



# FIQH AL-MUWAZANAH AS A GOVERNANCE ORIENTED FRAMEWORK FOR DIGITALLY MEDIATED MARRIAGE IN ISLAMIC FAMILY LAW

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## **Abstrak**

There is a literature exploring how these digitally mediated marriages are managed within a governance framework to mitigate long-term legal and social risks. No studies have specifically utilized the instrument of *Fiqh Al-Muwazanah* as an ethical and managerial basis for ensuring legal certainty in a digital ecosystem vulnerable to identity manipulation and technical failures. This fiqh al-muwāzanah, the jurisprudence of balancing benefits (maṣlaḥah) and harms (mafsadah), as a governance-oriented risk-assessment framework for digitally mediated marriage practices. Employing a conceptual approach statute approach method with a maqāṣid-oriented doctrinal approach, the study critically reinterprets ittiḥād al-majlis by shifting its emphasis from physical co-presence to legal continuity and procedural certainty. The analysis demonstrates that digital presence may conditionally satisfy the objectives of ittiḥād al-majlis where real-time interaction, verifiable identity, reliable witnessing, and safeguards against coercion are effectively ensured. However, such accommodation is framed as exceptional rather than normative, particularly considering risks affecting consent, evidentiary reliability, and the protection of vulnerable parties. Beyond the specific issue of online marriage, this study contributes to contemporary Islamic legal theory by demonstrating how fiqh al-muwāzanah can function as a structured mode of legal reasoning capable of governing technological change within legally plural systems. novelty by reconstructing the role of Fiqh Al-Muwazanah not merely as an abstract legal theory, but as an operational (governance-oriented) framework for digitally

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mediated marriages. Unlike conventional approaches, this paper proposes new parameters in Islamic family law that balance technological convenience (*taysir*) with the protection of the purposes of marriage (*maqasid al-nikah*) through digital risk mapping.

**Kata Kunci:** Fiqh al-muwāzanah; Islamic family law; Ittihād al-majlis; Legal Pluralism; Maqāṣid al-sharī'ah.

## A. Introduction

The rapid digitalization of social life has significantly transformed legal practices across jurisdictions, including those governed by religious norms <sup>1</sup>. In Islamic family law, technological advancements have begun to reshape long-established rituals and legal requirements, particularly in the administration of marriage contracts (*'aqd al-nikāḥ*). Practices such as online marriage ceremonies conducted through video conferencing platforms challenge traditional assumptions about physical presence, legal certainty, and the interpretation of classical jurisprudential requirements, notably the concept of *ittihād al-majlis* (unity of session).

While Islamic law has historically demonstrated adaptive capacity through mechanisms such as *ijtihād* and *maqāṣid al-sharī'ah*, contemporary debates surrounding digital marriage practices reveal persistent tensions between doctrinal rigidity and social necessity <sup>2</sup>. The question is no longer whether technology affects Islamic legal practice, but rather how Islamic legal reasoning can respond to technological change without undermining normative coherence, legal certainty, and the protection of fundamental values embedded in Islamic family law.

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<sup>1</sup> R. Roshdy, "A Corpus Linguistic Perspective on the Lexicon of Islamic Family Law in English: Legal Communication or Cultural Discourse?," *International Journal for the Semiotics of Law* 38, no. 6 (2025): 1881-920, Scopus, <https://doi.org/10.1007/s11196-025-10253-4>.

<sup>2</sup> A. Masrurroh, A. Kumar, and S. Afiyah, "Beyond Islamic Legal Principle: Social Justification of Adolescent Forced Marriage after Sexual Intercourse," *Nurani* 25, no. 2 (2025): 444-61, Scopus, <https://doi.org/10.19109/nurani.v25i2.29991>; S. Zuhdi et al., "Between Customary and Islamic Law: Financial Inheritance Practices in the Surakarta Sunanate Royal Family," *Al-Ahwal* 18, no. 1 (2025): 65-84, Scopus, <https://doi.org/10.14421/ahwal.2025.18204>.

Existing scholarly discussions on online marriage contracts predominantly focus on the binary question of permissibility (*ḥalāl* or *ḥarām*), often framed through selective reliance on classical juristic opinions. These studies tend to adopt descriptive or justificatory approaches, emphasizing doctrinal compatibility while paying limited attention to the broader implications of legal risk, potential abuse, and governance challenges<sup>3</sup>. As a result, the debate remains fragmented, oscillating between strict formalism and unqualified permissibility, without offering a systematic analytical framework capable of balancing competing legal interests.

In the Indonesian context, this fragmentation is reflected in divergent institutional responses. Islamic legal authorities such as Nahdlatul Ulama, Muhammadiyah, and the Indonesian Council of Ulama (MUI) have issued differing opinions regarding the validity of online marriage contracts, particularly concerning the interpretation of *ittiḥād al-majlis*<sup>4</sup>. These differences illustrate not only doctrinal plurality but also the absence of a shared analytical methodology for addressing technological disruption within Islamic family law.

This article argues that the prevailing discourse suffers from a critical methodological gap. Specifically, while *fiqh al-muwāzanah* the jurisprudence of balancing benefits (*maṣlaḥah*) and harms (*mafsadah*) is frequently invoked to justify contemporary legal adaptations, it is rarely developed as a structured analytical framework<sup>5</sup>. Instead, it often functions as a post hoc legitimizing tool rather than a systematic method for assessing legal risk, prioritizing competing values, and determining regulatory boundaries.

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<sup>3</sup> Lubis Mukhlis, "Spiritual Grounds for Economic Growth: A Qualitative Exploration of Rural Indonesian Women's Transformative Journeys Through Mosque-Led Empowerment Programs," *Servina: Jurnal Pengabdian Kepada Masyarakat* 1, no. 8 (August 2025): 289–98; Lubis Mukhlis et al., "Sosialisasi Saham Syariah sebagai Instrumen Pengembangan Ekonomi Masyarakat di Badan Kontak Majelis Taklim (BKMT) Kabupaten Mandailing Natal," *Jurnal Pengabdian Multidisiplin* 3, no. 2 (2023): 2–9, <https://doi.org/10.51214/japamul.v3i2.604>.

<sup>4</sup> Nurhidayah, "Professional Adaptation to AI-Based Nursing Systems: An Interpretative Phenomenological Study Among Novice Outpatient Nurses," *Journal of Digital Health Innovation and Medical Technology* 1, no. 5 (May 2025): 182–88.

<sup>5</sup> S. Nurjanah et al., "Children's Rights in Islamic Law: A Contemporary Study of Family Practices," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 933–53, Scopus, <https://doi.org/10.32332/milrev.v4i2.10077>.

Accordingly, this study proposes a reconceptualization of *fiqh al-muwāzanah* as a risk-assessment framework for evaluating digital marriage practices within Islamic family law. Rather than merely asking whether online marriage contracts are permissible, this approach examines under what conditions such practices may be tolerated, restricted, or prohibited, based on a hierarchical assessment of legal certainty, protection of marital rights, and alignment with the objectives of Islamic law (*maqāṣid al-sharī'ah*).

The research addresses two central questions: (1) How can *fiqh al-muwāzanah* be transformed from a normative doctrine into an analytical framework capable of governing digital transformations in Islamic family law? and (2) To what extent can online marriage contracts be accommodated without compromising legal safeguards, particularly concerning consent, identity verification, and evidentiary reliability?

By offering a *maqāṣid*-oriented doctrinal analysis grounded in *fiqh al-muwāzanah*, this article makes three significant contributions to contemporary Islamic legal scholarship. First, it advances a theoretical refinement of *fiqh al-muwāzanah* beyond its traditional justificatory function<sup>6</sup>. Second, it provides a structured methodology for assessing technological risks in family law practices<sup>7</sup>. Third, it offers practical insights for fatwa institutions and policymakers navigating the governance of digital marriage practices in plural legal systems.

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<sup>6</sup> n. Rahmatullah et al., "Contemporary Dynamics of Sharia Economic Law: DSN-MUI Fatwa No. 21/2001 in Takaful Dispute Rulings," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 868-98, Scopus, <https://doi.org/10.32332/milrev.v4i1.10470>; O. Rozikin et al., "Contextualizing Maqāṣid Al-Sharī'ah in Indigenous Legal Practices: A Comparative Study of Family Resilience in Kasepuhan Ciptagelar and Kampung Naga," *Nurani* 25, no. 2 (2025): 344-62, Scopus, <https://doi.org/10.19109/nurani.v25i2.27760>.

<sup>7</sup> Lubis Mukhlis et al., "Reorientation of Sharia Stock Regulations: Integrating Taṣarrufāt al-Rasūl and Maqāṣid al-Sharī'ah for Justice and Sustainability," *Journal of Information Systems Engineering and Management* 10, no. 10s (2025): 58-66, <https://doi.org/10.52783/jisem.v10i10s.1341>; Lubis Mukhlis et al., "Reformulation of Islamic Stock Law: The Application of Taṣarrufāt al-Rasūl and Maqāṣid al-Syarī'ahto Develop a Dynamic and Sustainable Islamic Capital Market in Indonesia," *Journal of Posthumanism* 5, no. 3 (2025): 1-13, <https://doi.org/10.63332/joph.v5i3.913>.

## B. Discussion

### *Reinterpreting Ittiḥād al-Majlis in the Digital Age*

#### **Temporal versus Spatial Unity: A Conceptual Reassessment**

Classical Islamic jurisprudence developed the requirement of *ittiḥād al-majlis* in a socio-historical context where contractual interaction presupposed physical co-presence. In that setting, unity of session functioned as a procedural safeguard ensuring immediacy of consent, clarity of intention, and reliable witnessing. However, a strict identification of *ittiḥād al-majlis* with physical co-location reflects a historical mode of interaction rather than an immutable normative requirement.

From a maqāṣid-oriented perspective, the essential legal function of *ittiḥād al-majlis* lies in preserving legal continuity between *ijāb* and *qabūl*. This continuity ensures that acceptance constitutes a direct and unequivocal response to the offer, thereby preventing uncertainty (*gharar*) and protecting the integrity of the marriage contract<sup>8</sup>. Once this functional rationale is foregrounded, spatial unity appears as a contingent means rather than the core legal objective.

Digital communication technologies fundamentally alter the relationship between space and contractual interaction. Real-time digital platforms allow parties to engage in uninterrupted exchanges of offer and acceptance despite physical separation. In such circumstances, temporal unity and legal immediacy may be preserved without spatial unity. Consequently, insisting on physical co-presence as an absolute requirement risks conflating legal form with legal purpose and may undermine the adaptive capacity of Islamic family law without necessarily enhancing legal certainty.

The integration of *Fiqh al-Muwāzanah* into digitally mediated marriage provides a robust governance framework, as evidenced in

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<sup>8</sup> W. Fife, *Counting as a Qualitative Method: Grappling with the Reliability Issue in Ethnographic Research*, *Counting as a Qualitative Method: Grappling with the Reliability Issue in Ethnographic Research* (Springer International Publishing, 2020), 140, Scopus, <https://doi.org/10.1007/978-3-030-34803-8>; Y. Kawamura, *DOING RESEARCH IN FASHION AND DRESS: An Introduction to Qualitative Methods, 2nd Edition*, *Doing Research in Fashion and Dress: An Introduction to Qualitative Methods, 2nd Edition* (Bloomsbury Publishing Plc., 2020), 166, Scopus, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85188589040&partnerID=40&md5=b3db406659cd1ea5b20e05664bec39a3>.

cross-border Zoom ceremonies and digital identity verification. In a cross-border scenario, the framework evaluates the *maslahah* (benefit) of facilitating a legitimate union against the *mafsadah* (*harm*) of technical disruptions or lack of physical presence. By prioritizing the protection of lineage (*hifz al-nasl*) and the facilitation of legal ease (*taysir*), the framework shifts the focus from physical *ittihād al-majlis* to "verified digital presence," provided that high-fidelity synchronization and witness authentication are maintained.<sup>9</sup> Conversely, in cases involving the threat of identity theft or deepfake technology, the framework applies the maxim of averting harm over attaining benefits (*dar'u al-mafāsīd muqaddam 'alā jalb al-maṣālih*), necessitating a governance protocol that mandates integration with national biometric-backed identity systems to ensure the sanctity of the contract.

This application offers a significant empirical contribution to the discourse on legal pluralism by identifying a new triad of authority in the digital era: Sharia norms, State regulations, and Algorithmic Law. Traditional legal pluralism often navigates the tension between religious ideals and state statutes; however, this study demonstrates that digital platforms act as a *de facto* legal enforcer through their technical architecture. *Fiqh al-Muwāzanah* serves as the vital link that synchronizes these layers, ensuring that the "code" of the platform respects both the ethical imperatives of Islamic law and the administrative requirements of the state. Consequently, it transforms Islamic family law from a static set of rules into a dynamic, socio-technical governance model capable of managing the risks of the digital ecosystem.

In a comparative perspective, this governance-oriented approach moves beyond the binary debate of "halal versus haram" regarding technology and instead proposes a functional hybridity. By treating digital protocols as a form of modern *ijtihad*, the framework allows for a "Digital Maslahah" that balances modern convenience with the rigorous verification standards required by both Sharia and State authorities<sup>10</sup>. This perspective enriches legal pluralism by showing

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<sup>9</sup> Y. Al-Qaradawi, "Fiqh Al-Muwazanaḥ: Dirasah Fi Al-Qawā'id Al-Ushuliyyah Wa Al-Tathbiqat Al-Mu'ashirah." (Dar al-Shuruq., 2021).

<sup>10</sup> M. T. Mansoori, *Shari'ah Maxims: Modern Applications in Islamic Finance and Family Law*. (Malang: IIUM Press., 2011).

how religious reasoning provides the risk-management logic necessary to navigate the complexities of globalized, technologically mediated family law, thereby positioning Islamic jurisprudence as a proactive rather than reactive force in contemporary legal development.

### **Digital Presence and Legal Certainty**

The shift from physical to digital interaction necessitates a conceptual distinction between physical presence and legal presence. While classical jurists largely equated the two, contemporary legal reasoning must account for digitally mediated presence as a distinct mode of legal interaction with its own evidentiary implications.

Legal presence in marriage contracts serves three interrelated functions: identity verification, assurance of free consent, and validation of witnessing. In digitally mediated settings, these functions may be fulfilled through real-time audio-visual communication, provided that the technological medium ensures clarity, continuity, and reliability. High-quality video conferencing enables visual identification, voice recognition, and simultaneous participation of contracting parties and witnesses, thereby approximating the functional objectives of physical presence.

Nevertheless, digital mediation introduces risks absent in traditional settings, including identity misrepresentation, technical disruption, and unequal access to technological resources. These risks do not render digital presence inherently invalid, but they necessitate heightened procedural safeguards. Accordingly, legal certainty in digitally mediated marriage contracts depends not merely on the existence of communication technology, but on its capacity to reliably fulfill the normative functions traditionally associated with physical presence.

### **Conditional Unity of Session and Normative Boundaries**

The reinterpretation advanced in this study reconceptualizes *ittiḥād al-majlis* as a condition of legal continuity rather than physical co-presence. Unity of session is satisfied where uninterrupted real-time interaction ensures that *ijāb* and *qabūl* are legally connected, identities are verifiable, and witnesses can reliably observe the contractual exchange.

Importantly, this reinterpretation does not equate digital interaction with physical presence in all circumstances. Rather, it

establishes a model of conditional unity, whereby digitally mediated marriage contracts are recognized only when specific legal safeguards are demonstrably fulfilled. Where technological mediation compromises consent, identity verification, or evidentiary reliability, the condition of *ittiḥād al-majlis* cannot be deemed satisfied.

This conditional model preserves the normative objectives of Islamic family law while resisting both rigid formalism and uncritical permissibility. By anchoring reinterpretation in legal function rather than historical form, *ittiḥād al-majlis* emerges as a dynamic principle capable of governing new social realities without sacrificing normative coherence.

### **Exceptional Accommodation and the Protection of Vulnerable Parties**

It is crucial to emphasize that digitally mediated marriage contracts are not conceptualized as a default or preferred model. Within a *fiqh al-muwāzanah* framework, such practices constitute exceptional accommodations, justified only where physical co-presence is genuinely impracticable. Permissibility remains subordinate to the protection of legal certainty, informed consent, and the rights of vulnerable parties, particularly women.

Where digital mediation amplifies risks of coercion, misrepresentation, or post-contractual dispute, the principle of precaution (*iḥtiyāt*) must prevail. In such cases, prohibition is normatively preferable to permissibility, even where facilitative benefits are apparent. This boundary-setting function ensures that legal adaptation strengthens, rather than destabilizes, the protective structure of Islamic family law. Distance is no longer simply a number of kilometers, but rather a physical barrier that cannot be reasonably overcome (legal impossibility). This parameter is met if the two parties are separated by national borders, conflict zones, or immigration barriers (such as indefinite visa delays) that prevent physical presence for a reasonable period of time.

Circumstances beyond human control, such as a global pandemic, natural disaster, or lockdown policy that completely halts physical mobility. In these cases, digital technology is not merely an option (a luxury), but rather the only medium available to perform the contract.

Specific, urgent situations, such as a threat to life, drastically deteriorating health that prevents travel, or moral risk (avoiding adultery/slander) that require the legalization of the relationship immediately, even if it is conducted remotely.

The integration of digital mediation in Islamic family law finds its legitimacy through a nuanced balancing of *ḍarūrah* (necessity) and *ḥājah* (need) within the framework of *Fiqh al-Muwāzanah*. In classical jurisprudence, *ḍarūrah* refers to a critical state where prohibited actions become permissible to preserve the five essential objectives of Sharia (*Maqāsid al-Sharī'ah*). In the digital era, however, the concept of *ḍarūrah* expands to include 'technological necessity,' where the absence of a physical assembly during a pandemic or political conflict poses a direct threat to the sanctity of marriage and the protection of lineage (*ḥifẓ al-nasl*). Here, *Fiqh al-Muwāzanah* acts as a calibrator, weighing the potential harm of a non-physical assembly against the greater harm of delaying a religious and legal union.

Furthermore, the framework recognizes that many digital marriages arise from *ḥājah* a condition that, while not life-threatening, causes significant hardship (*mashaqqah*) if not addressed. The legal maxim '*Al-ḥājah tanzilu manzilata al-ḍarūrah*' (General need is treated as a necessity) justifies the use of Zoom or other synchronized platforms as a valid 'digital majlis.' This shift demonstrates a dynamic legal pluralism where religious norms adapt to the socio-technical reality of global mobility. By categorizing geographical distance and administrative barriers as a form of 'modern hardship,' *Fiqh al-Muwāzanah* provides a governance-oriented solution that reconciles the rigidity of classical physical requirements with the fluidity of digital life, ensuring that the law remains a tool for justice (*maṣlaḥah*) rather than a source of difficulty.

### ***Applying Fiqh al-Muwāzanah to Online Marriage Practices***

#### **Identifying *Maṣlaḥah* and *Mafṣadah***

Applying *fiqh al-muwāzanah* to online marriage practices requires a systematic identification of competing benefits (*maṣāliḥ*) and harms (*mafāsid*). On the benefit side, digitally mediated marriage contracts may enhance accessibility to lawful marriage, particularly in cases involving geographical separation, emergency conditions, or mobility constraints. Such facilitation may serve broader social

objectives by preventing illicit relationships and addressing practical barriers to marriage.

Conversely, online marriage practices present significant potential harms. These include risks of fraud through identity misrepresentation, coercion facilitated by unequal power relations, and evidentiary uncertainty arising from technical disruption or insufficient witness perception. In the context of family law, these harms carry long-term consequences for marital status, lineage, and the protection of individual rights.

Within a *fiqh al-muwāzanah* framework, the mere presence of benefit does not suffice to justify permissibility. Benefits and harms must be assessed in terms of their magnitude, probability, and long-term legal impact, particularly where essential maqāṣid such as the protection of lineage (*ḥifẓ al-nasl*) are implicated.

### **Risk Hierarchization and Legal Safeguards**

The second stage of analysis involves hierarchizing identified risks and benefits according to maqāṣid priorities. Risks that threaten essential interests—such as valid consent and legal certainty—must be accorded greater weight than facilitative benefits related to convenience or efficiency.

Accordingly, the permissibility of online marriage contracts may be justified only where legal safeguards effectively mitigate identified risks. These safeguards include reliable audio-visual technology, verifiable identity mechanisms, credible witnessing procedures, and institutional oversight where applicable. Where such safeguards are absent or ineffective, prohibition becomes normatively necessary to prevent systemic harm.

This hierarchization underscores that permissibility is not binary but conditional. Online marriage contracts may be tolerated in narrowly defined circumstances, while remaining impermissible in contexts where risks outweigh potential benefits.

### **From Permissibility to Regulation**

The application of *fiqh al-muwāzanah* demonstrates that the legal question surrounding online marriage practices cannot be reduced to a simplistic determination of permissibility. Rather, the analysis points toward a governance-oriented approach that

distinguishes between conditional accommodation and general authorization.

By shifting the focus from abstract legality to regulated permissibility, Islamic family law can respond to technological change without eroding its protective functions. This approach aligns with broader maqāṣid-based legal reasoning, which prioritizes long-term legal stability, protection of vulnerable parties, and institutional accountability over short-term facilitation.

In this sense, *fiqh al-muwāzanah* operates not merely as a justificatory doctrine but as a regulatory framework capable of managing legal risk in digitally mediated marriage practices.

### ***Legal Pluralism and Competing Normative Authorities***

The findings of this study must be situated within the broader context of legal pluralism that characterizes the governance of Islamic family law in many Muslim-majority jurisdictions<sup>11</sup>. In Indonesia, marriage regulation operates at the intersection of multiple normative authorities, including classical fiqh doctrines, institutional fatwas, and state law<sup>12</sup>. This plural legal environment complicates responses to digitally mediated marriage practices, as divergent interpretive authorities coexist without a unified regulatory framework.

Differences in institutional positions regarding online marriage contracts reflect not only doctrinal disagreement but also deeper methodological divergences<sup>13</sup>. Some institutions privilege formal continuity with classical jurisprudence by emphasizing physical co-presence and textual fidelity, while others adopt a more adaptive posture that prioritizes functional equivalence and social necessity<sup>14</sup>.

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<sup>11</sup> S. Suaidi and A. Sodikin, "Halal but Forbidden? A Systems Approach to Tompangan Transactions in Sumenep, Madura," *El-Mashlahah* 15, no. 2 (2025): 231–54, Scopus, <https://doi.org/10.23971/el-mashlahah.v15i2.9049>.

<sup>12</sup> Nismawati, "Exploring Lived Experiences of Post-Therapy Recovery after Spinal Cord Injury," *Journal of Regenerative Medicine and Molecular Innovation* 1, no. 5 (May 2025): 174–81.

<sup>13</sup> Sofa Sofiana, "Performing Realness: Constructing Authenticity Amid Algorithmic and Market Pressures," *CommVersa: Journal of Communication Studies* 1, no. 5 (August 2025): 182–89.

<sup>14</sup> Linda Handayani, "Interpretative Phenomenological Analysis of University Students' Experiences of National Identity among Indonesian University Students in the Digital Age: An IPA Approach," *Journal of Educational Innovation and Research* 1, no. 5 (May 2025): 173–79.

These divergent approaches illustrate how technological disruption intensifies existing tensions within plural legal systems.

Importantly, although this discussion draws primarily on the Indonesian context, the governance challenges identified here are shared by many Muslim-majority jurisdictions characterized by overlapping normative authorities and legal pluralism<sup>15</sup>. The fragmentation observed in Indonesia thus provides a representative case for understanding broader structural difficulties in regulating digital transformation within Islamic family law.

**Table 1: Comparative Analysis of Legal Pluralism in Digitally Mediated Marriage**

<b>Dimension</b>	<b>Traditional Sharia Perspective</b>	<b>State Legal System (Statutory Law)</b>	<b>Proposed Governance Framework (Fiqh al-Muwāzanah)</b>
<b>Source of Authority</b>	Classical Jurisprudence ( <i>Kutub al-Turath</i> ) and local Ulama.	National Marriage Acts and Bureaucratic Regulations.	<b>Hybrid Authority:</b> Integration of Sharia, State Law, and Algorithmic "Code".
<b>Validation Method</b>	Oral testimony ( <i>Syahadah</i> ) and physical presence.	Physical documents (ID cards) and wet signatures.	<b>Digital Forensic Validation:</b> Biometric data and blockchain-based metadata.
<b>Primary Concern</b>	Fulfillment of Pillars ( <i>Arkan</i> ) and Conditions ( <i>Shurut</i> ).	Administrative compliance and legal certainty for the state.	<b>Risk Management:</b> Balancing <i>Taysir</i> (ease) against <i>Gharar</i> (uncertainty/fraud).

<sup>15</sup> Lubis Mukhlis et al., "Integrating Artificial Intelligence and Maqāṣid Al-Syarī'Ah: Revolutionizing Indonesia's Sharia Online Trading System," *Computer Fraud and Security* 2024, no. 11 (December 2024): 301-9, <https://doi.org/10.52710/cfs.238>; Lubis Mukhlis, Siti Maryam, and Salman Alparis Sormin, "Model Pembelajaran Living History Berbasis PjBL Untuk Meningkatkan Keterampilan Histografi Mahasiswa," *Jurnal Educatio FKIP UNMA* 9, no. 4 (October 2023): 1800-1809, <https://doi.org/10.31949/educatio.v9i4.5595>.

<b>Space of Assembly</b>	<i>Ittihād al-Majlis</i> (Physical unity of the assembly).	Designated government offices or physical venues.	<b>Virtual Synchronicity:</b> Verified, real-time digital presence as a legal equivalent.
<b>Dispute Resolution</b>	Religious arbitration or community mediation.	Formal litigation in Religious/Civil Courts.	<b>Socio-Technical Oversight:</b> Audit trails of digital interactions as primary legal evidence.

## 2. *Fiqh ‘al-Muwāzanah’ as a Governance-Oriented Framework*

The reconceptualization of *fiqh al-muwāzanah* proposed in this study has implications that extend beyond the specific issue of online marriage contracts<sup>16</sup>. By operationalizing *muwāzanah* as a structured method of legal risk assessment, Islamic legal reasoning is repositioned from reactive justification toward proactive governance.

In plural legal systems, governance requires more than declarations of permissibility or prohibition; it demands principled criteria for regulation, limitation, and institutional oversight<sup>17</sup>. The findings of this study demonstrate that *fiqh al-muwāzanah* can fulfill this governance function by enabling calibrated responses to technological change<sup>18</sup>. Rather than treating digital mediation as

<sup>16</sup> M. Ilham, B. Mulu, and S. Nurfaidah, “Dynamics of Interdisciplinary Islamic Education Learning in Indonesian High Schools Based on Islamic Law,” *Samarah* 9, no. 3 (2025): 1371-93, Scopus, <https://doi.org/10.22373/bd9tp785>.

<sup>17</sup> E. Haris et al., “Legal Protection of Trademark Holders Against Imported Goods: A Contextual Framework under Islamic Economic Law,” *Jurnal Ilmiah Mizani* 12, no. 2 (2025): 680-95, Scopus, <https://doi.org/10.29300/mzn.v12i2.9064>; A. Purkon, K. Hulliyah, and M.S. Rambe, “Integration of Arti-Icial Intelligence in Contemporary Ijtihad Process in Digital Era: Opportunities and Challenges from Maslahat Perspective,” *International Journal of Islamic Thought* 28 (2025): 11-23, Scopus, <https://doi.org/10.24035/ijit.28.2025.331>.

<sup>18</sup> Lubis Mukhlis, Yadi Januari, and Rahmat Syafe`i, “Indonesia Stock Exchange: Theoretical And Philosophical Analysis Of Mudharabah and Musyarakah Contracts,” *Yurisprudencia: Jurnal Hukum Ekonomi* 9, no. 2 (December 2023): 243-64, <https://doi.org/10.24952/yurisprudencia.v9i2.8466>; Lubis Mukhlis and M. Nur

inherently disruptive or inherently beneficial, *muwāzanah* facilitates differentiated legal outcomes based on the severity, probability, and distribution of legal risks.

This governance-oriented application is particularly significant in the field of family law, where legal decisions have enduring consequences for personal status, lineage, and social order <sup>19</sup>. By foregrounding legal certainty and the protection of vulnerable parties, *fiqh al-muwāzanah* aligns doctrinal flexibility with regulatory responsibility.

**Table 2 : Analytical Model :Parameters & Theory**

<b>Parameter Analitis</b>	<b>Kondisi Empiris</b>	<b>Landasan Teori Fikih</b>	<b>Mekanisme Governance (Solusi)</b>
<b>Physical Barrier</b>	Lintas Negara / <i>Lockdown</i>	<b>Ḍarūrah</b> (Necessity)	<i>Virtual Majlis</i> dengan sinkronisasi audio-visual tanpa jeda ( <i>zero latency</i> ).
<b>Administrative Barrier</b>	Visa Delay / Prosedur Rumit	<b>Ḥājah</b> (Need)	Pengakuan dokumen digital ( <i>Digital Certificate</i> ) sebagai pengganti fisik.
<b>Integrity Risk</b>	Potensi <i>Deepfake</i> / Penipuan	<b>Sadd al-Dzari'ah</b>	Integrasi API Identitas Nasional & Verifikasi Biometrik Multi-faktor.
<b>Legal Pluralism</b>	Konflik Norma (Agama vs Negara)	<b>Maṣlaḥah Mursalah</b>	Protokol "Code as Law": Sistem digital yang otomatis mencatat

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Abdullah, *Hukum Keluarga Islam di Indonesia*, 1st ed. (Mukhlisina Revolution Center, 2025).

<sup>19</sup> Alfin Dwi Novemyanto, "Revealing Stakeholder Perceptions in the Implementation of Environmental Sustainability Policies in Industrial Areas: A Contextual Study of Subjective Experiences," *Hukumuna: Journal of Law and Policy* 1, no. 3 (March 2025): 101-9.

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### ***Institutional Implications for Fatwa Bodies and State Regulation***

The analytical findings of this study carry important implications for both religious and state institutions involved in the regulation of marriage. For fatwa bodies, the conditional model of permissibility articulated here offers a means of reconciling doctrinal fidelity with social necessity without resorting to categorical judgments<sup>20</sup>. Fatwas grounded in *fiqh al-muwāzanah* can articulate clear boundaries, procedural safeguards, and exceptional conditions, thereby reduce ambiguity and preventing misuse.

For state institutions responsible for marriage registration and legal recognition, the findings underscore the necessity of regulatory clarity<sup>21</sup>. Digitally mediated marriage practices cannot be governed solely through doctrinal permissibility; they require procedural standards concerning identity verification, evidentiary documentation, and institutional supervision<sup>22</sup>. Absent such standards, legal pluralism risks producing inconsistent outcomes and post-marital disputes that undermine legal certainty.

Crucially, the framework proposed in this study does not advocate the wholesale legalization of online marriage practices. Instead, it supports a differentiated regulatory approach that recognizes exceptional accommodation while preserving physical co-presence as the normative standard.

At a theoretical level, this study demonstrates that *fiqh al-muwāzanah* can function not merely as a justificatory doctrine but as a structured mode of legal reasoning capable of managing uncertainty

<sup>20</sup> Fida Syahidah et al., "Financial Literacy Intervention for Rural Farmers: A Qualitative Study on Collective Wealth Building through Simulation-Based Learning in Mekarmanik Village, Indonesia," *Journal Homepage: Https://journals.Ai-Mrc.Com/finanomicsJournal of Economic and Financial Studies* 1, no. 7 (July 2025): 323–29.

<sup>21</sup> Ahmad Ismail Hamdani, "Lived Experiences of Financial Risk and Uncertainty Among Novice Investors in Fintech Contexts," *Journal of Business, Management, and Accounting* 1, no. 5 (May 2025): 203–10.

<sup>22</sup> Z. Nurdin, "From Classical Kafa'ah to Contemporary Economic Justice: A Hadith-Based Legal Reassessment in Islamic Family Law," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 809–30, Scopus, <https://doi.org/10.29240/jhi.v10i2.12880>.

and technological disruption within Islamic law<sup>23</sup>. By transforming *muwāzannah* into an analytical framework, the study contributes to the development of maqāṣid-oriented jurisprudence that is both adaptive and disciplined.

This reconceptualization challenges binary legal reasoning that reduces technological change to questions of permissibility or prohibition<sup>24</sup>. Instead, it situates Islamic legal reasoning within a broader governance paradigm, where law operates as a mechanism for managing social transformation while safeguarding normative commitments<sup>25</sup>. In doing so, the study advances contemporary debates on how Islamic law can respond to technological change without sacrificing coherence or protective function.

Taken together, the discussion highlights the need to rethink how Islamic family law engages with digital transformation<sup>26</sup>. Rather than relying on binary determinations of legality, the governance-oriented application of *fiqh al-muwāzannah* emphasizes calibrated regulation grounded in legal risk assessment, maqāṣid prioritization, and institutional accountability.

This shift from binary legality to calibrated governance enables Islamic family law to respond constructively to technological change while maintaining its normative integrity<sup>27</sup>. It affirms that adaptation need not entail normative dilution and that disciplined legal reasoning

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<sup>23</sup> Lubis Mukhlis, "A Phenomenological Study of Personal Spiritual Experiences in Navigating Religious Pluralism within Interfaith Communities," *Irfana: Journal of Religious Studies* 1, no. 6 (June 2025): 212-20; Lubis Mukhlis and Yustika Saidah, "Dynamics of Nature-Based Learning in Developing Children's Motoric Skills: Teacher and Parent Perspectives," *HUMANISMA: Journal of Gender Studies* 9, no. 1 (June 2025): 64-79, <http://dx.doi.org/10.30983/humanisme.v4i2.9366>.

<sup>24</sup> Arief Rachman, "Reconstructing Communication and Self-Identity: A Phenomenological Exploration of Digital Detox Experiences," *Humanexus: Journal of Humanistic and Social Connection Studies* 1, no. 3 (March 2025): 97-103.

<sup>25</sup> M.O. Alhejaili, "From Law to Social Change: Examining the Behavioural Effects of Legal Reforms in Saudi Arabia," *Humanities and Social Sciences Communications* 12, no. 1 (2025), Scopus, <https://doi.org/10.1057/s41599-025-06225-5>.

<sup>26</sup> Agus Hery Susanto, "Living Through Uncertainty: Cancer Patients' Experiences in Early-Phase Experimental Drug Trials," *Journal Homepage: Https://journals.Ai-Mrc.Com/phytocarePhytoCare: Journal of Pharmacology and Natural Remedies* 1, no. 6 (June 2025): 245-52.

<sup>27</sup> L.M Zainul, "Exploring the Psychological Responses of Commercial Airline Pilots During Extreme Weather Conditions: A Phenomenological Study," *Journal of Multidisciplinary Research and Innovation* 1, no. 5 (May 2025): 185-93.

can accommodate innovation without exposing foundational legal values to systemic risk.

By situating digitally mediated marriage practices within a framework of legal pluralism and governance, this discussion clarifies both the theoretical significance and the regulatory implications of the study's findings. The concluding section synthesizes these insights and outlines their broader implications for Islamic family law in the digital age.

### **C. Conclusion**

This study has demonstrated that the debate surrounding digitally mediated marriage practices cannot be adequately addressed through binary determinations of permissibility or prohibition. By reconceptualizing *fiqh al-muwāzanah* as a structured, analytical, and risk-assessment framework, the article shows that *ittiḥād al-majlis* should be understood primarily in terms of legal continuity and procedural certainty rather than physical co-presence alone. This reinterpretation preserves the normative objectives of Islamic family law while allowing for carefully circumscribed adaptation to technological change. The findings highlight that digital mediation may be conditionally accommodated only where legal safeguards effectively protect consent, identity verification, reliable witnessing, and the rights of vulnerable parties.

Beyond the specific issue of online marriage contracts, this study contributes to contemporary Islamic legal theory *fiqh al-muwāzanah* can function as a governance-oriented mode of legal reasoning. novelty by reconstructing the role of *Fiqh Al-Muwazanah* not merely as an abstract legal theory, but as an operational (governance-oriented) framework for digitally mediated marriages. Unlike conventional approaches, this paper proposes new parameters in Islamic family law that balance technological convenience (*taysir*) with the protection of the purposes of marriage (*maqasid al-nikah*) through digital risk mapping. The originality of this paper lies in the integration of the precautionary principles of Islamic law with the needs of modern digital bureaucracy

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