

Online Nikah in Nigeria: *Majlis al- 'Aqd*, Witnessing and a Safeguards Framework for Validity

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Abstract

This article examines the validity of conducting nikah through real-time internet-based communication within the framework of Islamic law and the Nigerian legal system. It analyses whether the essential elements of a valid marriage contract offer and acceptance (ijab and qabul), unity of the contractual session (Majlis al-'Aqd), competent witnesses, and the participation of the waliy where required can be fulfilled through video-conferencing technologies. Using doctrinal and qualitative research methods, the study draws on classical juristic authorities, contemporary Fiqh resolutions, Nigerian legal materials, and interview evidence from selected participants familiar with online nikah practices. The study argues that Islamic law does not absolutely prohibit online nikah provided that the objectives of Sharia are achieved and the essential legal requirements are satisfied through reliable identity verification, uninterrupted communication, competent witnessing, and adequate documentary safeguards. It concludes by proposing a safeguards framework capable of enhancing the legal validity and evidential reliability of online nikah within Nigeria's plural legal system.

Keywords: Nigeria, Online Nikah, Majlis al-'Aqd, Witnesses, Waliy, Legal Pluralism

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1.0 INTRODUCTION

Marriage occupies a central position in Islamic law as a lawful institution established to preserve religion, lineage, dignity and social order. Classical jurists regarded marriage as a solemn contract (*mithaq ghaliz*) founded upon mutual consent and regulated by clearly defined legal conditions. Rapid developments in information and communication technology have transformed the manner in which individuals communicate, conduct commercial transactions and participate in legal relationships across national boundaries. These technological developments have also generated important questions regarding the validity of Islamic marriage contracts concluded through digital platforms such as Zoom, WhatsApp and Google Meet.

Although online nikah has become increasingly common in situations involving migration, long-distance relationships and emergency restrictions such as those experienced during the COVID-19 pandemic, its legal validity remains contested. The principal controversy concerns whether a virtual meeting can satisfy the classical requirement of Majlis al-'Aqd while preserving the integrity of ijab, qabul, witnessing and the role of the waliy. Existing scholarship discusses online marriage but provides limited analysis of these issues within Nigeria's plural legal system. This study therefore examines the doctrinal validity of online nikah under Islamic law, evaluates its evidential implications under Nigerian law and proposes practical safeguards capable of protecting the objectives (maqasid) of Islamic marriage.

2.0 LITERATURE REVIEW

Previous studies have examined electronic contracts and the growing use of digital technology in Islamic legal transactions. Contemporary writers generally agree that technological innovation may be accommodated where it does not undermine the essential pillars of a contract. Juristic councils such as the International Islamic Fiqh Academy and the Assembly of Muslim Jurists of

America have recognized that real-time electronic communication may satisfy contractual requirements where identity, continuity and certainty are preserved.

Nevertheless, much of the existing literature concentrates on general permissibility rather than the specific doctrinal questions surrounding Majlis al-'Aqd, witnessing and evidential reliability in Nigeria. Few studies integrate the opinions of the four Sunni schools with Nigeria's constitutional framework, the Evidence Act 2011 and the practical challenges posed by network failure, identity fraud and community acceptance. This study addresses that gap by combining classical Fiqh analysis, Nigerian legal principles and empirical interview findings to develop a safeguards framework for determining the validity and recognition of online *nikah*. Marriage has been defined as a formal union of a man and a woman by which they become husband and wife. The word *zawj*¹ is an Arabic word which is used in the Glorious *Qur'an* as a pair or mate but in usage, it connotes marriage.² The marriage and pairing are of the laws that Allah has passed for his creatures. Pairing applies in general to animal and vegetation. As for man, Allah has distinguished him over the rest of his creation by assigning to him a suitable system whereby man's dignity and honor may be maintained, and his honor may be preserved through legal marriage, such a procedure secures a relationship between man and woman that is based on mutual respect and consent.³ Thus, man's natural needs are fulfilled in a sound manner to preserve posterity and protect woman from being a common object. The marriage is one of the Islamic laws to which the Messenger (peace be upon him) encouraged the youth saying:

Young people whoever of you can afford marriage, let him get married, for marriage helps restrain the looks and preserve their chastity He who cannot afford it, let him observe fasting, for fasting is a deterrent.⁴

¹ Abdul-Rahman I. Doi; Sharia: The Islamic Law. (London, Ta Ha Publications 1984) p. 207.

² Surah Ar-Rum 30:21

³ Abdul-Rahman I. Doi; Sharia: The Islamic Law. (London, Ta Ha Publications 1984) p. 207.

⁴ <https://sunnah.com/bukhari:5066>

Islam, unlike other religion is a strong advocate of marriage. There is no place for celibacy like, for example the Roman Catholic priests and nuns.⁵ The prophet (PBUH) has said: "there is no celibacy in Islam. Marriage is a religious duty and is consequently a moral safeguard as well as a social necessity. Islam does not equal celibacy with high *"taqwa"* / *"Iman"*.⁶ The Prophet has also said, *'Marriage is my tradition who so ever keeps away there from is not from amongst me.'*⁷

Marriage acts as an outlet for sexual needs and regulate it so one does not become a slave to his/ her desires. It is a social necessity because through marriage, families are established and the family is the fundamental unit of our society.⁸ Furthermore, marriage is a legitimate or halal way to indulge in intimacy between a man and a woman. The general purpose of marriage is that the sexes can provide company to one another, love to one another, procreate children and live in peace and tranquility to the commandments of Allah.⁹ Marriage serves as a means to emotional and sexual gratification and as a means of tension reduction. It is also a form of Ibadah because it is obeying Allah and his messenger i.e., Marriage is seen as the only possible way for the sexes to unite.¹⁰ It should be entered into with total commitment and full knowledge of what it involves. It is not like buying a new dress where you can exchange it if you don't like it. Your partner should be your choice for life. One should be mature enough to understand the demands of marriage so that the union can be a lasting one.¹¹ For a marriage to be valid certain conditions must be met:

- 1) Consent of the parties.
- 2) *Mahr* a gift from the groom to his bride.

⁵ Ibid.

⁶ Sahih al-Bukhari, Hadith 5073.

⁷ *Sahih al-Bukhari* Hadith No. 5063.

⁸ Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu* (Dar al-Fikr 1989) vol 9.

⁹ Ibid.

¹⁰ M. A. Ambali, *The Practice of Muslim Family Law in Nigeria* (2nd edn Tamaza Publishing Company Limited 2003) p 168.

¹¹ Ibid

3) Witnesses 2 male or female.¹²

Information and Communication Technology (ICT) has made an impact and changed the way people Communicate with each other. ICT which began with a telephone voice contact has now produced a direct two-way relationship, a combination of sound and pictures known as “video conferencing. Today, ICT has made it possible to connect more than two parties in separate places at the same time. ICT facilities are used widely in people’s daily lives, whether for personal, family, society and business purposes.

This technology provides a system for users to communicate with each other regardless of the time, place and distance. Indeed, ICT use can strengthen the relationship among people and most importantly, it saves time and reduces expenses. This is true when two large areas that previously are separated, now become a small global nation. In other words, the spread of ICT globally, could lead us to an electronic civilization.¹³ The development of ICT has also affected the way Muslim practices Islam. Interestingly, nowadays, the *aqd* of marriage has also been held online through the internet using video conferencing. Therefore, this research examines the validity of conducting online marriage in accordance to Islamic law. Islam doesn’t say anything specifically about online marriage, however, there are certain requirements in Islam for a legal and valid marriage. Those requirements have been mentioned above once they are met, the ceremony is legal and valid according to Islam, regardless if it’s physical or online. Regarding online marriage in Islam, scholars have explored the permissibility and feasibility of conducting Islamic marriages through digital means. This involves assessing the fulfillment of essential Islamic marriage requirements such as consent, witnesses, and the presence of witnesses and dowry.

The research also delves in to examine divergent views of Islamic council of scholars, jurisdictions where online marriages are practiced, discussion with parties to online

¹² Aminu M. Gurin, *An Introduction to Islamic Family law* (2nd Edn Malthouse Press Limited Lagos 2014) p 30-31.

¹³ Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu* (Dar al-Fikr 1989) vol 7, 146; S Khan, 'The Role of Technology in Modern Islamic Marriages' (2023) 8 *Journal of Islamic Family Law* 12–29.

marriage. The requirements of *Sigha* (offer and acceptance), the presence of witnesses, the approval of the *Waliy* (guardian), and the unity of the *Majlis al- 'Aqd* (marriage assembly) are fundamental to the validity of a marriage under Islamic law.¹⁴ With the rise of digital communication technologies, the necessity imposed by global crises like the COVID-19 pandemic, and the evolving nature of legal and religious practices, there has been a growing need to evaluate how these traditional requirements can be fulfilled in an online environment.¹⁵

3.0 METHODOLOGY

This study adopts a mixed doctrinal and qualitative research design. The doctrinal component examines primary sources of Islamic law, including the Qur'an, Sunnah, classical juristic writings from the four Sunni schools of law, Nigerian constitutional provisions, the Evidence Act 2011, judicial decisions, and relevant academic literature. This approach enables a critical analysis of the legal principles governing the validity of online *nikah* and their application within Nigeria's plural legal system.

The empirical component employs a qualitative approach using semi-structured interviews to obtain practical insights into the conduct of online *nikah* in Nigeria. Participants were purposively selected because they had direct experience of online marriage ceremonies either as spouses, guardians (*awliya'*), officiating scholars, witnesses or observers. This sampling technique was adopted to ensure that participants possessed relevant knowledge

¹⁴ Ibid

¹⁵ N.M. Bomoi, examining the validity of conducting *nikah* through internet, department of Islamic law, faculty of law, Yobe state university Damaturu.

capable of addressing the research questions.

Interview data were collected through telephone calls, WhatsApp conversations and other online communication platforms after obtaining the informed consent of each participant. Participants were assured of anonymity and confidentiality, and pseudonyms were used throughout the study to protect their identities. Ethical principles of voluntary participation, confidentiality and informed consent guided the fieldwork.

The interview data were analyzed using thematic analysis. Recurring themes relating to identity verification, continuity of the contractual session (*Majlis al-'Aqd*), witnessing, technological interruptions, community acceptance and evidential challenges were identified and compared with classical Islamic jurisprudence and Nigerian legal principles. The findings from both the doctrinal and empirical analyses were synthesized to develop a safeguards framework for determining the validity and legal recognition of online nikah in Nigeria.

4.0 COMPARATIVE JURISTIC ANALYSIS OF MAJLIS AL-'AQD

Classical Islamic jurists unanimously agree that a valid nikah requires a clear offer (*ijab*) and acceptance (*qabul*). However, they differ on whether the unity of the contractual session (*Majlis al-'Aqd*) necessarily requires physical presence or whether uninterrupted communication is sufficient. This distinction is central to determining the validity of online nikah.

The Hanafi jurists, particularly Al-Kasani in *Bada'i al-Sana'i*, recognized contracts concluded between absent parties through written correspondence and authorized agents

(wakalah), provided the offer and acceptance remained legally connected. Their emphasis was on certainty of consent rather than mere physical proximity. This reasoning demonstrates that physical presence is not always indispensable where legal certainty exists.¹⁶

The Maliki school, which predominantly governs Islamic family law in Northern Nigeria, attaches considerable importance to publicity, competent witnessing and the protection of lineage (hifz al-nasl). Ibn Abi Zayd al-Qayrawani, Al-Qarafi and Al-Dardir emphasizes that the objectives of marriage include preventing disputes and safeguarding family relationships. Consequently, any modern technological process must adequately preserve these objectives before it can be regarded as legally acceptable.¹⁷

The Shafi'i school, represented by Imam Al-Nawawi, similarly insists upon certainty in the formation of contracts. Although classical jurists discussed face-to-face transactions, the underlying legal reasoning focuses upon immediate and unambiguous acceptance rather than physical location itself. Therefore, uninterrupted real-time communication capable of eliminating uncertainty may satisfy the legal rationale underlying Majlis al-'Aqd.¹⁸

Within the Hanbali school, Ibn Qudamah explains that continuity (ittisal) between offer and acceptance is essential because prolonged interruption may indicate withdrawal of the offer. This principle is particularly relevant to online nikah. Minor technical interruptions that do

¹⁶ Al-Kasani A, Bada'i al-Sana'i fi Tartib al-Shara'i (2nd edn, Dar al-Kutub al-'Ilmiyyah 1986)

¹⁷ Ahmad ibn Idris al-Qarafi, Al-Dhakhirah (Dar al-Gharb al-Islami 1994) vol 5, 11–13.

¹⁸ Yahya ibn Sharaf al-Nawawi, Al-Majmu' Sharh al-Muhadhdhab (Dar al-Fikr 1997) vol 9, 163–165.

not affect the parties' understanding may not necessarily invalidate the contract. However, where communication breaks down to the extent that witnesses fail to hear the contractual formula or uncertainty arises regarding acceptance, the unity of the contractual session may be legally severed, requiring renewal of the offer and acceptance.¹⁹

Accordingly, the comparative positions of the four Sunni schools demonstrate that the doctrine of Majlis al-'Aqd serves functional objectives rather than imposing an inflexible requirement of physical co-location. The essential concern is the preservation of certainty, continuity, reliable witnessing and protection against fraud.

4.1 Contemporary Juristic Resolutions

Contemporary juristic bodies have revisited these classical principles in light of technological developments. The International Islamic Fiqh Academy has recognized that modern means of communication may validly facilitate contractual formation where immediacy, identity verification and certainty are preserved. Likewise, the Assembly of Muslim Jurists of America (AMJA) accepts that marriage conducted through live electronic communication may satisfy Islamic legal requirements provided that the identities of the contracting parties, the waliy and the witnesses are reliably established and all essential pillars of nikah are fulfilled.

These contemporary resolutions do not replace classical jurisprudence; rather, they apply classical legal principles to modern communication technologies. Their reasoning supports the conclusion that online nikah should neither be accepted unconditionally nor rejected absolutely. Instead, each ceremony must be evaluated according to whether it fulfils the substantive objectives of Islamic

¹⁹ Muwaffaq al-Din Ibn Qudamah, *Al-Mughni* (Dar 'Alam al-Kutub 1997) vol 6, 251–254.

law and adequately protects the rights of the parties involved.²⁰

Nigeria's Legal Setting

Islamic Personal Law and Forum Pathways

Nigeria operates a plural legal system in which statutory, customary, and Islamic norms can govern family relations depending on the marriage form and the forum.

Forum Competence and Jurisdiction

Islamic personal law questions including questions of the validity or dissolution of a marriage concluded in accordance with Islamic law are constitutionally within the competence of Sharia Courts of Appeal in their appellate and supervisory roles.²¹ The jurisdiction of these courts, and the lower Area/Sharia courts from which appeals flow, relies on the subject matter being "Islamic personal law regarding a marriage concluded in accordance with that law". Therefore, establishing that an online ceremony constitutes a valid "marriage concluded in accordance with Islamic law" is a jurisdictional prerequisite.

4.3 Proof and Evidence in the Digital Age

In Nigerian litigation, the proof of an online ceremony invokes the Evidence Act 2011, specifically regarding electronically generated evidence. Section 84 of the Evidence Act 2011 governs the admissibility of computer-generated evidence²², requiring certification of the device's reliability.

²⁰ <https://www.amjaonline.org/fatwa/en/22643/marriage-via-the-internet> accessed 21 September 2025

²¹ Section 275, 1999 constitution of The Federal Republic of Nigeria as Amended

²² Evidence Act 2011, s 84.

While Sharia courts may apply their own procedural rules on evidence (*bayyinah*), the intersection with superior courts often necessitates compliance with statutory standards for electronic records (e.g., video recordings of the ceremony) to be admissible as proof of the marriage contract in appellate proceedings.

4.4 Recognition in Disputes

For online *nikah*, the practical implication is that disputes about validity and dissolution can arise in lower courts applying Islamic personal law and proceed on appeal. In this regard the quality of proof who was present, what was said, whether it was continuous, and whether identities were authentic becomes central. A marriage that is doctrinally valid but evidentially unprovable due to lack of records or witness uncertainty risks being declared a nullity (*batil*) or irregular (*fasid*) by a Nigerian court, if our courts does not recognize such it will lack societal recognition.²³

To establish validity, the online process must satisfy the core pillars (*arkan*) of the marriage contract.

4.4.1 Offer and Acceptance in One *Majlis*

A valid *nikah* contract requires a clear *ijab* (offer) and *qabul* (acceptance) exchanged in a single meeting (*Majlis al-Aqd*). Classical jurists like Ibn Qudamah emphasises that *ittisal* (continuity) is essential to prevent ambiguity; a separation implies a retraction of the offer before acceptance. Classical doctrine treats the *majlis* requirement as a control on ambiguity and later dispute: offer and acceptance must occur in a single, continuous contract session without interruptions that sever the unity of the transaction. This ensures the parties are mutually focused on the contract at the specific moment of formation. In an online context, the "session" is defined by the continuity of the connection. If the video feed freezes or drops between the offer and the acceptance, the unity

²³ When the topic of online *nikah* was posted on Facebook platforms, it became evident that many individuals were unfamiliar with the concept. The responses from users indicated a general resistance to the idea of online *nikah* being accepted in Nigeria. This resistance appears to stem from a lack of awareness about online *nikah* and a preference for traditional practices. In contrast, other jurisdictions have successfully integrated online *nikah* into their legal and religious frameworks, demonstrating a more progressive approach to digital marriage ceremonies.

of the *majlis* is broken.²⁴

Therefore, technical continuity is not just a convenience; it is a doctrinal condition for the validity of the *majlis*.

4.4.2 Witnessing and Publicity Aims

The presence of competent witnesses (*shahidayn*) is a mandatory condition for the validity of the marriage contract in the Maliki school,²⁵ which is dominant in Nigeria. Witnesses serve both evidentiary functions (attesting the contract) and social functions (supporting the publicity of marriage). They must hear and understand the offer and acceptance simultaneously. In a video conference, witnesses must be able to clearly hear the *sigha* (formula) without distortion. If network latency causes some witnesses to miss the acceptance, the witnessing condition may fail.

An online platform must guarantee "audibility" equivalent to physical presence for the witnessing to be valid.²⁶

4.4.3 The Role of the Waliy

Under the Maliki school, the consent and participation of the *waliy* (guardian) constitute an essential requirement for the validity of a marriage contract, particularly where the bride is a virgin (*bikr*). The *waliy* safeguards the interests of the bride, ensures the suitability (*kafa'ah*) of the prospective husband, and protects the broader objectives of marriage, including family stability and the preservation of lineage. Accordingly, Maliki jurists maintain that a marriage concluded without the consent or participation of the *waliy* is invalid. This position is founded on the Prophetic tradition, "There is no marriage except with a guardian (*waliy*)," and reflects the dominant practice of Islamic family law in Northern Nigeria. By contrast, the Hanafi school recognizes limited circumstances in which an adult, competent woman may contract her own

²⁴ Ibn Qudamah. *Al-Mughni*, vol. 7, p. 5, discusses the condition of continuity (ittisal) in the *majlis* as a key requirement for contract validity.

²⁵ Ahmad al-Dardir, *Al-Sharh al-Kabir* (Dar al-Fikr nd) vol 2, 233–237.

²⁶ Al-Qardawi, Yusuf, *Fiqh al-Zawaj fi al-Islam*, p. 123, discusses the evolving nature of marriage contracts and how digital platforms can align with Islamic principles of contract law.

marriage, illustrating that the juristic disagreement concerns the legal necessity of the *waliy* rather than the importance of protecting the bride's interests. ²⁷In the Qur'an Allah says: "... marry them with the leave of their guardians, and give them their bridal-due in a fair manner that they may live in the protection of wedlock..."²⁸

In online settings, the *waliy* question merges into the identity-verification problem: the law needs confidence that the correct guardian authorized the marriage and that consent was not simulated or usurped by an imposter. Remote participation by a *waliy* requires stringent identity verification to prevent fraud and ensure valid consent.

5.0 THE ONLINE MAJLIS PROBLEM: WHEN VIRTUAL PRESENCE COUNTS

5.1 The Challenge of Virtual Presence

Online *nikah* challenges the intuitive link between a *majlis* and physical space. Video communication can produce a shared synchronous environment in which parties hear and see each other in real time. The doctrinal question is whether this virtual environment can fulfil the function of *majlis*: unity of session, clarity of expression, and reliable witnessing.

5.2 Counter Argument and Rebuttal

Some scholars and traditionalists argue that physical presence (*Ittihad al-Majlis*) is an immutable requirement, and that virtual presence cannot satisfy the condition of "gathering" because the

²⁷ M.A Ambali, *The Practice of Muslim Family Law in Nigeria* (2nd edn, Tamaza Publishing Company Ltd 2003) 60–68.

²⁸ Qur'an 4: 25

parties are physically disparate. They contend that the risk of deception and the lack of physical solemnity undermine the contract's sanctity.²⁹

However, the majority of contemporary juristic councils, including the International Islamic Fiqh Academy and the Assembly of Muslim Jurists of America (AMJA), have recognized that "unity of place" is a functional, not literal, requirement intended to ensure continuity of communication. Provided the audio-visual link is real-time and uninterrupted, the "virtual *majlis*" satisfies the *sharia*'s objective of immediate and unambiguous exchange.³⁰ The skepticism is often sociological rather than strictly legal; the risks of deception are real but can be mitigated by safeguards, rather than invalidating the medium entirely.³¹

5.3 Doctrinal Conclusion for Nigeria

In Nigeria, this question cannot be answered purely at the level of abstract permissibility. It must be answered in a way that anticipates contestation: disputes about whether witnesses truly heard the *sigha*; whether interruptions broke continuity; and whether impersonation, voice imitation, or account takeover undermined identity.

5.4 Virtual Presence Through the Lens of *Maqasid al-Sharia*

The objectives of Islamic law (*Maqasid al-Sharia*) provide an important analytical framework for evaluating technological innovations affecting legal transactions. According to al-Shatibi, legal rules should always be interpreted in a manner that secures benefit (*maslahah*) and prevents harm

²⁹ Islamic Legal Perspective on the Implementation of Online Marriage Contracts during the Covid-19 Pandemic' (2022) 6(1) *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam*.

³⁰ <https://www.amjaonline.org/fatwa/en/22643/marriage-via-the-internet> accessed 21 September 2025

³¹ Assembly of Muslim jurist of America, <https://www.amjaonline.org/fatwa/en/22643/marriage-via-the-internet>, accessed 21st September, 2024.

(*mafsadah*).³² Consequently, the legal assessment of online nikah should not focus exclusively upon whether communication occurs physically or electronically, but rather upon whether the essential objectives of marriage are adequately protected.

These objectives include:

- i. preservation of lineage (*hifz al-nasl*);
- ii. protection of dignity (*hifz al-'ird*);
- iii. preservation of legal rights;
- iv. prevention of fraud and deception;
- v. certainty of contractual consent;
- vi. public recognition of marital status.

Where secure digital communication enables these objectives to be realized as effectively as physical presence, the mere absence of geographical proximity should not automatically invalidate the marriage. Conversely, where technological deficiencies undermine certainty of consent, witnessing or identity verification, the objectives of the Sharia would not be realized even if the ceremony were conducted physically.

Thus, Islamic law requires functional certainty rather than formalistic adherence to physical presence.

5.5 Applying the Islamic Legal Maxims (*Al-Qawa'id al-Fiqhiyyah*)

Several established legal maxims further support a contextual evaluation of online nikah.

³² Abu Ishaq al-Shatibi, *Al-Muwafaqat fi Usul al-Shari'ah* (Dar Ibn 'Affan 1997) vol 2, 8–15.

The maxim:

"*Al-umur bi maqasidiha*" (Matters are judged according to their objectives)³³

requires the court to evaluate whether the online procedure achieves the legal objective of marriage rather than focusing exclusively upon the technological medium employed.

Likewise,

"*Al-mashaqqah tajlib al-taysir*" (Hardship brings about legal facilitation)³⁴

recognizes that Islamic law accommodates practical difficulties where essential legal principles remain protected. This maxim became particularly significant during the COVID-19 pandemic when travel restrictions prevented many families from conducting traditional marriage ceremonies.

Similarly,

"*Al-'Adah muhakkamah*" (Custom is legally recognized)³⁵

permits changing methods of communication to be recognized where they become reliable social practices and do not contradict explicit textual authority.

³³ Jalal al-Din al-Suyuti, *Al-Ashbah wa al-Naza'ir* (Dar al-Kutub al-'Ilmiyyah 1998) 22.

³⁴ Mustafa Ahmad al-Zarqa, *Sharh al-Qawa'id al-Fiqhiyyah* (Dar al-Qalam 1989) 219–225.

³⁵ Ibid.

Collectively, these legal maxims demonstrate that Islamic jurisprudence possesses sufficient flexibility to accommodate technological developments without abandoning its foundational principles.

5.6 Doctrinal Position Adopted by this Study

This study submits that the validity of online nikah should neither be determined by unconditional acceptance of technological innovation nor by absolute insistence upon physical presence. Such binary approaches overlook the nuanced methodology of classical Islamic jurisprudence.

Instead, online nikah should be evaluated according to whether the electronic platform faithfully reproduces the legal functions historically served by *Majlis al-'Aqd*. Where real-time communication preserves continuity of offer and acceptance, competent witnesses clearly perceive the contractual exchange, the identities of all participants are reliably verified, and adequate documentary safeguards exist to resolve future disputes, the essential objectives underlying the doctrine of *Majlis al-'Aqd* are satisfied.

Conversely, where technological deficiencies introduce uncertainty regarding consent, identity or witnessing, the marriage may fail not because it occurred online, but because the substantive conditions required by Islamic law have not been fulfilled.

This functional approach reflects both the flexibility of classical Islamic jurisprudence and the practical realities of Nigeria's evolving digital society. It also provides a principled basis upon which Sharia Courts may evaluate the validity of online nikah without compromising established doctrines of Islamic family law.

6. 0 EMPIRICAL FINDINGS AND THEIR JURISTIC IMPLICATIONS

The qualitative interviews conducted for this study provide practical insights into the application of classical Islamic legal principles within contemporary digital environments. Although empirical evidence cannot determine the legality of a marriage contract independently of Islamic jurisprudence, it provides valuable evidence regarding the practical challenges encountered when conducting online *nikah* in Nigeria. Consequently, the interview findings should be understood as illustrating the operational realities within which the doctrinal rules of Islamic law must function.

The thematic analysis of the interviews identified four recurring issues: (i) identity verification; (ii) continuity of the contractual session (*Majlis al-'Aqd*); (iii) reliability of witness perception; and (iv) community acceptance of online marriages. These themes directly correspond with the principal legal objectives identified by classical jurists concerning the validity and evidential reliability of marriage contracts.

These accounts do not ‘prove’ validity, but they identify recurring operational risk points that doctrinal analysis must take seriously if online *nikah* is to be a stable institution in Nigeria:

6.1 Identity Verification and the Doctrine of Certainty (*Yaqīn*)

One of the most consistent concerns emerging from the interviews relates to the verification of the identities of the contracting parties, guardians (*awliya'*), and witnesses participating through digital platforms. Several participants indicated that although online communication made marriage possible across significant geographical distances, uncertainty occasionally existed regarding whether all participants had been adequately identified before commencement of the contractual proceedings.

From the perspective of Islamic jurisprudence, identity verification constitutes more than a procedural formality. Rather, it safeguards the doctrine of certainty (*yaqīn*), which underpins the

validity of all contractual relationships. Classical jurists repeatedly emphasized that legal obligations cannot arise where uncertainty concerning the contracting parties creates the possibility of fraud or mistaken identity. Although medieval jurists discussed forged correspondence and false agency rather than digital impersonation, the underlying legal concern remains identical: ensuring that contractual obligations are attributed to the correct individuals.³⁶

6.2 Witness Audibility and Network Failure

A reported zoom-based ceremony involving parties from Lagos and Kaduna illustrates a distinctive risk, several interview participants reported uncertainty regarding whether all witnesses had clearly heard the contractual formula because of poor audio quality during online ceremonies. While some participants regarded such difficulties as insignificant technical inconveniences, others expressed concern that incomplete perception could undermine the legal validity of the marriage.

The classical juristic discussions strongly support the latter concern. Witnesses perform an evidential function that requires direct perception of both the offer and acceptance. Testimony founded upon uncertainty or incomplete observation cannot satisfy the legal standards governing proof (*bayyinah*) in Islamic law.³⁷

Consequently, the quality of digital communication becomes legally relevant only insofar as it affects the witness's ability to discharge this evidential responsibility. High-quality audio-visual communication therefore serves not merely technological convenience but the preservation of the Sharī'ah's objective of legal certainty.

³⁶ Ahmad ibn Idris al-Qarafi, *Al-Dhakhirah* (Dar al-Gharb al-Islami 1994) vol 4, 189–195.

³⁷ Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu* (Dar al-Fikr 1989) vol 9, 6523–6528.

6.3 Community Recognition and Social Legitimacy

The interviews further revealed that community acceptance remains one of the most significant challenges confronting online nikah in Nigeria. Even where participants believed that the substantive requirements of Islamic law had been fulfilled, several respondents reported skepticism from family members, community leaders and religious organizations regarding the legitimacy of marriages concluded through digital platforms.

This finding demonstrates that the objectives of Islamic marriage extend beyond contractual validity. Marriage also performs important social functions by publicly establishing lawful family relationships, protecting lineage and preventing future disputes. The Maliki emphasis upon *i'lan* (publicity) is particularly relevant within the Nigerian context because societal recognition frequently influences the practical enjoyment of marital rights long before disputes reach judicial institutions.³⁸

Accordingly, recognized religious institutions, central mosques and Sharia authorities should play a greater role in supervising online nikah in order to strengthen public confidence and reduce future disputes concerning validity.

6.4 Bridging Risk to Legal Duty

The risks identified in the interviews specifically network failure during the *sigha* and identity ambiguity are not merely technical glitches; they go to the root of contract validity. If witnesses miss the *ijab* due to lag, the contract may be *fasid* (irregular). If a *waliy* is impersonated, it may be *batil* (void). Therefore, safeguards are not optional 'best practices' but doctrinal necessities to

³⁸ Ambali MA, *The Practice of Muslim Family Law in Nigeria* (2nd edn, Tamaza Publishing Company Ltd 2003) 168–185

ensure the contract is concluded validly and to protect the parties from future nullity claims in Nigerian courts.

7.0 PROPOSED SAFEGUARDS FRAMEWORK FOR THE VALIDITY AND RECOGNITION OF ONLINE NIKAH IN NIGERIA

The preceding analysis demonstrates that the principal challenge confronting online nikah in Nigeria is not the permissibility of digital communication itself but the preservation of the substantive requirements established by Islamic law. Classical jurists developed the doctrines of *Majlis al-'Aqd*, witnessing, guardianship (*wilāyah*) and contractual continuity to ensure certainty, prevent fraud and protect lineage. Contemporary communication technologies do not displace these principles; rather, they require their careful adaptation to a different evidential environment. Accordingly, this study proposes a safeguards framework designed to ensure that online nikah satisfies both the doctrinal requirements of Islamic law and the evidential expectations of Nigerian courts. A credible Nigerian model for online *nikah* should be framed as conditions and safeguards rather than blanket permissibility or prohibition. The objective is to protect the integrity of the marriage contract, reduce fraud risk, and increase the reliability of proof if disputes arise.

7.1 Identity verification

The first safeguard concerns verification of the identities of all essential participants before commencement of the marriage ceremony. Although classical jurists did not discuss biometric verification or digital identification, they consistently insisted upon certainty regarding the identity and legal capacity of the contracting parties. The doctrine of certainty (*yaqīn*) requires that legal obligations be attributed only to those who intentionally undertake them. Consequently, the officiating imam should verify the identities of the bride, groom, *waliy* and witnesses through reliable official documents together with continuous live video participation before the contractual

formula is exchanged. Where doubt persists regarding identity, the marriage should not proceed until adequate verification has been completed.³⁹

7.2 Anti-Interruption Protocol (Audibility Redundancy)

Because network instability is common, the procedure should include redundancy: pre-ceremony connectivity tests for all essential participants; a rule that any material interruption requires repetition of the contractual formula after reconnection; and a confirmation sequence where each witness affirms in real time that they heard the *ijab* and *qabul* clearly.

7.3 Documentation and Proof

Documentation should be designed for proof rather than ceremony: a written record of parties, *waliy* (if applicable), witnesses, *mahr* terms, date/time and platform; and retention of recordings where ethically and legally appropriate. These measures support dispute resolution in Nigerian by improving reliability of evidence under Section 84 of the Evidence Act.⁴⁰

7.4 Institutional Oversight

The empirical findings indicate that public scepticism remains one of the principal obstacles confronting online nikah in Nigeria. Accordingly, recognised Islamic institutions should assume a supervisory role in developing standardised procedures governing digital marriage ceremonies. State Sharia Commissions recognised central mosques, Councils of Ulama and Sharia Courts may issue administrative guidelines concerning identity verification, witness participation,

³⁹ Ahmad ibn Idris al-Qarafi, *Al-Dhakhirah* (Dar al-Gharb al-Islami 1994) vol 4, 189–195.

⁴⁰ Evidence Act 2011, s 84.

documentation and record keeping. Such institutional oversight would enhance public confidence while preserving the flexibility of Islamic jurisprudence to respond to technological developments.

7.5 Legislative and Judicial Development

Although existing constitutional provisions concerning Islamic personal law and the Evidence Act provide a partial legal framework for recognizing online nikah, Nigeria would benefit from clearer regulatory guidance concerning electronically concluded Islamic marriages. Judicial decisions clarifying the evidential standards applicable to digital marriage contracts would strengthen legal certainty, while administrative practice directions issued by Sharia Courts could promote greater consistency in determining disputes involving online nikah.

8.0 CONCLUSION

The emergence of online *nikah* represents one of the most significant contemporary developments in Islamic family law, challenging jurists to reconcile classical legal doctrines with rapidly evolving communication technologies. This study has demonstrated that the validity of an Islamic marriage is determined not by the physical medium through which it is concluded but by compliance with the substantive requirements prescribed by the Sharia. Through a doctrinal examination of the four Sunni schools of Islamic jurisprudence, contemporary juristic resolutions and the Nigerian legal framework, the study has shown that the essential elements of a valid marriage namely offer (*ijab*), acceptance (*qabul*), competent witnesses, guardianship (*wilayah*) where required, and continuity of the contractual session (*Majlis al-'Aqd*)—remain the decisive criteria for determining validity.

The proposed safeguards should not be understood as creating additional substantive conditions for a valid Islamic marriage. Rather, they constitute contemporary evidential mechanisms through which the classical objectives of Islamic law certainty, publicity, protection of lineage, prevention

of fraud and preservation of family rights may be realised within an increasingly digital society. In this manner, online nikah can remain faithful to the established principles of Islamic jurisprudence while responding responsibly to contemporary technological realities.