THE VALIDITY OF MARRIAGE USING TELECOMMUNICATION MEDIA (TELECONFERENCE) BASED ON LAW NUMBER 1 OF 1974 CONCERNING MARRIAGE

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Abstract

The aim of the research is The Validity of Marriage Using Telecommunication Media (Teleconferencing) Based on Law Number 1 of 1974 concerning Marriage. In this legal research, the author uses a legal research approach, namely a statutory (statue) approach approach), case approach (case approach), conceptual approach (conceptual approach). Legislative approach (statue approach) is carried out by reviewing the laws and regulations relating to issues that are in accordance with the legal issues in the case related to this research. In this thesis, the researcher takes a case study of marriage via teleconference media in Kalimantan west. The result of From the description of the discussion in chapters I to chapter IV above, the researchers draw the following conclusions the validity of Marriage Using Telecommunication Media (teleconference) as stated in Article 2 paragraph (1) that "Marriage is valid if it is carried out according to the laws of each religion and belief". Marriages using telecommunications media specifically in Indonesia are not yet regulated, therefore marriages or marriage contracts via teleconference are considered valid if they meet the requirements and harmony. Marriage via teleconference is basically the same as the implementation of marriage contracts and marriages in general, but the difference is that the implementation of marriage contracts and marriages via telecommunications is in a different assembly (long distance) or the marriage ceremony is carried out via telecommunications equipment which can be seen in pictures and can be heard. his voice. And then Obstacles faced during marriages using telecommunications or teleconference media include the bride and groom not being in a place or assembly, thus hampering the process of signing the marriage certificate, implementation towards the parties recording marriage nor KUA office. Second bride and groom, guardians and witnesses sign A valid marriage certificate prepared by employees Note taker Marriage".

I. Introduction

Humans are the most perfect creatures created by God who are gifted with reason and thought, perfection for walking and the ability to communicate and speak which differentiates them from other creatures on earth (Sabri and Andri, 2010). The increase in the number of human populations on earth has caused the spread of humans to various places separated by distance, even though humans are social creatures who need other creatures around them.

Sociologically, humans are said to be creatures who cannot live alone, therefore every human being has advantages and disadvantages and needs other individuals to cover their shortcomings by loving fellow humans without distinguishing between race, ethnicity or physical differences (Ali, 2006). Soetojo Prawirohamidjojo stated that the main purpose of marriage is to obtain offspring, fulfill human instincts, form and manage a household based on love and affection, protect humans from evil and damage, form and regulate and grow activities in seeking halal sustenance. by zooming in not quite enough answer. This matter means No only took place For temporary or For period time certain, will but For lifetime life or forever and not can be decided that's it course, Termination marriagea only allowed in very situation forced (Prawirohamidjojo, 1986).

In the Constitution Number 1 of 1974 Concerning marriage article 1 explained that marriage is bond born inner between a man with a woman as husband wife with objective For form family (home ladder) which is happy and eternal based on Almighty Godhead _ One Already become nature nature , since born man always life together with man others inside _ something association life (Sabri, 2016). Marriage according to view public custom in Indonesia is stages end or stage along life circle in Suite life a human and nature very sacred , so in its implementation must passed with stages ceremony release of status or often called Rites de Passage, p This no other reason essence marriage as unification two family big so that many procedures and or mandatory rules passed For reach it's legal something marriage (Imam, 1981).

However influence globalization and openness information result appearance phenomenon about marriage with utilise technology telecommunication specifically video teleconference media due to rapidly technology information via the internet now has change various aspect life , one among them change the consent process The usual Qabul done in One space and place now done via video teleconference media, so give rise to something study new related with legitimate or or not the marriage that took place in a way distance Far the .

The marriage was carried out via video teleconference media is legitimate if condition it's legal arranged marriages within article 2 of the Law Number 1 of 1974 Concerning Marriage and Procedures recording marriage arranged in Regulation Government Number . 9 of 1975 Article 2 to Article 9 has fulfilled .

Constitution Number 1 of 1974 Concerning Marriage, Article 2 paragraph (1) which reads as following: “Marriage is valid, if done according to the laws of each religion and belief That" (*Law Concerning Marriage*, 1974).

Based on provisions Article 2 paragraph (1) of the Law Number 1 of 1974 Concerning marriage, then something marriage That No will there is, if done outside the laws of each religion and belief in accordance 1945 Constitution. After implementation marriage in accordance with provision Article 2 paragraph (1), immediately next with recording marriage No only as something form of order administration, will but exists recording marriage This prove has held or Not yet deed law specified marriage in Article 2 paragraph (1) above . Therefore _ that is , recording marriage in accordance provision Article 2 paragraph (2) of the Law marriage This very important his position in matter happen consequence law marriage the.

Provision Article 2 paragraphs (1) and (2) give rise to something interesting thing in public about marriage with utilise technology telecommunication especially video teleconference media, a old thing felt No Possible happen, will but at the moment This has can done. This matter No regardless from the more sophisticated and developing means technology telecommunications . Marriage in Indonesia is not only regulated by law Marriage Number 1 of 1974, however the conditions are also regulated in

Compilation of Islamic Law. Islamic rules regarding marriage, divorce, inheritance and inheritance This sourced from literature classical Islamic jurisprudence from various summarized and adapted schools of thought with need Indonesian society. Second base law about marriage and affairs family the expected can become footing law for the Indonesian people will carry out marriage (http://id.qkopedia.org/wiki/ijtihad, 2021).

There is a number of example case wedding via telecommunications media among them The wedding took place in Kendari, Regency Kolaka, Southeast Sulawesi. Kardiman bin Haeruddin and Febrianti Bin Hasanuddin forced carry out consent granted past calling video telephone or video call, Wednesday (25/3/2020). matter this is because The corona virus (Covid-19) pandemic has occurred impact on the marriage process partner bride the. Example others Distance marriage contract Far using telecommunications media which was held in the Surabaya area, East Java, by the couple Vegas Chandra Dwipanegara (Vegas) and Riska Mariska Oktavia (Sita). Wedding live via the zoom application become alternative in the middle situation pandemic Covid-19 and PSBB (implementation social periodically big).

As for examples cases discussed in study This that is happens to some last year. Wedding two member police via viral video call on social media. Policewoman Beautiful Brigadier Nova and Brigadier Andik Rianto ready consent reception and reception wedding in Pontianak, West Kalimantan on Saturday (29/4/2018). But on the same day bride woman, Brigadier Nova must undergo test selection For join with the United Nation Police (UN Police) at the Multi Function Center National Police Cikeas , Bogor. Consent process granted Brigadier Andik taking place with using Teleconference media at the Muhammadiah Pontianak University building, West Kalimantan, Saturday (28/4/2018) at 10.00 WIB (https://www.tribunnews.com/regional/2018/12/27/ingat-polwan-cantik-briptu-nova-yang-viral-because-nikah-lalu-video-call-begini-kabarnya-kini?page= all, 2021).

Based on matter the above , author interested For research more carry on with take title "The Validity Of Marriage Using Telecommunication Media *(Teleconference)* Based On Law Number 1 Of 1974 Concerning Marriage".

2. Research Method

Research is a process of discovering legal rules, legal principles and legal doctrines in order to answer the legal issues faced (Soerjono Soekanto, 2001). In writing this thesis, the research method chosen is the normative legal research method (normative juridical) to be able to find out as many opinions and/or concepts as possible from experts who have previously conducted research or writing in the field of marriage law via *Teleconference* media (See Soerjono Soekanto and Sri Mamudji, 2001).

In this legal research, the author uses a legal research approach, namely a statutory (statue) approach approach), case approach (case approach), conceptual approach (conceptual approach). Legislative approach (statue approach) is carried out by reviewing the laws and regulations relating to issues that are in accordance with the legal issues in the case related to this research. In this thesis, the researcher takes a case study of marriage via teleconference media in Kalimantan west. The type of research data in this writing is secondary data obtained from legal material sources which will be mentioned below (Mukti Fajar and Yulianto Achmad, 2015).

3. Results and Discussion

The Validity of Marriage Using Telecommunication Media Based on Law Number 1 of 1974 concerning Marriage

Marriage is one of the many human beings, both men and women, where marriage is a bond between a man and a woman who is not a mahrom , where everything that was originally haram is done and becomes halal. However, as civilization and technology advance, there are those who use these developments in telecommunications to carry out marriage contracts using

the telephone, internet or other telecommunications media (Hilman, 1990).

Marriage is a word that refers to things related to a marriage bond or relationship. The definition of the term marriage is broader than the term marriage. If marriage refers to a bond made or made by a husband and wife to live together, and/or refers to a process of that bond, marriage refers to things that arise related to the implementation process and the consequences of marriage (Jamhari, 2013).

In the Compilation of Islamic Law (KHI) the meaning of marriage is not defined in detail. As stated in article 12 Chapter II, KHI takes the definition as indicated by the Qur'an that marriage is a very strong contract or mitsaqan Ghalidzan , to obey Allah's commands and carrying them out is worship (The Compilation of Islamic Law (KHI) was established based on the Instruction of the President of the Republic of Indonesia Number 1 of 1991). As a bond that is so strong and deep (mitsaqan ghaliidzan), then it has a strong meaning, both in essence and in its implications. However, the problem is that the provisions of marriage are still detrimental to many people, thus reducing the greatness of marriage itself. In this context, for example, we can see the concept of a marriage proposal which must be carried out by a man (articles 11 and 12), a guardian who is required to be a man (article 20), a witness who is also a man (article 25), a marriage agreement (article 45), and having more than one wife (article 55). Based on the points in the article above, there are reductions to the essential meaning of marriage. This further has implications for household buildings, which in many cases can also lead to domestic violence due to the dominance of one party over another (Ramlan, 2003).

Meanwhile, marriage is a legal act, which is a bond that determines whether or not an association between a man and a woman is valid in married life, which will give rise to legal consequences in the marriage that takes place. According to the applicable law, especially those that related with event that occurred is in accordance with implementation and still relevant with conditions that occur in society. As for intent from study This is marriage via teleconference media is contract (engagement) between guardian woman candidate wife with man candidate her husband, which must be said by the guardian si woman with clear form consent (surrender) and acceptance (gabul) by the person candidate husband through intermediary form tool For convey information or idea or ideas to people through track or known lines with tool telecommunications .

Understanding from telecommunication is Telecommunications originated from the words tele and communication. Tele which means distance and meaningful communication _ connection or exchange information. Telecommunication is incident exchange information (communication) in long distance. Every transmitting, sending, and or reception from every information in form signs, gestures, writing, images, sounds and sounds through system wire, optical, radio or system electromagnetic other (Dani, 2008). From material or definition concise telecommunication can We take or Look that telecommunication can used when people are far away or something different island can be connected become something bond friendship so from That marriage level its validity can we test via telecommunications media or teleconference.

The procedure or procedure for carrying out a marriage contract using teleconference media is a statement made by the woman's guardian which is then said by the man to express his pleasure and agreement with the continuation of the marriage. Both parties who have entered into a marriage is a crucial thing for the author, where a marriage which takes place using teleconference media is a direct (live) electronic-based meeting between two or more human participants or machines connected by a telecommunications system in the form of a

channel. telephone and with the rapid development of the internet telephone, an invention was born that combined television and telephone which could convey messages to the person you were talking to without only hearing the sound but being able to see the physical (visual) appearance.

The conditions of marriage are the basis for the validity of the marriage. If these conditions are met, then the marriage is valid and this marriage will give rise to obligations and rights for husband and wife, and they will and can live happily in the fabric of domestic life Amir, 2006). Material requirements according to the Marriage Law include those regulated in Articles 6 to Article 11, namely agreement between the parties to the marriage, the minimum age limit for marriage, the type of barriers to marriage, and waiting periods for widows. Meanwhile, the formal requirements for marriage are regulated in Article 2 paragraphs (1) and (2) which read:"

(1). Marriage is valid if it is carried out according to the laws of each religion and belief.
(2). Every marriage is recorded according to applicable laws and regulations."

And it is further regulated in Articles 3 to 13 of Government Regulation Number 9 of 1975 concerning the Implementation of Marriagxe Laws which explain the procedures for carrying out marriages (Moch Isnaeni, 2016). Based on Article 2 paragraph (1) of the Marriage Law, if the prospective husband and wife are Muslim, then the Pillars of Marriage are regulated in Article 14 of the Compilation of Islamic Law which reads:

"To carry out a marriage there must be:

a) Future husband;
b) Future wife;
c) Marriage guardian;
d) Two witnesses and;
e) Consent and Kabul."

According to Tan Kamello in his book entitled Person and Family Law, the marriage conditions contained in the Marriage Law consist of substantive requirements and subjective requirements . Substantive requirements are conditions that must be fulfilled for the parties who are going to carry out the marriage, while adjective requirements are related to the procedures or formalities of marriage that are required as regulated according to the laws of their respective religions and beliefs (Rosnidar, 2016).

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"The conditions depend on the principles of marriage as follows: the principles according to marriage law law number 1 of 1974. Every legal instrument has its own principles or principles, including marriage law." Below are the principles and principles of marriage law, including the following:

1. The purpose of marriage is to form a happy and eternal family. For this reason, husband and wife need to help complement each other, so that each can develop their personality to help and achieve spiritual and material prosperity .
2. This law states that a marriage is valid if it is carried out according to the laws of each religion and belief and besides that, every marriage must be recorded according to the

applicable laws and regulations . Registration of each marriage is the same as recording important events in a person's life, for example birth and death which are stated in certificates, a deed which is also included in the registration register.

3. This law adheres to the principle of monogamy, only if the person concerned wants it because the law of the religion in question allows it, a husband can have more than one wife. However, the marriage of a husband with more than one wife, even if this is desired by the parties concerned, can only be carried out if certain conditions are met and decided by the court.
4. law regulates the principle that prospective husband and wife must mature physically and mentally to be able to enter into marriage, in order to realize the goals of marriage well without ending in divorce, and to have good and healthy offspring , for this reason marriages between prospective candidates must be prevented. husband and wife who are still underage, because marriage is related to population problems, to reduce the rate of higher births, marriages must be prevented between prospective husband and wife who are still underage. Because the lower age limit for a woman to marry, results in a higher birth rate, when compared with the higher age limit, in connection with this, the Marriage Law determines the limit .
5. Because the purpose of marriage is to form a happy, eternal and prosperous family, this Law adheres to the principle of making divorce more difficult . To allow divorce, there must be certain reasons (article 19 of Government Regulation Number 9 of 1975) and must be carried out before a Religious Court for Muslims and a District Court for non-Muslims.
6. The rights and position of the wife are balanced with the rights and position of the husband both in domestic life and in social interactions, so that everything in the family can be negotiated and decided together with the husband and wife (Mardani, 2011).

On the other hand, not only the Marriage Law but the Compilation of Islamic Law (KHI) also has legal principles in it and it is very important to know when carrying out a marriage, the following are the legal principles according to the Compilation of Islamic Law:

1. The principle of consent. There should be no coercion in carrying out a marriage. The principle of consent is contained in articles 16-17 KHI: Marriage with the consent of the prospective bride and groom. Can be in the form of: a firm and real statement. in writing, verbally or in signs that are easy to understand or silently. Before the marriage takes place, the Marriage Registrar must first ask the bride and groom for their consent in the presence of two marriage witnesses. If one of the prospective bride and groom does not agree, the marriage cannot take place. The principle of freedom The principle of freedom to choose a partner while still paying attention to marriage prohibitions. Article 18 (no obstacles to marriage), 39-44 KHI (prohibition of marriage).
2. The principle of husband-wife partnership is the principle of kinship or togetherness as equals, the rights and obligations of husband and wife: (Article 77 KHI). The husband is the head of the family, the wife is the head and is responsible for managing the household. (Article 79 KHI).
3. Principles forever. Article 2 KHI is a very strong agreement to obey Allah's commands and carry out worship.
4. The principle of the benefit of life Article 3 KHI: Marriage aims to create a household life that is sakinah, mawaddah and rahmah .
5. Principle of Legal Certainty Article 5-10 KHI Marriages must be recorded and carried out by Marriage Registrar Employees. Marriage Isbath in the Religious Court. Reconciliation is

proven by extracting the Reconciliation Registration Book from the Marriage Registrar's Officer. The dissolution of a marriage due to divorce is proven by a court decision (Asro and Wasit, 2016).

The scholars also agree that a marriage is considered valid if it fulfills the conditions and pillars that have been determined. In contrast to the fiqh perspective, Law Number 1 of 1974 concerning marriage does not discuss the existence of marital harmony. The Marriage Law places greater emphasis on matters relating to the material and formal requirements of marriage such as the consent of both parties and the age limits of the bride and groom as stated in Chapter II, article 6 and article 7 (KHI) (Amir, 2006). However, the Marriage Law considers that the validity of a marriage still depends on religious rules, that marriage is valid if it is carried out according to the laws of each religion and belief (Nuansa Aulia, 2012).

That in fact a person who is going to perform a marriage is required to notify the Marriage Registrar Officer first. This notification can be made verbally by one person or by the bride and groom. With this notification, K. Wantjik Saleh is of the opinion: "The intention to enter into a marriage must also state the name, age, religion/belief, occupation , place of residence of the prospective bride and groom. "In the event that one or both of the prospective bride and groom have previously been married, the name of the previous husband or wife must also be stated."

In the Marriage Law and also Government Regulation Number 9 of 1975, marriage is regulated by the two provisions above. Including matters relating to marriage procedures. Marriage procedures are a formal requirement for marriage. In relation to the formal requirements for a marriage, the Marriage Law and its implementing regulations, namely Government Regulation Number 9 of 1975, regulate marriage procedures. With the aim of making the marriage legally valid.

Provisions regarding marriage procedures are included in Article 12 of the Marriage Law, which reads: "The procedure for carrying out a marriage is regulated in separate statutory regulations. " In connection with the provisions provided by the Marriage Law , the provisions of Article 12 of the Law Marriage is carried out through the provisions of Government Regulation Number 9 of 1975, which is stated in Article 10, which reads:

1. The marriage takes place after the tenth day after the announcement of the will for marriage by the Registrar's Officer as intended in Article 8 of this Government Regulation.
2. procedures are carried out according to the laws of each religion and belief.
3. By paying attention to the marriage procedures according to each religious law and belief, the marriage is carried out in the presence of a Registrar's Officer and attended by two witnesses.

Then Article 11 states:

1. Shortly after the marriage takes place in accordance with the provisions of article 10 of this Government Regulation, the bride and groom sign the marriage certificate which has been prepared by the Registrar's Officer in accordance with the applicable provisions.
2. The marriage certificate which has been signed by the bride and groom, is then also signed by the two witnesses and the Registrar's Officer who attended the marriage and for those who performed it according to the Islamic religion, it is also signed by the marriage guardian or their representative.
3. By signing the marriage certificate, the marriage has been officially registered.

Therefore, marriages (via teleconference) have been recorded by marriage registrar employees at the time of carrying out the ijab qabul or marriage contract, but only in cases

where the signing of the Marriage Certificate has not been carried out perfectly, so that it can be used as valid evidence according to positive law.

Marriage is basically sacred through various stages because marriage is a sacred bond that unites a man and a woman. However, in this modern era, science and technology is increasingly developing so that almost all daily activities can be carried out easily because of the sophistication of today's technological facilities. It cannot be denied that the rapid development of technology makes things that are done more efficient . But of course the development of this technology also has many negative impacts, on the other hand the quality of relationships is reduced due to being more busy with devices or technology, showing that the lack of physical contact in real life can cause depression and other mental illnesses, regarding today's developing technology and its advantages. This technology can also make things easier, for example, in a marriage using telecommunications media, this is legal and does not cancel a marriage because it does not fulfill the things mentioned in articles 25 to 27 of Law number 1 of 1974 concerning marriage, which in essence are Articles This article explains the things that annul a marriage, namely a marriage that was solemnized in the presence of an unauthorized marriage registrar, an invalid marriage guardian or one that was solemnized without the presence of 2 (two) witnesses.
the law and Islamic law are fulfilled (Nuraisah, 2013).

In Indonesia, as a country of law, it is required that all actions must be based on law, therefore also in the field of marriage it must be in accordance with the applicable marriage law . As Article 2 paragraph (1) states, "Marriage is valid if it is carried out according to the laws of each religion and belief."

This article explains that marriage is valid if it is carried out according to each respective religion, and in religion and belief itself it is closely related to the substantial meaning of one assembly, and this is very influential because there are various points of view from school scholars regarding this matter, then secondly The bride and groom have the right to adhere to their beliefs as long as the families of both parties do not object to carrying out the marriage using teleconference media , with the consideration that this is done in an emergency without reducing the marriage requirements in the applicable law .

So a legal marriage is carried out based on religion and registered at the Office of Religious Affairs (KUA) with certain provisions is determined to have consequences regarding the legality or legality of the marriage and must be registered at the marriage registration office. Marriage registration aims to create order in marriage in society, is an effort regulated through statutory law , to protect the dignity and sanctity of marriage, and more specifically to protect women's rights in married life. Therefore, marriages carried out using telecommunications or teleconference media are called valid. what if it is done according to the procedures or conditions for the validity of marriage according to their religion (Widhi, 2006).

The validity of a marriage according to Article 1 of the Marriage Law can be seen that the purpose of marriage is to form a happy and eternal family (household) based on belief in the Almighty God. Based on the provisions above, the purpose of marriage as intended in Article 1 of the Marriage Law, includes several desired aspects, namely:

a. Marriage aims to form a family consisting of father, mother and child, so that the presence of the child creates legal relationships with the father and mother.

b. To create a balanced position between husband and wife in forming a household, for this reason, husband and wife need and must help and complement each other with the aim that both parties can help and achieve prosperity both spiritually and materially .
c. Because the aim is to form a happy and eternal family, another desired goal is a marriage that lasts a lifetime by avoiding as much as possible the occurrence of divorce and making it difficult for a divorce to occur.

By physical and spiritual ties, it is meant that marriage is not only sufficient to have a physical or mental bond, but must have both. This husband and wife relationship is real both for those who bind themselves and for other people or society, whereas an inner bond is a bond that cannot be seen. Even though it is not real, the bond must exist because without an inner bond and without an external bond it will be fragile. Law Number 16 of 2019 as an amendment to Law Number 1 of 1974 concerning Marriage also provides a basis for forming a happy and eternal family, namely based on belief in the Almighty God.

There is a decision by the South Jakarta Religious Court which states that marriage using telephone media is valid and has legal force. So we can compare that Marriages using teleconference media are more likely to be legalized because their implementation is much more advanced than marriages using telephone media, that is, apart from being able to hear the voice, you can also see the image of the person speaking. Regarding the validity of a marriage using teleconference media, it cannot be separated from the harmony and conditions of the marriage itself. With the legal updates that have been stipulated in the Law on Marriage, its validity will no longer be questioned (Padli, 2015).

The East Java Fatwa Commission of the Indonesian Ulema Council (MUI) issued a fatwa stating that marriage contracts over the telephone are valid, setting out the conditions that must be met. The reason used is a hadith narrated by Umm Habibah. Apart from that, another reason is that there is no qath'i argument that regulates the technicalities of marriage contracts so that the technical problem is a matter of ijtihadiyah. The meaning of one assembly does not absolutely have to be a meaning assembly (one place), but it can also be interpreted as a masai assembly (one time).

On the other hand, telephone weddings also receive different responses. Some scholars state that telephone marriages are invalid. This was stated by Munawir Sadzali and Chairman of the Central MUI. This opinion refers to the Shafi'i school of thought which requires that the marriage contract must be in one assembly, meaning one place. In addition, the marriage contract is ta'abudi (worship), so if it is carried out over the telephone it is not legal. Apart from Munawir Sadzali , H. Masykuri from Denanyar Jombang, East Java, also believes that marriage contracts using telephone facilities are invalid. The reason is that there are no texts or supporting arguments, either in the Qur'an or Hadith, let alone stating that a marriage contract via telephone is valid. Humans are not allowed to create something or manipulate their own rules in implementing it, unless there is a text or principle that instructs them to do so (Sadiani, 2008).

In terms of marriages carried out via telecommunications media, the case discussed in this research occurred several years ago. Wedding of two police officers via video call viral on social media . Beautiful policewomen Brigadier Nova and Brigadier Andik Rianto were due for a wedding ceremony and reception in Pontianak, West Kalimantan on Saturday (29/4/2018). No This physical presence needs to be taken into consideration that the marriage ceremony via telecommunications or teleconference which is carried out directly at the time of the marriage, does not merely represent the physical absence of the bride, but is witnessed

directly by the bride through a teleconference medium. These cases are just a few of the examples that occur in communities living in an increasingly modern world. It is not impossible that in the future there will be more and more marriages via telecommunications media, especially teleconferences. So it feels necessary the rules governing the issue of long-distance marriages so that there are no longer any debates or difficulties regarding the issue of marriage registration (Op, 2012).

Based on the provisions above, the KUA as the institution or institution tasked with registering marriages, has an obligation to know and examine the marriage requirements first. Because of their obligations as marriage registrars, marriage registrar employees can reject or annul the marriage, if the marriage does not meet the requirements, procedures and principles of marriage. This is because marriage is not only legal according to religion but also legal according to the state (Achmad, 1995).

So the position of marriage registration becomes increasingly important, especially if the marriage is carried out long distance, meaning that the prospective bride and groom are in different places. Or in the current discussion regarding marriages that take place using telecommunications media (telephone or teleconference). This is none other than because the registration of this marriage will determine whether a legal action has occurred. As is known, if a legal act is carried out it will give rise to legal consequences.

The Minister of Religion establishes regulations regarding marriage registration to regulate administration, transparency and legal certainty regarding the implementation of marriages for the Muslim community, by regulating marriage registration. Technological developments are growing rapidly, requiring several aspects of human life to be connected electronically. This includes the development of marriage registration technology developed by the Indonesian Ministry of Religion through PMA RI Number 19 of 2018 concerning Marriage Registration .

Based on Minister of Religion Regulation Number 19 of 2018 concerning Marriage Registration Article 8 paragraphs (1) and (2) which reads:

1. Marriage registration is carried out after the contract is executed.
2. The contract is executed after fulfilling the provisions as intended in Article 4 and Article 5.

In dealing with a case for which there are no written regulations in the law , it is natural for marriage registrar officers or judges to use a modern view, or what is usually called a problem- oriented school . The essence of the problem- oriented school is that it is not the legal system that is the starting point, but concrete societal problems that must be solved. The law (Invitation) always lags behind the events, that is the nature of law. Moreover, with the rapid development of technology today, law will be far behind. According to Mochtar Kusumaatmadja , good law is law that is in accordance with living law (the living law) (Sudikno, 2004).

With the increasing population in one country, especially in Indonesia and also because the world is increasingly global. So the spread of Indonesia's population is increasingly widespread, because it is not possible for the entire population of Indonesia to live on just one island in Indonesia. This population distribution is not only spread within the country, but also extends abroad. There are many reasons why people carry out transmigration (population movement from city to village) or urbanization (population movement from village to city). But generally people make this move because of.

In society, which of course corresponds to or is a reflection of the values that apply in

society, laws are not full of truths and answers, which at least require some interpretation to be implemented in concrete situations. But it is more of a proposal for solving problems, a guide in finding the law. Laws are not the only source of law, but there are many other important factors that can be used to resolve legal problems.

From the cases discussed above, of course this case still has many pros and cons, the use of electronic communication media is something that is commonplace. However, if electronic communication media is used for marriage, of course it still feels strange. Because the implementation of marriage is seen as a sacred thing , and is not desired as long as it has already been carried out. Especially in every religion such as Islam, Protestant Christianity, Catholic Christianity, Buddhism and Hinduism, it requires the presence of both prospective husband and wife in the wedding procession itself.

But in the author's research, once again, according to the author, marriages using telecommunication media or teleconferences are legal because they do not fulfill the things that cancel a marriage according to articles 25 to article 27 of Law number 1 of 1974 concerning Marriage and the author's research is supported by studies The case of the marriage between Brigadier Nova and Brigadier Andik in West Kalimantan, which carried out the marriage ceremony during the contract using telecommunications media which was not attended by the bride, was valid because the most important thing was that apart from the prospective groom, namely the marriage guardian, two witnesses, the shighat (statement) of the contract and the aqdun A marriage carried out between a guardian, in this case Nova's father, and the groom and with a number of witnesses, is valid as long as the conditions and harmony of the marriage are met.

Obstacles Faced When Marriage Using Telecommunication Media or Teleconference

The world of information technology and telecommunications is increasingly sophisticated and rapid with the development of the internet. Currently, information and telecommunications technology cannot be separated from everyday life and has become a necessity to fulfill and support various activities, both individuals and organizations. The occurrence of marriages using telecommunications equipment is an input from the rapid advances in technology. This progress provides convenience for someone in their individual relationships with other people. The context is that Islamic law is universal, so the law in question must also develop according to the needs of society, so that it is in accordance with the rules and principles of fiqh itself, that the law will change along with changes in era, time and place (Sadiani, 2008).

Obstacles in carrying out marriages via telecommunications or teleconference media are that the bride and groom are not in a place or assembly, thus hampering the process of signing the marriage certificate, the implementation of doubts regarding the marriage registration parties and the KUA office.

It can be understood that the essential problem or obstacle to the united assembly requirements concerns the issue of the necessity of continuity between consent and acceptance. The requirement that there be no significant boundaries between consent and acceptance is intended to support the certainty that consent and acceptance are truly manifestations of the willingness of both parties to enter into a marriage contract. Kabul which is said immediately after the consent is said by the guardian, is one of the things that shows the willingness of the prospective husband and conversely, if there is a time gap between the consent and the kabul, it could indicate that the prospective husband is no longer

fully willing to say the vows, and the marriage guardian is in the time interval may no longer be in its original position, or may have retreated from its certainty.

In practice, marriages via teleconference are rarely carried out, although there are those who do so, this is simply because circumstances force them to do so. Even though the law does not prohibit marriages via teleconference , its implementation encounters many obstacles, one of which is regarding the procedures or procedures for carrying out marriages.

As stated above, the man and woman who are going to get married must first be notified to the Registrar's Officer at the place where the marriage will take place, then the man and woman are announced by the Marriage Registrar's Officer until 10 days after the announcement before the marriage can take place. (Article 10 and Article 11 of Government Regulation Number. 9 of 1975). The marriage was carried out in front of a Registrar's Officer and attended by two witnesses. However, problems will arise if the marriage is carried out via teleconference .

for marriage via teleconference must also be based on Articles 8, 10 and Article 11 of Government Regulation Number 9 of 1975, the only difference is in the implementation of the marriage, namely the marriage contract over the telephone. In the case of carrying out a marriage via teleconference , apart from pronouncing the marriage contract over the telephone, there must also be witnesses both in Indonesia and outside Indonesia as well as the signing of the Marriage Certificate which, based on Article 11, states that "shortly after the marriage takes place, the bride and groom, guardians and witnesses sign the Certificate. Marriage that has been prepared by the Marriage Registrar. This signing is an obstacle because the positions of the bride and groom and witnesses are separate from each other. So this is what will hamper legal certainty for the bride and groom, because without one of the bride and groom's signatures, the Marriage Certificate cannot be said to be perfect or have legal force. Even though the marriage itself can be said to be valid according to their religion and beliefs (Ibid, 2012).

The marriage certificate will be perfect and have legal force if it has been signed by the bride and groom, the witnesses and the bride's guardian. Even though the Marriage Certificate is only administrative in nature, its existence can prove that they have the legal status of husband and wife according to state law.

Marriage registration, apart from having legal force as proof of a person's status, especially in terms of civil law , also has the dimension of the state's obligation to provide public services, namely recording and issuing marriage certificates. Furthermore, the legal dimension of a valid marriage bond will bring the position of children born in the marriage to being children of the marriage as well, not just the children of a woman. Between children and both parents, and/or husband and wife have a clear legal relationship, and other legal consequences.

As is the case with witness signing in accordance with Article 11 of Government Regulation Number. 9 of 1975 number 4, "The marriage certificate which has been signed by the bride and groom, is then also signed by the two attending registrar's witnesses" (Republic of Indonesia Law Number 1 of 1974).

Apart from that, the obstacle in carrying out a marriage contract using telecommunications media is the possibility of this happening obstacles in network connection or signal problems. This can happen when one or both of the bride and groom are assigned to an area with minimal network or signal. Thus, it must be ensured in such a way that its implementation is not hampered by network issues. So the procedures and validity of

marriages long distance or using telecommunications media can still be considered valid, because such marriages can be known and supervised directly, so they can also be registered at the marriage registration office.

And it can be concluded that the marriage was carried out in the presence of a registrar and attended by two witnesses. However, problems will arise if the marriage contract is carried out via teleconference . The procedures for marriage contracts and marriage via teleconference media must also be based on Articles 8, 9, 10 and Article 11 of Government Regulation Number 9 of 1975, which reads as follows:

Article 8

After the notification procedures and requirements have been fulfilled and there are no obstacles to the marriage, the Registrar's Officer shall make an announcement regarding the notification of the intention to enter into a marriage by attaching an announcement letter according to the form specified at the Marriage Registry office in a place that has been determined and is easy for the public to read.

Article 9

The announcement is signed by the Registrar and contains:

1. Name, age, religion/belief, occupation, place of residence of the prospective bride and groom and the parents of the prospective bride and groom; if one or both of them have previously been married, state the name of their previous wife and/or husband;
2. Day, date, time and place where the wedding will take place.

Article 10

(1) The marriage takes place after the tenth day after the announcement of the will for marriage by the Registrar's Officer as intended in Article 8 of this Government Regulation.
(2) procedures are carried out according to the laws of each religion and belief.
(3) By paying attention to the marriage procedures according to each religious law and belief, the marriage is carried out in the presence of a Registrar's Officer and attended by two witnesses.

Article 11

(1) Immediately after the marriage takes place in accordance with the provisions of Article 10 of this Government Regulation, the bride and groom sign the marriage certificate which has been prepared by the Registrar's Officer in accordance with the applicable provisions.
(2) The marriage certificate which has been signed by the bride and groom, is then also signed by the two witnesses and the Registrar's Officer who attended the wedding and for those who entered into a marriage according to the Islamic religion, it is also signed by the marriage guardian or their representative.
(3) By signing the marriage certificate, the marriage has been officially registered.

The only difference is in the implementation of the marriage, the marriage contract is via teleconference . In this case, carrying out a marriage contract and marriage via teleconference must also have witnesses both in Indonesia and outside Indonesia as well as signing the marriage certificate which based on Article 11 is stated after the marriage takes place, the bride and groom, guardians and witnesses sign the marriage certificate which has been prepared by the employee. marriage registrar. On the other hand Weddings via teleconference also received different responses. Some scholars state that marriage via teleconference is invalid. This was stated by Munawir Sadzalidan Chairman of the Central MUI. This opinion refers to the Shafi'i school of thought which requires that the marriage contract must be in one assembly, meaning one place.

Apart from that, the marriage contract is ta'abudi (worship), so if it is carried out via teleconference it is not legal. Apart from MunawirSadzali , H. Masykuri from Denanyar Jombang, East Java, also believes that marriage contracts using teleconference media are invalid. The reason is that there are no texts or supporting arguments, either in the Qur'an or Hadith, let alone stating that a marriage contract via telephone is valid. Humans are not allowed to create something or manipulate their own rules in implementing it, unless there is a text or principle that instructs them to do so (Sadiani, 2007).

If the Indonesian government, in this case the legislative body, namely the legislators (DPR) and law enforcers (judges) care about the legal system in Indonesia, then they should immediately form laws and regulations related to marriage via teloconference media. Communication makes it easier for humans to communicate with other humans without being limited by distance, space and time. Likewise with marriage where in the development of marriage carried out via electronic media because one of the bride and groom is in a different area. So that related to long-distance marriage via electronic media, it creates problems or obstacles, especially related to legal procedures and obstacles to the marriage. Marriage through the use of telecommunications or teleconference media according to Islamic law is valid, as long as all the pillars and conditions are met and there is a legal representative of the prospective bride and groom who is unable to attend.

Meanwhile, according to Law Number 1 of 1974, marriage via telecommunications or teleconference media is valid if it complies with the conditions specified in the religion and beliefs believed in by the bride and groom. The marriage procedure via telecommunications media is no different from the marriage procedure in general, except that marriage via telecommunications media is not in one place or assembly at the time of carrying out the ijab qabul. The procedure is that the bride's party prepares a guardian, witnesses and marriage registrar, the groom's party who is in another area must prepare witnesses (Imran, 2019). The bride and groom must believe that it is true that the person saying the ijab qabul is the guardian of the bride and groom. The obstacles in carrying out long-distance marriages via electronic media are that the bride and groom are not in the same place or assembly hampering the process of signing the marriage certificate, the implementation of the Ijab Qabul can raise doubts for the parties. Regarding marriage via electronic media, separate regulations must be made regarding the law and procedures so that there is no debate regarding whether marriage via telecommunications media is valid or not.

Apart from the high costs of carrying out a normal marriage, the obstacles faced in marriage via teleconference media involve signals and time. The provider signal used sometimes fluctuates frequently, which can result in missed communications. Meanwhile, time is an obstacle for long-distance husband and wife couples who want to meet but cannot meet because they are busy. The ideal meeting schedule is once a month, but due to busyness, the meeting schedule becomes once every 3 to 4 months. The intensity of meetings which are very rare makes it important to communicate with each other using teleconference media .

The problems or obstacles to marriage generally include obstacles before marriage to household matters. Here, jurisprudence scholars can see these problems or obstacles, even though matters in marriage cannot be separated from debate or commitment. Marriage is considered valid according to sharia if the conditions and pillars are met. According to Jumhur, there are four pillars of marriage, namely consent kabul or sigat, there is a prospective wife, prospective husband, and guardian, while Hanafiyah believes that the pillars of marriage only include consent and acceptance. Even though marriage via teleconference is not

discussed by fiqh scholars, there are several things that can be identified from a fiqh perspective, namely the issue of conditions for consent and the presence of witnesses (Syria: Dar al-Fikr, 2002).

teleconference media if the bride and groom in a marriage carried out using telecommunications media carry out the marriage without the knowledge of the marriage registrar, so that if there is a rejection or failure to record their marriage by the Marriage Registrar's Staff because they feel they are not complying with the applicable provisions, that is normal thing. In accordance with Article 6 of the Compilation of Islamic Law which states that marriages carried out outside the supervision of Marriage Registrar Employees have no legal force. If you pay attention to the contents of Article 6, it can be interpreted that marriages carried out by those who are not known to the Marriage Registrar's Officer mean that their marriage does not have positive legal force, even though it is legal according to religion. It can also be interpreted that if their marriage is not registered with the Marriage Registrar, their marriage will not be recognized by the state/law. Therefore, if someone wants to get married By teleconference, you should inform the Marriage Registrar of your wishes so that the Marriage Registrar knows that the marriage will be carried out in writing, so that there will be no refusal to register the marriage on the grounds that the law does not yet regulate marriages via telephone or teleconference . If this happens, it is the judge's duty to provide legal certainty for those who carry out marriages, but whose registration is refused by the Marriage Registration Officer.

On the other hand, it can be seen that the existence of the KHI functions as an elaboration and development of the Marriage Law , so that differences in substance with the Marriage Law are seen as progress. If the marriage bond is seen as a legally binding bond, then the existence of the KHI should be appreciated to fill the gaps in the Marriage Law . If in the future the validity of a teleconference media marriage is challenged, then a national legal position is really needed in cases of telephone marriages, proving the validity of the marriage contract and the marriage using electronic facilities or teleconference media . Even though these obstacles are not explained explicitly in the Marriage Law and KHI, the existence of Law Number 11 of 2008 concerning Electronic Information and Transactions has provided a legal solution for disputes that may occur in teleconference media marriages (Ephah, 2009).

A marriage that is solemnized according to Islamic Religious Law and has fulfilled the requirements in accordance with statutory regulations is an invalid marriage, simply because it does not physical presence of the groom. In the case of marriages conducted via telecommunications or teleconference media no the physical presence of the groom, but spoken directly by the groom via a teleconference medium , are just a few examples of what happens in society living in an increasingly modern world. It is not impossible that in the future there will be more and more obstacles to marriages occurring via telecommunications media, especially teleconferences (Sudikno, 2004). So there is a need for regulations that regulate the issue of long-distance marriages so that there are no longer any debates or difficulties regarding the problems and obstacles to registering marriages.

Because marriage registration is very important, especially to obtain rights such as inheritance and support for children resulting from marriage. The legal consequences of not registering a marriage are: (Dede, 2010)

1. Marriage is considered invalid. Even though marriages are performed according to religion and belief, in the eyes of the state the marriage is considered invalid if it has not been registered by the Office of Religious Affairs .
2. Children only have a civil relationship with their mother and mother's family. Children born out of wedlock or unregistered marriages, apart from being considered illegitimate children, also only have a civil relationship with the mother or the mother's family (Articles 42 and 43 of the Marriage Law). There is no civil relationship with his father.
3. Children and their mothers are not entitled to inheritance and support. A further consequence of an unregistered marriage is that neither the wife nor the children born from the marriage have the right to claim support or inheritance from their father. However , the Supreme Court of the Republic of Indonesia in the case of Nugraha Besoes against Desrina and the decision of the Yogyakarta District Court in the case of Heria Mulyani and Robby Kusuma Harta, at that time granted the claim for maintenance for the child resulting from the relationship between the two couples.

Of course, it is an obstacle if the marriage has been carried out or carried out via telephone or teleconference, but is considered invalid in positive legal terms due to the absence of evidence that supports the marriage having taken place. This is hampered because marriage is not only carried out religiously but must also be valid according to positive law. For this reason, it is necessary to have evidence that can support the validity of the marriage that has been carried out, so that it can guarantee legal certainty for both parties, so that the resulting legal consequences can be protected. What is meant by evidence in this case is a marriage certificate (marriage certificate).

Meanwhile, the problems or obstacles that arise when discussing the validity of a marriage via telecommunications media are none other than that, according to Islamic law, it is best for a marriage to be carried out in one assembly, so as to support the continuity of the pronunciation of the consent and acceptance which determine whether a marriage is valid or not. This is also one of the habits of Indonesian citizens who are predominantly Muslim in getting married. The issue of "one assembly" above is not a condition for the validity of a marriage, but is simply a procedure and/or custom that has long been followed in Indonesia. The procedures for marriage via telephone or teleconference are not regulated in the law , meaning that it is left entirely to those who wish to carry out the marriage. Only for some people, the provisions of one assembly and the continuity of time can raise doubts as to whether or not a marriage carried out via telecommunications is valid or not. The relationship between continuity of time and one assembly is very close, which is why there are 2 (two) large groups of fuquha who interpret the meaning of this relationship .

group of fuquha, put forward by Syafi'i , Hanafi and Hanbali, interprets the relationship between the continuity of time and the unity of the assembly. According to this first group, "continuous time" is nothing more than the implementation of the ijab and kabul which are still related to each other and there is no distance separating the two, therefore it needs to be witnessed directly by witnesses because their task is to ensure with certainty the validity of the ijab and kabul. editorial and certainty. It is clearly seen that with the continuity of time between the pronunciation of the consent and the kabul, it is necessary to have a united assembly. group of fuquha, put forward by Maliki, interprets "continuous time" to mean that the marriage agreement is not damaged by a momentary separation. For example, with a short sermon. So in this case, the parties involved must be in one assembly, which is not a requirement for marriage.

From this description, it can be concluded that the essence of one assembly still exists in marriages that utilize telecommunications media (telephone and/or teleconference) or long distance marriages. This can happen if the idea of " in the presence of " and "attended" is developed by translating it broadly (generally), namely by interpreting it as, under supervision, either by the marriage registrar or by witnesses. So in this way the words " in front of " and "attended" in Article 10 paragraph (3) of Government Regulation Number 9 of 1975 are not interpreted narrowly, namely that marriage procedures must be carried out in the presence and attended by two witnesses in one assembly.

4. Conclusion

From the description of the discussion in chapters I to chapter IV above, the researchers draw the following conclusions the validity of Marriage Using Telecommunication Media (teleconference) as stated in Article 2 paragraph (1) that "Marriage is valid if it is carried out according to the laws of each religion and belief". Marriages using telecommunications media specifically in Indonesia are not yet regulated, therefore marriages or marriage contracts via teleconference are considered valid if they meet the requirements and harmony. Marriage via teleconference is basically the same as the implementation of marriage contracts and marriages in general, but the difference is that the implementation of marriage contracts and marriages via telecommunications is in a different assembly (long distance) or the marriage ceremony is carried out via telecommunications equipment which can be seen in pictures and can be heard. his voice. And then Obstacles faced during marriages using telecommunications or teleconference media include the bride and groom not being in a place or assembly, thus hampering the process of signing the marriage certificate, implementation towards the parties recording marriage nor KUA office. Second bride and groom, guardians and witnesses sign A valid marriage certificate prepared by employees Note taker Marriage".

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