

Marriage Between Religious Validity, Social Legitimacy, and State Recognition: Operationalizing Legal Pluralism In Unregistered and Online Marriages In Indonesia

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Abstract

This study analyzes serial marriage and digital technology-mediated marriage in Indonesia through the perspective of legal pluralism as an analytical framework. This study departs from the issue of insynchronization between religious validity, social legitimacy, and state recognition in marriage practices, especially in the context of digital transformation. The research uses normative juridical methods combined with a review of integrative literature and socio-legal sensitivity, without claiming the existence of empirical field research. Primary legal materials include laws and regulations in the field of marriage, Compilation of Islamic Law, marriage registration regulations, Constitutional Court rulings, and the results of the 2021 MUI Ijtima Ulama regarding online marriage. Secondary materials include Indonesian legal literature and the theory of international legal pluralism. The analysis was carried out by operationalizing legal pluralism through four dimensions, namely the source of norms, institutional actors, claims of validity or authority, and the consequences of legal protection. The results of the study show that nikah siri reflects the tension between religious and social acceptance and the function of state registration in ensuring proof and protection of rights. Meanwhile, online marriage presents additional issues related to ittihad al-majlis, real-time continuity, identity authentication, witnesses, wakalah, digital evidence, and integration of official registration. This study emphasizes that marriage registration is an instrument of substantive protection. The research contribution is in the form of a protection-oriented interlegality model through accessible registration, measurable marriage isbat, protection of children's rights, and gradual regulation for digitally mediated marriage.

Keywords: Unregistered Marriage; Online Marriage; Legal Pluralism; Religious Validity; State Recognition; Marriage Registration; Digital Marriage.

Abstrak

Penelitian ini menganalisis nikah siri dan perkawinan yang dimediasi teknologi digital di Indonesia melalui perspektif pluralisme hukum sebagai kerangka analitis. Kajian ini berangkat dari persoalan ketidaksinkronan antara validitas agama, legitimasi sosial, dan pengakuan negara dalam praktik perkawinan, khususnya dalam konteks transformasi

digital. Penelitian menggunakan metode yuridis normatif yang dipadukan dengan tinjauan pustaka integratif dan sensitivitas sosio-legal, tanpa mengklaim adanya penelitian lapangan empiris. Bahan hukum primer meliputi peraturan perundang-undangan di bidang perkawinan, Kompilasi Hukum Islam, regulasi pencatatan perkawinan, putusan Mahkamah Konstitusi, serta hasil Ijtima Ulama MUI Tahun 2021 mengenai pernikahan daring. Bahan sekunder mencakup literatur hukum Indonesia dan teori pluralisme hukum internasional. Analisis dilakukan dengan mengoperasionalkan pluralisme hukum melalui empat dimensi, yaitu sumber norma, aktor kelembagaan, klaim validitas atau otoritas, dan konsekuensi perlindungan hukum. Hasil penelitian menunjukkan bahwa nikah siri mencerminkan ketegangan antara penerimaan agama dan sosial dengan fungsi pencatatan negara dalam menjamin pembuktian serta perlindungan hak. Sementara itu, perkawinan daring menghadirkan persoalan tambahan terkait itihad al-majlis, kesinambungan waktu nyata, autentikasi identitas, saksi, wakalah, bukti digital, dan integrasi pencatatan resmi. Penelitian ini menegaskan bahwa pencatatan perkawinan merupakan instrumen perlindungan substantif. Kontribusi penelitian berupa model interlegalitas berorientasi perlindungan melalui pencatatan yang aksesibel, isbat nikah yang terukur, perlindungan hak anak, dan regulasi bertahap bagi perkawinan bermediasi digital.

Kata Kunci: Nikah Siri; Nikah Online; Pluralisme Hukum; Validitas Agama; Pengakuan Negara; Pencatatan Perkawinan; Perkawinan Digital.

INTRODUCTION

Marriage in Indonesia is an institution situated at the intersection of religion, society, and the state. It is not merely a private matter between two individuals, but also a legal relationship, a mechanism of social recognition, and an arena of public regulation. Consequently, discourse on whether a marriage is valid can never be entirely singular. On the one hand, religious validity is measured by the fulfillment of the pillars and conditions of marriage. On the other hand, formal state legality is expressed through the obligation to register a marriage. The formulation of Article 2 of Law Number 1 of 1974 has long created broad interpretive space: paragraph (1) affirms the validity of marriage according to religious law, while paragraph (2) requires registration in accordance with statutory regulations.¹

In social practice, this duality gives rise to two important phenomena. First, unregistered marriage (nikah siri) persists as a form of marriage regarded as religiously valid but not officially registered.

¹ Indonesia, “Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Sebagaimana Diubah Dengan Undang-Undang Nomor 16 Tahun 2019” (1974); Abdulah Pakarti, Muhammad Husni, Wahyudi Wahyudi, Ah. Fathonih, Fauzan Ali Rasyid, and Husain Husain, trans. 2025. “The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits”. *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 99-111. <https://doi.org/10.63142/al-battar.v2i2.172>.

Second, online marriage has emerged as a consequence of the digitalization of social interaction and the growing use of virtual media in family-law transactions. Both phenomena demonstrate that society does not always treat state law as the sole measure of validity. Instead, communities often construct their own legitimacy based on religious considerations, custom, efficiency, confidentiality, emergency circumstances, and access to technology.²

In social practice, unregistered marriage persists not only because of low legal awareness, but also because it is supported by existing social structures.³ Research in Tualang and Jayawijaya, for example, shows that economic factors, pregnancy outside marriage, the desire for polygamy, local culture, the role of religious leaders, and the perception that marriage is a private matter are important reasons for the persistence of unregistered marriage.⁴ Other studies emphasize that unregistered marriage tends to create systemic vulnerabilities for women and children because the absence of official documents obstructs proof of legal status,

² Muhammad Rizal Firdaus and Ali Maskur, "Pernikahan Sirri Dalam Perspektif Hukum Islam Dan Pencatatan Perkawinan Menurut Ketentuan Yang Berlaku Di Indonesia (Hukum Positif)," *Istidal: Jurnal Studi Hukum Islam* 11, no. 1 (2024): 52–72, <https://doi.org/10.34001/ijshi.v11i1.6418>; Abdulah Pakarti, Muhammad Husni, Wahyudi Wahyudi, Ah. Fathonih, Fauzan Ali Rasyid, and Husain Husain, trans. 2025. "The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits". *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 99-111; Salsabila, Fajrina Dhia, Vanda Kamila Alfi Syahri, Tutik Hamidah, and Kasuwi Saiban. 2024. "Nikah Sirri Perspektif Hukum Positif Indonesia Dan Hukum Islam". *An-Nisa: Journal of Islamic Family Law* 1 (4): 87-97. <https://doi.org/10.63142/an-nisa.v1i4.89..> <https://doi.org/10.63142/al-battar.v2i2.172>.

³ Yusuf Agung Purnama et al., "Unregistered and Online Marriage in Indonesia: An Islamic Law and Legal Perspective Based on the Principle of Al-Masyaqqah Tajlibu Al-Taysir," *Mawaddah: Jurnal Hukum Keluarga Islam* 4, no. 1 (2026): 43–67, <https://doi.org/10.52496/mjhki.v4i1.40>; Amir, Ahmad Nabil, Tasnim Abdul Rahman, Seyed Mohammad Houshisadat, and Musa Adebayo Badrudeen, trans. 2025. "Muhammad Abduh and the Conception of Science: The Framework of Maqasid and Sharia". *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 175-86. <https://doi.org/10.63142/al-battar.v2i2.167>.

⁴ Paisal Ahmad Dalimunthe, "Factors That Cause the Occurrence of Siri Marriage in Tualang District," *Legitima: Jurnal Hukum Keluarga Islam* 6, no. 1 (2023): 84–100, <https://doi.org/10.33367/legitima.v6i1.4337>; Jalili, Ismail, and Abdul Kabir Hussain Solihu. 2026. "Qawā'id Fiqhiyyah and Legal Pluralism: Reconstructing Islamic Family Law Toward Gender Equality in Indonesia". *An-Nisa: Journal of Islamic Family Law* 3 (2): 95-107. <https://doi.org/10.63142/an-nisa.v3i2.536>.

claims for maintenance and inheritance, protection from abandonment, and access to various civil rights.⁵

Meanwhile, online marriage has developed amid major changes in the digital social sphere. It should no longer be viewed merely as an incidental practice arising from the pandemic, but as part of the transformation of Islamic family law in the digital era.⁶ The debate centers on the requirement of a single majlis (*ittihad al-majlis*), clarity of *ijab-qabul*, the presence of witnesses, verification of the parties' identities, and the extent to which a virtual space can be equated with physical presence in an akad. At a broader level, this discourse concerns the need to reform Islamic family law so that it can respond to technological change without abandoning its orientation toward legal certainty, *maṣlaḥah*, and the protection of rights.⁷ The principal issue arising from these two phenomena lies in the relationship between formal legality and social legitimacy. Many marriages are socially accepted because they are regarded as religiously valid, yet they remain weak in terms of legal protection. Conversely, the state treats registration as an instrument of legality that must be fulfilled in order for family relationships to have definite legal force. It is at this point that the perspective of legal pluralism becomes important. Legal pluralism

⁵ Asman Asman, "Marginalisasi Perempuan Dalam Problematika Legalitas Nikah Siri Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 12, no. 02 (2024): 205–16, <https://doi.org/10.30868/am.v12i02.7457>; Jalili, Ismail, and Abdul Kabir Hussain Solihu. 2026. "Qawā'id Fiqhiyyah and Legal Pluralism: Reconstructing Islamic Family Law Toward Gender Equality in Indonesia". *An-Nisa: Journal of Islamic Family Law* 3 (2): 95-107. <https://doi.org/10.63142/an-nisa.v3i2.536>.

⁶ Ita Musarrofa, Husnul Muttaqin, and Ridha Amaliyah, "The Problems of Islamic Family Law in the Digital Era and Its Relevance to Renewal of the Compilation of Islamic Law," *Jurnal Hukum Islam* 22, no. 1 (2024): 89–124, https://doi.org/10.28918/jhi_v22i1_4; Burhan Latip, Muhammad Husni Abdullah Pakarti, Nik Salida Suhaila Nik Saleh, Muhammad Zakir Husain, and Normadiyah Daud. 2025. "Prohibition Vs Persistence: Contract Marriages Between the Objectives of Islamic Law and Local Legal Realities in Indonesia". *An-Nisa: Journal of Islamic Family Law* 2 (4): 342-360. <https://doi.org/10.63142/an-nisa.v2i4.471>.

⁷ Miftakur Rohman, "Implikasi Hukum Pernikahan Online (Virtual Marriage) Terhadap Keabsahan Dan Akibat Hukumnya Dalam Perspektif Fiqh Dan Regulasi Di Indonesia," *MASADIR: Jurnal Hukum Islam* 5, no. 01 (2025): 1050–73, <https://doi.org/10.33754/masadir.v5i01.1656>; Ahmad, Chaidir Ali, Muhsan Syarafuddin, Kirama Nasim Manbi Ushama, and Jamaluddin Jamal Muhsen. 2025. "The Concept of the Ideal Couple: Buya Hamka's Perspective in Islamic Marriage Law". *An-Nisa: Journal of Islamic Family Law* 2 (4): 315-25. <https://doi.org/10.63142/an-nisa.v2i4.366>.

recognizes that multiple normative regimes may coexist within the same social space, interacting, competing, and even correcting one another: state law, religious law, and social norms.⁸

In the Indonesian context, marriage provides a concrete example of legal pluralism in operation. Studies of marriage registration, Islamic family-law reform, women's rights, and Religious Court practice show that tensions among normative regimes cannot be resolved through a purely legalistic approach.⁹ What is required is an analysis capable of observing how social actors navigate different rules, select the sources of legitimacy most advantageous to them, and simultaneously confront the risk of legal uncertainty.

Existing literature has examined unregistered marriage from the perspectives of religious validity, registration, and the protection of women and children, while online marriage has been discussed from the perspectives of fiqh, technology, and Islamic family-law reform. Nevertheless, two gaps remain apparent. First, legal pluralism is often used merely to state that state law, Islamic law, and social norms coexist, without systematically identifying the relevant actors, explaining how each regime produces claims to authority, determining when conflict or accommodation occurs, or assessing the consequences for rights protection. Second, studies of unregistered and online marriage often stop at the binary of "valid/invalid," whereas the more precise issue concerns the relationship among religious validity, social legitimacy, state recognition, evidence, and the enforceability of legal consequences. These gaps constitute the research gap addressed by this article.

⁸ Mukhamad Suharto et al., "Marriage Registration as a Legal-Political Arena in Islamic Family Law: Reinterpreting *Maṣlaḥah Mursalah* within Modern Legal Systems," *Legitima: Jurnal Hukum Keluarga Islam* 8, no. 1 (2025): 27–46, <https://doi.org/10.33367/legitima.v8i1.7891>; Rusliansyah, Shabrina, Hasnul Arifin Melayu, Aulil Amri, Claire Lajaunie, and Fatima Zohra Benali. 2025. "Legal Certainty of Interfaith Marriage After SEMA No. 02 of 2023 *Maqasid Sharia* Perspective". *An-Nisa: Journal of Islamic Family Law* 2 (4): 258-70. <https://doi.org/10.63142/an-nisa.v2i4.303>.

⁹ Andre Afrilian, Khairul Akmal, dan Muhammad Akmalul Rizal, "Eksistensi Hukum Pencatatan Perkawinan dalam Reformasi Hukum Keluarga di Dunia Islam," *Al-Syakhsyiyah: Journal of Law and Family Studies* 6, no. 1 (2024), <https://doi.org/10.21154/syakhsyiyah.v6i1.6337>; Abdulah Pakarti, Muhammad Husni, Ending Solehudin, Maruf Maruf, Iqbal Saujan, and Saeideh Shakibiciu. 2025. "The Role and Application of 'Urf As a Source of Islamic Law: A Historical Review and Fiqhiyah Rules". *An-Nisa: Journal of Islamic Family Law* 2 (3): 175-92. <https://doi.org/10.63142/an-nisa.v2i3.300>.

Based on these gaps, this article addresses three questions. First, how can legal pluralism be operationalized to explain the interaction among state law, Islamic legal norms, religious authorities, and social legitimacy in unregistered and online marriages? Second, how can religious validity be doctrinally distinguished from state recognition, and what are the implications of that distinction for registration, isbat nikah, evidence, and child status? Third, what regulatory model can accommodate digitally mediated marriage without reducing the standards governing the validity of the marriage contract and legal protection?

The contribution of this article is not to justify every practice that obtains social legitimacy, but to use legal pluralism as a diagnostic tool for encounters among multiple normative orders. From this diagnosis, the article proposes a “protection-oriented interlegality model”: religious and social legitimacy are recognized as operative normative facts, while their point of connection with state law is constructed through mechanisms that strengthen evidence, access to rights, the protection of women and children, and technological accountability. From this position, legal pluralism serves an analytical function while also providing a foundation for regulatory recommendations.

Theoretical Framework: Operationalizing Legal Pluralism

Legal pluralism is used in this article to mean that social life may be governed by more than one normative order, each having different sources of authority, actors, and mechanisms of compliance. Griffiths (1986) criticizes legal centralism, which assumes the state to be the sole source of law; Merry (1988) demonstrates the importance of recognizing the coexistence of multiple forms of normative ordering; Moore (1973) explains that social groups can form semi-autonomous social fields that generate their own rules and mechanisms of compliance; while Tamanaha (2000) cautions against employing an overly broad and essentialist concept of “law” in legal pluralism. Accordingly, this article does not automatically characterize every custom as law, but identifies normative orders on the basis of claims to authority recognized by relevant actors and the practical consequences they produce.

To prevent legal pluralism from functioning merely as a descriptive label, the analysis is conducted through four operational dimensions. First, normative sources: state regulations, fiqh/KHI/fatwa norms, and social-community norms. Second, actors and forums: the Office of Religious Affairs (KUA), Religious Courts, religious authorities, families, community leaders, couples, witnesses, and in the

digital context providers of communications infrastructure. Third, claims to authority: whether a practice is declared religiously valid, socially legitimate, or recognized and capable of proof within the state system. Fourth, protective consequences: the ability to obtain a marriage certificate, claim maintenance, prove family relationships, administer child status, claim inheritance, and obtain remedies when disputes arise. Interactions among these dimensions are then classified as coexistence, conflict, accommodation, or interlegal translation.

This approach also distinguishes three terms that are otherwise easily conflated. “Religious validity” refers to an assessment of whether the pillars and conditions of the marriage contract are fulfilled under the relevant Islamic norms. “Social legitimacy” refers to community acceptance of a relationship as a marriage. “State recognition” refers to the marriage’s connection to registration institutions, authentic evidence, and the enforceability of legal consequences before state institutions. The three may overlap, but they are not identical. This distinction enables the article to assess unregistered and online marriages without reducing them to a simple valid-versus-invalid dichotomy.

Table 1. Operationalization of legal pluralism in the analysis of unregistered and online marriages.

Dimension of Analysis	Operational Question	Main Indicators	Analytical Function
Normative source	What norms form the basis of compliance?	Laws/regulations; KHI/fiqh/fatwa; community norms	Map the interacting normative orders
Actors/authority	Who validates, accepts, registers, or resolves disputes?	KUA; Religious Courts; ulama; family/community leaders; the parties	Show the distribution of authority and forums
Validity claim	What type of legitimacy is claimed?	Religious validity; social legitimacy; state recognition	Prevent conflation of the categories of valid, accepted, and recognized

Protective consequences	What rights can be proven and enforced?	Marriage certificate; maintenance; child status; inheritance; evidence; access to remedies	Measure the protective costs arising from misalignment among normative regimes
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RESEARCH METHOD

This study is normative legal research employing statutory, conceptual, case, and limited comparative approaches, combined with an integrative literature review. The term socio-legal is used in this article as a sensitivity for understanding how norms are interpreted and negotiated in published empirical literature, rather than as a claim that the authors conducted their own interviews, observations, surveys, or field research. This clarification is important to ensure that the methodology remains consistent with the data actually used.

Primary legal materials include Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, the Compilation of Islamic Law (KHI) disseminated through Presidential Instruction Number 1 of 1991, Minister of Religious Affairs Regulation Number 30 of 2024 on Marriage Registration as the current registration regulation, Constitutional Court Decision Number 46/PUU-VIII/2010, and the decision of the 7th Ijtima Ulama of the MUI Fatwa Commission in 2021 concerning online marriage. Secondary literature was purposively selected based on its direct relevance to unregistered marriage, registration, isbat nikah, child status, online marriage, digital family law, and legal pluralism. Classical international theoretical literature remains relevant because it provides the conceptual framework, while the discussion of Indonesian regulation and phenomena prioritizes recent sources.

The analysis was conducted in four stages. First, an inventory of norms was prepared to distinguish rules concerning marriage validity, registration, evidence, and judicial remedies. Second, the literature was conceptually coded using the four dimensions of legal pluralism: normative source, actor/authority, validity claim, and protective consequence. Third, unregistered and online marriages were compared to identify patterns of coexistence, conflict, accommodation, and inter-regime translation. Fourth, a prescriptive synthesis was undertaken to

formulate a protection-oriented interlegality model and a regulatory protocol for digitally mediated marriage. This article does not make statistical generalizations about social behavior because it does not use primary empirical data.

RESULTS AND DISCUSSION

Before discussing unregistered marriage, it must be emphasized that Article 2 paragraphs (1) and (2) of the Marriage Law should not be read as a single simple proposition that “religiously valid automatically means recognized by the state.” Religious validity and registration answer different questions. Religious validity concerns the fulfillment of the pillars and conditions of marriage under religious law; registration concerns the entry of the marriage event into the state’s evidentiary and administrative system. In Indonesian Islamic family law, the KHI also treats the marriage certificate as evidence of marriage and provides an *isbat* mechanism where a marriage cannot be proven by a certificate, within prescribed limits. Accordingly, the more precise expression is “religiously valid but not yet supported by adequate formal recognition/evidence,” rather than equating religious validity with all legal consequences under state law.

This distinction is theoretically important. State recognition does not create the religious pillars of marriage, but registration provides public infrastructure for authentication, evidence, and the enforcement of rights. Conversely, social legitimacy can explain why couples and communities continue to regard a marriage as binding even when it is unregistered, but social acceptance does not in itself produce authentic documents or equivalent access to remedies. It is here that legal pluralism operates as an analysis of misalignment among normative regimes, rather than as a justification for evading state law.

Unregistered Marriage: Religious Validity, Social Legitimacy, and the Deficit of Formal Recognition

Unregistered marriage persists because some communities regard religious assessment and social acceptance as more immediate sources of legitimacy than state procedures. However, this article does not assume that every unregistered marriage is automatically religiously valid. A claim of religious validity can be made only where the relevant pillars and conditions have actually been fulfilled; the term “*siri*” in this article primarily refers to a Muslim marriage that has not been officially registered. Thus, the object of analysis is the tension among claims of religious validity, social acceptance, and the absence or weakness of formal evidence.

Several studies show that the factors driving unregistered marriage are diverse. Research by Paisal Ahmad Dalimunthe in Tualang identifies three dominant factors: pregnancy outside marriage, economic constraints, and the desire for polygamy.¹⁰ In Papua, Eko Haryanto et al. found that a weak legal culture, low legal awareness, the understanding of marriage as a private matter, and the role of religious/non-state leaders also perpetuate similar practices in the form of *he yokal himago*.¹¹ These findings demonstrate that unregistered marriage cannot be explained solely by individual factors, but must also be understood in relation to social structures, collective perceptions, and configurations of local authority.

However, the social legitimacy of unregistered marriage is inversely related to the strength of its legal protection. When family relations remain harmonious, the absence of registration may not be perceived as a problem. Yet when disputes, abandonment, divorce, death, or inheritance conflicts arise, the legal position of the parties becomes vulnerable. Radian Armiansa emphasizes that unregistered marriage remains a complex problem because the absence of registration produces serious social and legal consequences.¹² Asman's study likewise shows that the legal status of unregistered marriage correlates with the marginalization of women, while the study by Adhhyputra and Musriadi demonstrates that women in unregistered marriages experience layered vulnerabilities at the psychological, social, economic, and legal levels.¹³

From the perspective of child protection, the problem becomes even more serious. Without strong marriage documentation, proving the civil relationship between parents and children becomes more complicated, as do the processes of obtaining birth certificates, claiming maintenance and inheritance, and establishing the father's legal responsibility. This reveals the paradox of unregistered marriage: it may be perceived as a rapid solution to moral or social problems, yet it creates

¹⁰ Dalimunthe, "Factors That Cause the Occurrence of Siri Marriage in Tualang District."

¹¹ Eko Haryanto et al., "He Yokal Himago: A Sociological Review of Law on Nikah Siri in The Dani Muslim Community, Papua," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 9, no. 1 (2024): 40–52, <https://doi.org/10.30863/ajmpi.v9i1.4814>.

¹² Radian Armiansa, "Kajian Hukum Islam Atas Fenomena Nikah Sirri (Telaah Terhadap Kompilasi Hukum Islam)," *AR-RA'YU: Jurnal Hukum Keluarga Islam* 3, no. 1 (2025): 25–48, <https://doi.org/10.55721/zpa7kk32>.

¹³ Asman, "Marginalisasi Perempuan Dalam Problematika Legalitas Nikah Siri Di Indonesia."

new and more serious long-term uncertainties. Unregistered marriage thus becomes a site of tension between legal legality and social implications, because apparent social recognition does not automatically ensure the fulfillment of the legal consequences attached to marriage.¹⁴

From the perspective of legal pluralism, the persistence of unregistered marriage shows that communities operate according to a normative logic different from that of the state. The state regards registration as an instrument of legal certainty, whereas some communities view registration as an administrative matter that does not affect religious validity. These different logics generate competing forms of legitimacy. Accordingly, legal policies that merely reiterate the obligation of registration without addressing the social basis of legitimacy for unregistered marriage are likely to be ineffective. The state needs to translate the function of registration into the language of *maṣlaḥah*: protection of women's rights, assurance of child status, certainty of inheritance, and easier access to justice.¹⁵

When examined through the four operational dimensions, unregistered marriage displays a clear pattern. The dominant normative sources are religious norms and community acceptance; the actors include the couple, wali, witnesses, religious leaders, and family members; the principal claims are religious validity and social legitimacy; while weaknesses arise in the dimension of protective consequences when rights must be proven before the KUA, courts, or population-administration authorities. In other words, legal pluralism explains not merely that "multiple laws exist," but why authority sufficient to generate social compliance is not necessarily sufficient to produce enforceability and authentic evidence within the state system.

Marriage Registration: From Administration to an Instrument of Protection

Doctrinally, discussion of registration must rely on the current regulatory framework. Minister of Religious Affairs Regulation (PMA) Number 20 of 2019 is widely used in earlier literature, but the registration rules have since been updated; this article uses PMA Number 30 of 2024 on Marriage Registration as the current administrative

¹⁴ Roy Suwarno Putro et al., "Perkawinan Siri Antara Legalitas Hukum Dan Implikasi Sosial," *Philosophiamundi* 2, no. 4 (2024): 29–36.

¹⁵ Yossef Yuda and Yufrizal Yufrizal, "Marriage Registration and Its Legal Implications: A Case Study in South Coast Regency," *Jurnal Kajian Dan Pengembangan Umat* 8, no. 2 (2025): 160–71, <https://doi.org/10.31869/jkpu.v8i2.7388>.

reference.¹⁶ This change is not merely editorial, because arguments concerning procedure, KUA authority, and administrative integration must be based on the regulations in force when the article is revised.

One important development is the shift in the way marriage registration is understood. Whereas older discourse often treated registration as merely administrative, recent studies increasingly frame it as a legal-political arena and an instrument of substantive protection. Mukhamad Suharto et al. argue that marriage registration should be understood as a legal-political arena in which the state seeks to integrate religious norms, public *maṣlaḥah*, and the needs of a modern legal system.¹⁷ Within this framework, registration is not merely the recording of an event, but a process that makes a marriage accessible, provable, and accountable in the public sphere.

This view is reinforced by the comparative study of Tasnim Rahman Fitra et al. on sanctions and registration compliance in Indonesia and Malaysia. They identify a correlation among the effectiveness of sanctions, access to the registration system, and levels of legal compliance; Malaysia tends to be more effective because its sanctions are stronger and its governance more orderly, whereas Indonesia continues to face the problems of nominal sanctions and weak enforcement.¹⁸ An important implication of this study is that registration cannot merely be imposed as a normative obligation; it must also be supported by an adequate regulatory architecture, incentives, and service infrastructure.

Research by Yossef Yuda and Yufrizal in Pesisir Selatan also demonstrates that when registration-awareness initiatives are actively implemented, public understanding of the urgency of registration can increase significantly.¹⁹ This finding is important because it shows that non-compliance is not always caused by ideological rejection. In many cases, the problem lies in the distance between norms and services, perceived high costs, geographic access, insufficient assistance, or the

¹⁶ Indonesia, “Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan” (2024).

¹⁷ Yuda and Yufrizal, “Marriage Registration and Its Legal Implications: A Case Study in South Coast Regency.”

¹⁸ Tasnim Rahman Fitra, Noratinah Binti Yusof, and Anwar M Radiamoda, “Sanctions and Legal Compliance in Marriage Registration: A Comparative Implementation of Islamic Family Law in Indonesia and Malaysia,” *Islamic Law and Social Issues in Society* 1, no. 1 (2025): 48–63, <https://doi.org/10.64929/ilsis.v1i1.10>.

¹⁹ Yuda and Yufrizal, “Marriage Registration and Its Legal Implications: A Case Study in South Coast Regency.”

absence of proactive outreach programs. Registration reform should therefore include procedural simplification, digital integration, and assistance for vulnerable groups.

From the perspective of Islamic family law, strengthening registration is also connected to family-law reform across the Muslim world. Andre Afrilian et al. place marriage registration within the modernization of family law in Muslim countries, while Fuad Riyadi et al. show that strengthening registration in Indonesia and Egypt represents a form of constitutional *ijtihad* that brings sharia into dialogue with the demands of justice, legal certainty, and SDG 16.²⁰ Registration is therefore not an antithesis to religion, but the result of developing legal *ijtihad* aimed at safeguarding family welfare in modern society.

From the perspective of legal protection, the functions of registration can be formulated in three layers. First, authentication: the state provides official evidence concerning the parties, time, place, and marital status. Second, enforceability: such evidence reduces the evidentiary burden when disputes arise over maintenance, marital property, inheritance, or family status. Third, prevention: administrative examination before marriage can detect impediments, false identities, or status conflicts that are difficult to correct after the akad. Registration should therefore be understood as a substantive protection mechanism serving the *maqāṣid* of family protection, rather than as a competitor to religious validity.

Online Marriage and the Multi-Layered Test for Digitally Mediated Akad

Whereas unregistered marriage reflects the persistence of an older legal-social pattern, online marriage reflects changes brought about by digital technology. Virtual media allow the parties to communicate synchronously without being physically present in the same room. In certain circumstances, this is considered helpful for couples separated by distance, living abroad, or facing emergencies. Yet this convenience also raises normative questions: can virtual space satisfy the requirement of a single majlis; can the identities of the parties, wali, and witnesses be verified; and how can the akad be proven if it is later disputed?²¹

²⁰ Fuad Riyadi et al., "Constitutional *Ijtihad* and the Reform of Islamic Family Law: A Comparative Analysis of Indonesia and Egypt in Advancing SDG 16," *Profetika: Jurnal Studi Islam* 26, no. 02 (2025): 353–70, <https://doi.org/10.23917/profetika.v26i02.11106>.

²¹ NSAK Sirait and Akmaluddin Syahputra, "Akad Nikah Online Dalam Perspektif Keputusan Ijtima' Ulama Komisi Fatwa MUI Se-Indonesia VII Tahun 2021

Studies of *fiqh al-nawāzil* demonstrate caution toward online akad where continuity of the majlis, certainty regarding the parties, or the function of testimony cannot be guaranteed. The position of the 7th Ijtima Ulama of the MUI Fatwa Commission in 2021 is more structured: where the prospective groom and the wali cannot be physically present in the same place, *wakalah* is an available option; if the akad is nevertheless conducted online, the requirements include *ittihad al-majlis*, clear wording, continuity of *ijab-qabul*, real-time audio-visual connection among the wali, prospective groom, and two witnesses, and assurance as to the identity of the parties. The MUI also emphasizes the obligation of registration with the competent KUA official. Thus, the digital medium is not assessed in the abstract; the relevant question is whether it is capable of preserving the integrity of the requirements of the akad and government recognition.

The debate has continued to develop in scholarly literature. Ita Musarrofa identifies online marriage as one of the major challenges for Islamic family law in the digital era and argues that changes in digital social space require reform of several KHI norms, including those governing witnesses, the akad, and evidence.²² Khafifah Anjar Riani et al. likewise argue that virtual marriage should be considered alongside other issues such as digital assets and cyber divorce, meaning that family law can no longer rely solely on assumptions of face-to-face relationships.²³ Miftakur Rohman emphasizes that the validity of online marriage requires a dual approach: an adaptive reading of *fiqh* and a regulatory design that provides certainty regarding identity, procedure, and legal consequences.²⁴

Sociologically, online marriage demonstrates that social legitimacy is now also shaped by digital rationality. Society is

Dan Peraturan Menteri Agama No. 20 Tahun 2019 Tentang Pencatatan Pernikahan,” *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 4 (2024): 657–66, <https://doi.org/10.38035/jihhp.v4i4.2043>.

²² Ita Musarrofa and Holilur Rohman, “Urf of Cyberspace: Solutions to the Problems of Islamic Law in the Digital Age,” *Al-Ahkam* 33, no. 1 (2023): 63–88, <https://doi.org/10.21580/ahkam.2023.33.1.13236>.

²³ Khafifah Anjar Riani, Raisa Mahfuzhia Aufa, and Anwar Hafidzi, “Implikasi Hukum Teknologi Digital Terhadap Institusi Perkawinan: Pernikahan Virtual, Aset Digital Dalam Harta Bersama, Dan Cyber Divorce,” *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 2 (2025): 1680–94, <https://doi.org/10.62976/ijjel.v3i2.1158>.

²⁴ Rohman, “Implikasi Hukum Pernikahan Online (Virtual Marriage) Terhadap Keabsahan Dan Akibat Hukumnya Dalam Perspektif Fiqh Dan Regulasi Di Indonesia.”

increasingly accustomed to conducting legal and administrative transactions through electronic media. A total rejection of the possibility of a digital akad therefore risks leaving family law behind social practice. Yet acceptance without strict standards is equally dangerous. In this regard, the concept of the 'urf of cyberspace proposed by Musarrofa and Rohman deserves consideration. They show that digital practices may inform legal ijihad provided that they do not undermine the fundamental objectives of sharia and legal protection.²⁵

From the state's perspective, the issue of online marriage does not stop at the use of cameras or video conferencing. The question is whether digital infrastructure can provide authenticable identities, verifiable presence of the parties, an intact ijab-qabul process, effective witnessing, a secure evidentiary trail, and direct integration with officials and the registration system. Digital recordings may assist factual proof, but they must not be assumed to replace a marriage certificate or official registration procedures. Accordingly, "online marriage" must be distinguished between a private akad conducted through a communications platform and a digitally mediated marriage conducted under an institutional protocol and the supervision of an authorized official.

Six Layers of Validation for Digitally Mediated Marriage

This article proposes six layers of validation. First, subject validity: the identities of the prospective spouses, wali, and witnesses are verified against official documents and through liveness checks, so the mere use of an account or recording is insufficient. Second, majlis validity: *ittihad al-majlis* is interpreted functionally only where all parties participate in a single synchronous session, can see and hear one another directly, and no interruption breaks the continuity of ijab-qabul. Third, testimonial validity: two witnesses must be able to identify the parties and fully perceive the wording of ijab-qabul; any material audio-visual disruption must require the akad to be stopped and repeated. Fourth, wali/*wakalah* validity: the status of the wali is verified in advance, and *wakalah* remains a simpler mechanism where the wali cannot be physically present. Fifth, evidentiary validity: time metadata, official identity, process logs, and where permitted by regulation recordings or archival hashes should be managed in accordance with integrity and data-protection standards. Sixth, administrative validity: the outcome of the

²⁵ Musarrofa and Rohman, "'Urf of Cyberspace: Solutions to the Problems of Islamic Law in the Digital Age."

akad must be directly connected to the KUA registration process so that no new category of digitally conducted marriage emerges that is socially valid but unregistered.

Table 2. Staged Regulatory Model For Digitally Mediated Marriage (Proposed By The Article).

Stage	Proposed Minimum Standard	Protection Objective
Pre-akad	Verification of NIK/identity documents; marital status; wali; consent; witness readiness; device and connection testing	Prevent false identities, marriage impediments, and technical failures
Conduct of the akad	Synchronous audio-visual connection; real time; one session; clear and continuous ijab-qabul; effective witnessing	Preserve <i>ittihad al-majlis</i> , <i>ittisāl</i> , and the function of testimony
Wakalah	Used when safer or more efficient than a cross-location akad; authorization is verified	Reduce uncertainty regarding location and identity
Digital evidence	Time logs, participant authentication, official records, archival-integrity mechanisms, and data protection	Provide an audit trail without replacing the official marriage certificate
Registration	Direct integration with the KUA and issuance of marriage documents in accordance with regulations	Connect the validity of the akad with state recognition and enforceability

Dispute/audit	Procedures for identity correction, log examination, objections, and access to the Religious Court	Provide remedies in cases of fraud or procedural failure
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Isbat Nikah, Child Status, and the Limits of Ex Post Remedies

Discussion of unregistered marriage must distinguish among marital status, proof of marriage, population administration, and the child’s civil relationship. Civil-registration documents may provide certain forms of administrative access, but they are not identical to legal validation of the marriage. Within the constitutional framework, Constitutional Court Decision Number 46/PUU-VIII/2010 extends the civil relationship of a child born outside marriage to a man who can be proven, through science and technology and/or other evidence recognized by law, to have a blood relationship with the child as the father.²⁶ The decision strengthens child protection, but it does not automatically convert the parents’ marriage into a registered marriage, nor does it eliminate evidentiary requirements when rights are disputed.

Isbat nikah is a judicial mechanism for obtaining a determination concerning a marriage that cannot be proven by a marriage certificate, but it is not an “automatic legalization” of every unregistered marriage. Article 7 paragraph (3) of the KHI limits the circumstances that may justify an application, including marriage for the purpose of resolving divorce proceedings, loss of a marriage certificate, doubt regarding the validity of one of the conditions of marriage, marriages conducted before the enactment of the Marriage Law, and marriages between persons who have no marriage impediment under the Marriage Law. The court must still assess the facts, the pillars and conditions, the absence of impediments, and the evidence submitted. Isbat is therefore an adjudication-based corrective mechanism, not a substitute for the obligation to register a marriage from the outset.²⁷

Within the framework of legal pluralism, isbat nikah constitutes a form of interlegal translation: a relationship that previously obtained

²⁶ Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 46/PUU-VIII/2010 (2012).

²⁷ Kodir Abdul, N U R Widhiyanti Hanif, And Sulistyarini Rachmi, “Juridical Implications Of Family Card Issuance For Siri Marriage Couples On Child Status,” *International Journal* 4, no. 2 (2024): 965–972, <https://doi.org/10.55227/ijhess.v4i2.1256>.

claims of religious validity and social legitimacy is brought before a state forum to be tested before being granted formal evidentiary effect.²⁸ This mechanism demonstrates the state system's capacity to accommodate social realities without abandoning judicial standards of review. However, because isbat operates *ex post*, excessive dependence on this mechanism transfers evidentiary costs to families, often only after divorce, death, inheritance disputes, or the need for a child's documents has arisen. A protection-oriented policy design should therefore treat isbat as a limited safety net and preventive registration as the primary pathway.

Protection-Oriented Interlegality Model

The analysis shows that the contribution of legal pluralism does not lie merely in recognizing the existence of multiple norms. The framework becomes useful when it can reveal the pathways through which claims move from one forum to another and the protection costs generated at each transition. In unregistered marriage, the principal issue is the translation of religious validity/social legitimacy into state-recognized evidence and enforceability. In online marriage, this translation becomes more complex because it must pass through a technological layer: digital identity, continuity of the majlis, effectiveness of witnesses, validity of *wakalah*, integrity of evidence, and connection to the registration system. For this reason, the article refers to the proposed approach as a protection-oriented interlegality model.²⁹

The model has five principles. First, differentiation: religious validity, social legitimacy, and state recognition must be distinguished to avoid doctrinal error. Second, translation: the state should provide an accessible pathway for translating marriage events that satisfy religious norms into formal evidence. Third, protection: registration should be assessed by its capacity to protect women, children, and parties who are economically or informationally weaker. Fourth, technological integrity: technology may be accepted only where it expands access without reducing certainty of identity, testimony, and evidence. Fifth, remedial proportionality: isbat nikah and corrective mechanisms should remain

²⁸ Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): 869–96, <https://doi.org/10.2307/3053638>.

²⁹ Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): 719–46, <https://doi.org/10.2307/3052967>.

available, but they must not become a justification for allowing non-registration to develop into a normal pattern.³⁰

At the policy level, this model produces three concrete directions. First, marriage registration should be promoted and designed as a simple, affordable, inclusive protection service connected to population-administration services, rather than merely as an administrative obligation. Second, regulation of digitally mediated marriage should distinguish the use of technology as an administrative aid from the conduct of an akad across different locations, and then establish protocols for authentication, witnesses, *wakalah*, evidentiary trails, official supervision, and registration. Third, data on isbat nikah and disputes involving unregistered marriages should be used as regulatory feedback to identify barriers to access to registration. In this way, legal pluralism becomes a framework that does not stop at describing normative diversity but generates an institutional design responsive to social realities while maintaining legal certainty.

CONCLUSION

Unregistered and online marriages demonstrate that marriage issues in Indonesia cannot be understood solely through the dichotomy of valid and invalid. This article shows that legal pluralism becomes theoretically useful when operationalized through normative sources, actors/authorities, validity claims, and protective consequences. Through these analytical tools, religious validity can be distinguished from social legitimacy and state recognition: a marriage may obtain religious-social acceptance yet still face evidentiary and enforceability deficits if it is not connected to official registration. Registration must therefore be positioned as substantive protection infrastructure that reduces evidentiary costs and strengthens access to family rights.

With respect to online marriage, the legal question cannot be answered merely by categorically accepting or rejecting technology. The validity of a digitally mediated akad must be tested through at least six layers: identity authentication, *ittihad al-majlis* and real-time continuity, the effectiveness of two witnesses, clarity regarding the wali and *wakalah*, the integrity of digital evidence, and direct integration with KUA registration. The staged regulatory model proposed in this article distinguishes a private akad conducted through a communications

³⁰ Brian Z Tamanaha, "A Non-Essentialist Version of Legal Pluralism," *Journal of Law and Society* 27, no. 2 (2000): 296–321, <https://doi.org/10.1111/1467-6478.00155>.

platform from a digital marriage genuinely conducted under institutional supervision.

In the context of unregistered marriage, isbat nikah remains important as a judicial safety net, but it should not be understood as a general substitute for registration. Constitutional Court Decision Number 46/PUU-VIII/2010 strengthens the protection of a child's civil relationship with a biological father where that relationship can be proven, while also underscoring the importance of an effective evidentiary system. The original contribution of this article is a protection-oriented interlegality model that connects recognition of religious and social normative realities with the state's obligation to establish accessible and accountable pathways for registration, remedies, and digital regulation. A limitation of this study is that it does not use primary field data; future research should test the model through interviews with marriage registrars, Religious Court judges, couples, mediators, and administrators of digital marriage-registration systems.

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