although in contemporary Islamic jurisprudence, a mu'amalah contract through modern communication tools such as telegram, fax, or the internet can be considered valid, this does not apply to the marriage contract. This is because the marriage contract requires direct witnessing from two (2) witnesses. Therefore, the validity of conducting mu'amalah transactions with these modern tools does not include the marriage contract.

This is as formulated in the Decision of the Majma' al-Fiqh al-Islami Council number 6/3/45 concerning the Implementation of Contracts with Modern

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[44]Ministry of Religion of the Republic of Indonesia, Compilation of Islamic Law, Jakarta, 2018, p. 6

[45]See PMA Number 20 of 2019 concerning marriage registration, p. 9

[46]Zain bin Ibrahim bin Smith, al-Fawaid al-Mukhtarah li Salik Thariq al- Akhirah, [ttp.: Ma'had Dar al-Lughah wa ad-Da'wah, 1429 AH/2008 AD], ed: Ali bin Hasan Baharun, first printing, p. 246)

Communication Tools as an Intermediary which was determined in the VI Congress in Saudi Arabia on 17-23 Sha'ban 1430 H/14-20 March 1990 M:

أَنَّ الْقَوَاعِدَ السَّابِقَةَ لَا تَشْمَل النِّكَاح لِاشْتِرَاط الْإِشْهَاد فِيْهِ

This means, "*Indeed, the rules that have been explained (the validity of mu'amalah contracts using modern means) do not cover marriage contracts, because they require witnesses.*"[47]

The legal formulation that determines the invalidity of a marriage contract via video call is a very careful formulation in line with the principle of Islamic jurisprudence: "Al-Abdha' yuhtathu laha fauqa ghairiha" (The matter of a woman's permissibility for another man must be treated more carefully than other matters."[48]

E. CONCLUSION

From the exposureBased on the discussion and analysis as mentioned above, the author can provide the following conclusions:

The influence of globalization has had a significant impact on legal issues, including marriage. New cases and issues have emerged in the field of marriage, sometimes not explicitly mentioned in classical Islamic jurisprudence. For example, online marriage, the appointment of a guardian via telephone, the increasing ease of access to mixed marriages between Indonesian citizens (WNI) and foreign citizens (WNA), divorce through electronic media such as WhatsApp (WA), online marriage registration, and others. Online marriages are still being debated by scholars, but in Indonesia, based on a fatwa from the Indonesian Ulema Council (MUI), they are considered invalid because the ijab qabul (contract of marriage) is not carried out in one assembly. Online marriages cannot or have not been registered at the Office of Religious Affairs (KUA) because there are no regulations underlying their implementation.

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[47] Decision of the Majma' al-Fiqh al-Islami Council number 6/3/45 concerning the Implementation of Contracts by Means of Modern Communication Tools in Wahbah az-Zuhaili, al-Fiqh al-Islami wa Adillatuh, [Damascus: Dar al-Fikr, tth], volume VII, page 157

[48] Abu Bakr ibn as-Sayyid Muhammad Syattha ad-Dimyathi, Hasyiyah I'anah at-Thalibin 'ala Hall Alfazh Fath al-Mu'in, [Bairut: Dar al-Fikr, tth.], juz III, page 86

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