

## Legal Analysis of *Misyar* Marriage According to the Views of Nashirudin Al Bani

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**Abstract.** *This study aims to examine the views of Nashirudin Al-Bani regarding Misyar marriage. In the perspective of Islamic Law, marriage is a very strong contract (mitsaqan ghalizhan), aimed at carrying out the commands of Allah SWT and is considered a form of worship. This research is empirical with a legal sociology approach, which analyzes the practice of Misyar marriage in the community through the perspective of Nashirudin Al-Bani. Primary data is obtained through interviews and observations of the Helvetia community, while secondary data is collected from various Islamic legal literature, books, journals, articles, and online searches. The results show that Misyar marriage is increasingly prevalent in several Muslim-majority countries, thus requiring a clear legal view. Misyar marriage is a form of marriage where couples live separately based on mutual agreement. Although husbands are still obliged to provide for their wives, these marriages are conducted with often hidden motives, which have the potential for negative repercussions. Nashirudin Al-Bani firmly forbids Misyar marriage, because he believes that this practice is close to adultery, opens opportunities for abuse of dowry, divorce, and remarriage without responsibility, and focuses more on fulfilling personal desires rather than moral and religious responsibilities.*

**Keywords:** Maintenance; Marriage; Misyar; Spousal.

### 1. Introduction

Marriage in the Qur'an is referred to as "*Nikah*" (نكح) and covenant (*mitsaqan ghalizhan*) which means a strong agreement or agreement. In Arabic, marriage or *nikah* is known as *al-zawaj* (الزواج), which means uniting or gathering (الضم). Therefore, marriage or *nikah* can be interpreted as an agreement or agreement between a man and a woman to establish a relationship as husband and wife with the aim of living together in goodness. In the perspective of Islamic Law, marriage is a firm contract, known as *mitsaqan ghalizhan*, which aims to carry out the commands of Allah SWT and is considered an act of worship. Marriage

was chosen by Allah as a means to create offspring and continue the life of mankind.

In Law No. 1 of 1974, marriage is defined as a physical and mental bond between a man and a woman as husband and wife, with the aim of forming a happy and lasting family. Etymologically, the word “*misyar*” comes from the Arabic “سار,” which means journey. The term *al-misyar* (المسيار) refers to a form of marriage in which the husband comes to the wife’s home at certain times, without staying. The husband often does not stay overnight or provide proper maintenance and shelter to the wife, which is usually one of the main obligations in an Islamic marriage. According to Ahmad At-Tamimi, a *misyar* marriage is a marriage contract that is valid according to shariah, but the wife consciously waives her right to housing and maintenance.<sup>1</sup>

Usamah al-Ashqar mentions that the term *misyar* comes from the word *sayr*, which means travel, and refers to a man who travels frequently. In the context of a *misyar* marriage, the husband does not consistently fulfill the rights of the household because he is busy or there is no obligation to live together. According to contemporary *fiqh*, a *misyar* marriage is a valid marriage contract, but the wife waives her rights to residence and maintenance.

*Misyar* marriage is a new phenomenon (*mustajaddah*) in Islamic law that requires in-depth study to provide legal guidance for Muslims. To this day, the debate over the validity of *misyar* marriage continues, with some scholars allowing it and others prohibiting it. In some Muslim countries, especially among women with careers and financial stability, the practice of *misyar* marriage is becoming increasingly common. Typically, husbands only come at certain times, such as one or two days a week, without providing maintenance or living with their wives permanently. In Indonesia, this practice is also gaining popularity, especially in big cities such as Jakarta, Bogor, Bandung and Surabaya, with the perpetrators ranging from the upper middle class to the lower class, both locals and Middle Eastern tourists.<sup>2</sup>

According to the Compilation of Islamic Law (KHI) Article 81, a husband is obliged to provide housing for his wife and children, or for a former wife who is still in the *iddah* period, to protect them from interference and provide a sense of security. Based on these provisions, there is a discrepancy between theory and practice in the field, especially in *misyar* marriage. Nashirudin Al-Bani’s view states that the husband must be responsible for his family, including fulfilling the wife’s rights such as maintenance and housing. However, in the practice of *misyar* marriage, husbands often abdicate this responsibility.<sup>3</sup>

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<sup>1</sup> Yuni Harlina, “Tinjauan Usia Perkawinan Menurut Hukum Islam (Studi UU NO. 16 Tahun 2019 Perubahan Atas UU NO. 1 Tahun 1974 Tentang Perkawinan),” *Hukum Islam* 20, No. 2 (December 1, 2020): p. 219, <https://doi.org/10.24014/jhi.v20i2.9786>.

<sup>2</sup> Achmad Shobirin Hasbulloh, “Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory,” *Shariajournal.com*, 2023, <http://shariajournal.com/index.php/IJJEL>.

<sup>3</sup> Ibnu Radwan, “Hukum Perdata Islam Di Indonesia : Studi Tentang Hukum Perkawinan, Kewarisan, Wasiat, Hibah Dan Perwakafan - Repository UIN Sumatera Utara,” *Uinsu.ac.id*, 2021,

Several cases of *misyar* marriage in Helvetia Village, Labuhan Deli Sub-district, Deli Serdang Regency show that husbands do not fulfill their responsibilities towards their wives.<sup>4</sup> For example, Mrs. Amel, a career woman who entered into a *misyar* marriage only to obtain marital status and offspring, with no maintenance from her husband. Another case was experienced by Mrs. Aisyah, where her husband initially promised to fulfill her needs, but after two months, he no longer provided maintenance.<sup>5</sup>

This research is interested in exploring more about Nashirudin Al-Bani's views on *misyar* marriage, which will be outlined in a study entitled "**Legal Analysis of Misyar Marriage According to the Views of Nashirudin Al-Bani.**" Based on a review of previous research, the author found several relevant studies, including a study by M. Kasim, Hijrayanti Sari, and Aisyah S. which focuses on Yusuf Al-Qardāwi's *ijtihad* method regarding the permissibility of *misyar* marriage. Then, research by Ismanul Fajri, Helmi Basri, and Arisman who analyzed *misyar* marriage from the perspective of *maqashid shari'ah* according to Wahbah al-Zuhaili, which emphasizes harmony with the purpose of marriage in Islam.<sup>6</sup> In addition, research by Ahmad Kholil, Kasuwi Saiban, and R. Cecep Lukman Yasin examines the views of Nahdlatul Ulama and Muhammadiyah scholars on *misyar* marriage.<sup>7</sup>

This research has similarities with previous studies in discussing *misyar* marriage, but there are differences in the focus of the study. While M. Kasim and colleagues' research focuses more on Yusuf Al-Qardāwi's *ijtihad* method, this research will focus on Nashirudin Al-Bani's views regarding the rights of wives in *misyar* marriage. This study also highlights Nashirudin Al-Bani's criticism that *misyar* marriage has the potential to neglect the rights of the wife and does not fulfill the main purpose of marriage in Islam, which is to form a family that is *sakinah, mawaddah, and rahmah*.

## 2. Research Methods

This research uses an empirical legal approach to examine the concept of *misyar* marriage that

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<http://repository.uinsu.ac.id/13218/1/lbnu%20R%20Siddiq%20Hukum%20Perdata%20Islam%20di%20Indonesia%20%281%29.pdf>.

<sup>4</sup> Ismanul Fajri, Helmi Basri, and Arisman, "Analisis Pendapat Wahbah Al-Zuhaili (W. 1437 H) Tentang Nikah Misyar Perspektif Maqashid Syari'ah," *Familia* 4, No. 1 (June 30, 2023): p. 49–67, <https://doi.org/10.24239/familia.v4i1.82>.

<sup>5</sup> M. Kasim, Hijrayanti Sari, and Aisyah S., "Metode Penetapan Hukum Nikah Misyar Perspektif Yusuf Al-Qardāwī," *BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam* 2, No. 3 (November 22, 2021): p. 509–520, <https://doi.org/10.36701/bustanul.v2i3.400>.

<sup>6</sup> Riski Maulana and Sudirman Suparmin, "The Medan City Drainage Development Policy Review of Al-Maqashid Sharia Theory," *Law Development Journal* 5, No. 3 (2023): p. 287–300, <https://jurnal.unissula.ac.id/index.php/ldj/article/view/32421/8828>.

<sup>7</sup> Ahmad Kholil, Kasuwi Saiban, and R. Cecep Lukman Yasin, "Analisis Terhadap Hasil Pemikiran Yusuf Qardhawi Berkenaan Nikah Misyar Menurut Ulama Nahdhatul Ulama Dan Muhammadiyah Kota Malang," *Komparatif: Jurnal Perbandingan Hukum Dan Pemikiran Islam* 2, No. 1 (June 8, 2022): p. 1–13,

occurs in society, based on the views of Nashirudin Al-Bani. The method applied is a legal sociology approach, where primary data is obtained through interviews with the Helvetia community and direct observation in the field. Data analysis is carried out qualitatively, resulting in a description in the form of written or spoken words from respondents and observed behavior. Secondary data sources are obtained from various references related to Islamic law, such as books, journals, and previous research results. This method is descriptive qualitative, which focuses on the study of legal provisions and the reality that exists in society. This research aims to identify existing problems (problem identification), then offer solutions to these problems (problem solution), without using statistical analysis techniques or other quantification methods.

### 3. Results and Discussion

#### 3.1. Marriage in Islam

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ

Meaning: "And give in marriage those who are celibate among you, and those who are marriageable among your male servants and your female servants. If they are poor, Allah will enable them by His grace. And Allah is All-Wide (His provision) and All-Knowing" (Q.S An Nur: 32).

عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ قَالَ دَخَلْتُ مَعَ عَلْقَمَةَ وَالْأَسْوَدِ عَلَى عَبْدِ اللَّهِ فَقَالَ عَبْدُ اللَّهِ كُنَّا مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ شَبَابًا لَا نَجِدُ شَيْئًا فَقَالَ لَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَا مَعْشَرَ الشَّبَابِ مَنْ اسْتَطَاعَ الْبَاءَةَ فَلْيَتْرُوجْ فَإِنَّهُ أَعْضُ لِلْبَصْرِ وَأَخْصَنُ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ (رواه البخاري)

Meaning: "Abdurrahman ibn Yazid reported that I, Alqamah and Al Aswad met Abdullah and he said: When we were young, we were with the Prophet ﷺ. At that time, we did not have any wealth, so the Prophet ﷺ said to us, "O you young men, whoever among you is able to get married, then let him get married, because marriage can subdue the gaze, and is also more able to guard the genitals (lust). But whoever is not able to do so, let him fast, for that will pacify his lusts." (H.R Bukhari : 5066).<sup>8</sup>

According to the opinion of the majority of scholars, the ruling on marriage for each individual may differ, depending on their individual circumstances:

Marriage becomes obligatory for someone who is able to marry and fears that he will fall into adultery if he does not do so. In this situation, marriage is a way to protect oneself from committing a prohibited act, so it is obligatory. If a person is able to get married and intends to do so, but does not fear that he will commit adultery if he does not, then the ruling on marriage is Sunnah.

<sup>8</sup> Utsaimin and Muhammad Bin Shalih, Syarah Shahih Al-Bukhari (Jakarta: Darus Sunnah, 2014).

If a person is able to get married, is not worried about committing adultery, and is certain that he will not neglect his wife, then the ruling on marriage in this case is permissible. Here, marriage is done only to fulfill personal needs, not for religious reasons or to build a family. Marriage is makrooh for someone who is able to marry and can refrain from fornication, but does not have a strong desire to fulfill the obligations of husband and wife. If he does not marry, he will be rewarded, but if he does marry, he will not sin.

Marriage is haraam for someone who does not have the will or ability to fulfill the responsibilities of marriage, so that if he marries, he will neglect his spouse. This applies to those who are physically or mentally incapable, and marriage will only bring harm to the wife.<sup>9</sup>

### 3.2. *Misyar* Concept Marriage

*Misyar* marriage has been known since the time of the Prophet and the Companions. Various factors, including economic ones, are behind the occurrence of *misyar* marriage. For example, in Saudi Arabia, the high cost of marriage means that couples choose to live separately in their parents' homes after marriage and only visit each other. According to Yusuf Qardhawi, *misyar* marriage occurs because of a group of women called *awanis*, namely:

1. Women who are single until old age and have passed the age of marriage.
2. Women who live with their parents and are not yet able to build a family or take on the role of mother.
3. Divorced women, a fairly common phenomenon.
4. Widows who lost their husbands, either with or without wealth.
5. The high dowry which is an obstacle for some men in finding a partner.
6. The adverse effects of deviant sexual orientation, where many women are willing to become second, third or fourth wives.

وَأَنْ خِفْتُمْ أَلَّا تَقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَتَّحِي وَثُلَاثَ وَرُبَاعَ ۖ فَإِنْ خِفْتُمْ  
أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا (٣)

Meaning: "And if you fear that you will not be able to do justice to the rights of orphaned women (when you marry them), then marry any other women you like: two, three or four. Then if you fear that you will not be able to do justice, then marry only one, or the slaves you own. That is closer to not doing wrong." (An-Nisa: 3)

<sup>9</sup> Dwi Darsa Suryantoro and Ainur Rofiq, "Nikah Dalam Pandangan Hukum Islam," *AHSANA MEDIA* 7, No. 02 (July 29, 2021): p. 38–45, <https://doi.org/10.31102/ahsanamedia.7.02.2021.38-45>.

In the verse, it is explained that if a man is worried about not being able to be fair to his wives, then he is allowed to marry another woman who attracts him, with a maximum of four wives, as long as he can be fair. However, if he feels that he cannot be fair, it is better for him to marry only one woman.<sup>10</sup>

Self-employed career women, such as teachers, instructors, doctors, pharmacists, lawyers and other professions with a steady income, now have an important value in marriage in some Middle Eastern countries. Before the marriage contract, parents often ask for a large dowry from the husband-to-be, including a fully furnished residence. If the husband-to-be cannot meet this demand, the marriage can be annulled. In Western countries, especially in big cities, there is an interesting phenomenon of financially well-established Muslim career women facing very few Muslim men, which is also a factor in the rise of *misyar* marriage.

Human beings, by nature, have rights and obligations in social life with others. No human being is without rights (as explained in Article 13 of the Civil Code), but this also means that others have the same rights. Therefore, the rights owned by one party give rise to an obligation for the other party to respect them. One should not carelessly exercise their rights to the detriment or interference of other people's rights.

Rights are interests protected by law, while interests themselves are demands that individuals or groups make and expect to be fulfilled. In general, rights include powers that are guaranteed and protected by law in their exercise. In another definition, rights also include everything that a person deserves and should get as a citizen, even from the womb. Rights are usually earned through struggle and are accompanied by responsibilities towards existing obligations.<sup>11</sup>

*Misyar* marriage is a form of marriage where couples agree to live separately, but still fulfill their sexual needs and other rights as agreed. In some cases, couples agree not to provide monthly maintenance or housing. This practice dates back to ancient times. In a polygamous situation, the husband can set conditions that the wife is not treated the same as other wives, such as not providing maintenance or housing. There are also agreements that the husband only visits the wife during the day, while the nights are spent with other wives, or the husband only stays with the wife for a few days.<sup>12</sup>

The scholars are of the opinion that the wife in a *misyar* marriage has the right to claim her rights, such as the right to live together, to be provided for, and to be treated fairly compared

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<sup>10</sup> Siti Salma Afiqah et al., "Analisis Fatwa Yusuf al Qardawi Tentang Nikah Misyar Dan Relevansinya Dengan Hak Asasi Manusia," *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 7, No. 1 (April 29, 2024): p. 21–42, <https://doi.org/10.29313/tahkim.v7i1.13278>.

<sup>11</sup> Siti Aisyah, "Hak Dan Kewajiban Suami Istri di Masa Pandemi Perspektif UU Perkawinan di Indonesia," *Al-Adillah* 2, No. 1 (January 14, 2022): p. 1–13, <https://doi.org/10.61595/aladillah.v2i1.322>.

<sup>12</sup> Agus Hermanto, Dwi Wulandari, and Meriyati Meriyati, "Nikah Misyar Dan Terpenuhinya Hak Dan Kewajiban Suami-Istri," *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam* 13, No. 2 (December 27, 2020): p. 131–160, <https://doi.org/10.24042/ijpmi.v13i2.6555>.

to other wives. However, unjust conditions in this marriage contract are considered invalid. These marriages are often considered to ignore the principle of harmonious home life, with the wife not receiving rights such as maintenance, which makes it difficult for her to fulfill her role as a wife. *Misyar* marriage also runs the risk of damaging the marriage relationship because it is often seen as a form of fulfillment of personal desires or gains on the part of both the man and the woman. When one party feels that their goals are not being met or that they are not getting what they want, conflict often arises, leading to divorce.<sup>13</sup>

In line with the existing laws in the book of *fiqh* which is used as a reference in determining the decision is also written about the dependence of *nafkah* for children who still have a father and mother then the *nafkah* is borne by the father, there is one opinion if the child has reached puberty, then the *nafkah* is borne by the father and mother as mentioned in one of the opinions of the shafi'iyah as follows:

من له أب وأم فنفقته على الأب وقيل هي عليهما لبالغ

Meaning: "If a child has a father and a mother, his maintenance is the responsibility of the father, and in another opinion, if he reaches puberty, his maintenance is the responsibility of both father and mother. The amount of maintenance prescribed by Islam is according to the father's ability."<sup>14</sup>

In Islam, a husband is obliged to provide for and fulfill the needs of his wife, because a legal marriage binds the couple in a relationship of responsibility. Both husband and wife have rights and obligations that must be fulfilled by each other, which include the wife's rights towards her husband and the husband's rights towards his wife. The details of these rights and obligations are as follows:

a. Rights and Obligations of Husband and Wife:

1. The husband is obliged to provide for his wife and children, including providing basic needs such as clothing, food, and shelter.
2. The husband is also obliged to provide security and protection to his wife.
3. The husband must guide his wife and provide direction in managing the household.

<sup>13</sup> Abdullah Abdurrahman Bahmid and Akhmad Husaini, "Tinjauan Maqashid Syar'iyah Perspektif Ibnu Taymiyyah Terhadap Fatwa Majelis Ulama No. 02/MUNAS-VIII/MUI/2020 Tentang Nikah Wisata," *JURNAL RECTUM Tinjauan Yuridis Penanganan Tindak Pidana* 5, No. 3 (July 28, 2023): p. 204–214, <https://doi.org/10.46930/jurnalrectum.v5i3.3483>.

<sup>14</sup> Sudirman Suparmin, "Metode Pengambilan Hukum Majelis Hakim Dalam Menentukan Biaya Hadanah (Studi Putusan Pengadilan Agama Stabat 2020-2021)," *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam* 10, No. 2 (October 29, 2022), <https://doi.org/10.30868/am.v10i02.3185>.

4. The husband is responsible for instilling religious values in his wife, and supporting her to gain useful knowledge as long as it does not conflict with religious teachings.

5. The wife is obliged to educate the children and take care of the household, and use the wealth from her husband wisely.<sup>15</sup>

b. Joint Obligations of Husband and Wife:

1. Husband and wife together have the obligation to build a family that is *sakinah, mawaddah, warahmah*.

2. Both are obliged to love, respect, and provide support both physically and mentally.

3. They are also responsible for caring for, educating, and protecting children, both physically, mentally, and spiritually, while maintaining each other's honor.

The Shafi'iyah scholars define marriage as an event that carries legal consequences, in which couples acquire mutually binding rights and obligations. Marriage is based on the principle of mutual assistance and, as an implementation of religious teachings, aims to seek the pleasure of Allah SWT.

### 3.3. Al Bani's View on *Misyar* Marriage

Nasir al-Din al-Albani, one of the contemporary scholars, has forbidden the practice of *misyar* marriage. According to him, these marriages are forbidden because of their often secretive nature, which can open the door to destructive and immoral acts. He argues that people with bad intentions can use *misyar* marriage as a means to have fun and achieve personal goals. His view is based on the *fiqhiyah* principle that "*Anything that leads to haram things is also haram*". This prohibition aims to protect the interests of humanity as a whole. The negative impact of *misyar* marriage is believed to be certain, not just a concern.<sup>16</sup>

As quoted from Usamah Umar Sulaiman Al-Asyqari, there are two main reasons why Nasir al-Din al-Albani forbade *misyar* marriage:<sup>17</sup>

<sup>15</sup> Wafiah Rafifatun Nida, "Pandangan Tokoh Ulama Majelis Ulama Indonesia Terhadap 'Fatwa Nikah Misyar Yusuf Al-Qardawi,'" *Jurnal Penelitian Agama* 24, No. 1 (June 4, 2023): p. 87–108, <https://doi.org/10.24090/jpa.v24i1.2023.pp87-108>.

<sup>16</sup> Syamsul Hilal, "Nikah Misyār Dalam Dalam Perspektif Undang-Undang Perkawinan Dan Kompilasi Hukum Islam," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* (Raden Intan State Islamic University of Lampung, March 30, 2023), [https://www.academia.edu/99354181/Nikah\\_Misy%C4%81r\\_Dalam\\_Dalam\\_Perspektif\\_Undang\\_Undang\\_Perkawinan\\_Dan\\_Kompilasi\\_Hukum\\_Islam](https://www.academia.edu/99354181/Nikah_Misy%C4%81r_Dalam_Dalam_Perspektif_Undang_Undang_Perkawinan_Dan_Kompilasi_Hukum_Islam).

<sup>17</sup> Daud Rasyid, "Dirasah Fiqhiyyah Lihadits 'Bai'atain Fi Bai'ah' Fi Manzur Al-Iqtisad Al-Islami," *TSAQAFAH* 9, No. 1 (May 31, 2013): p. 203, <https://doi.org/10.21111/tsaqafah.v9i1.44>.



1. The main purpose of marriage is to achieve tranquillity, as stated in the Quran, “*And among the signs of His power is that He created mates for you from your own kind so that you may be attracted to them and feel at ease. And He made between you love and affection*” (QS. Ar-Ruum: 21). A *misyar* marriage cannot realize this goal.
2. If the husband has children from this marriage, the infrequent meetings between husband and wife can have a negative impact on the education and morals of their children.

*Misyar* marriages fail to achieve the Sharī’ah purpose of marriage, which should be more than just fulfilling lust and momentary pleasure. In Islam, marriage has a much greater purpose, namely to preserve offspring, create peace and strengthen affection. Scholars who reject *misyar* marriage emphasize concerns about its negative impact on the household and society, especially if the couple has children. Children born from these marriages often do not experience the wholeness of a family, as the marriage is kept secret and not publicly recognized.<sup>18</sup>

The prohibition also aims to safeguard the regeneration process of humanity, where the negative effects of *misyar* marriage are not just a possibility, but a reality that undermines the function of marriage. Another reason behind the prohibition of *misyar* marriage is that it does not reflect the basic values of marriage, such as togetherness, the desire for offspring, attention to children and wife, and balanced affection. In addition, *misyar* marriages are often unfair to wives, in that their rights, such as maintenance and biological needs, are often neglected.

Al-Jubali also rejects the argument in favor of *misyar* marriage as a solution to reduce the number of rich spinsters. According to him, the number of rich spinsters is very small, and this solution ignores the larger number of poor spinsters.

Shah Waliyullah stated that differences of opinion among scholars are normal. Similarly, Shah Ismail Ash-Syahid considers that disagreements in the understanding of *fiqh* arise because of the different approaches that each scholar accepts. In practice, however, many people practice *misyar* marriage simply to satisfy biological needs or for personal pleasure. The husband often only visits his *misyar* wife briefly and then returns to the other wife. Therefore, the goal of marriage to achieve *sakinah, mawaddah and rahmah* cannot be fully met.<sup>19</sup>

*Misyar* marriages often do not last long, and when children are born from these marriages, the responsibility for raising and educating the children falls more on the mother. Since the husband and wife do not live together, feelings of love and mercy are difficult to realize.

<sup>18</sup> Muhammad Zainuddin Sunarto and Zainuri Chamdani, “Nikah Misyar: Aspek Mashlahah dan Mafsadah,” *Media Bina Ilmiah* 15, No. 8 (March 1, 2021): p. 4929–4940, <https://doi.org/10.33758/mbi.v15i8.1001>.

<sup>19</sup> Sudirman Suparmin, “Pemilihan Metode Pengembangan Fiqh Ekonomi,” *Al Tadabbur: Jurnal Ilmu Al-Qur’an Dan Hadits* 5, No. 01 (June 29, 2020): p. 165–175, <https://doi.org/10.30868/at.v5i01.830>.

Children also often experience a lack of a father, which can affect their mental development, education and morals.<sup>20</sup>

In the Shafi'i school of thought, a marriage contract is considered invalid if basic rights such as maintenance and housing are neglected. A husband must provide maintenance according to local needs and economic conditions, as commanded in the Quran (QS. Al-Baqarah: 228), where a husband has the obligation to provide maintenance according to his wife's ability and obedience.

From this view, it is clear that nikah *misyar* can lead to many problems in the household, including the husband's loss of responsibility towards his family and a relationship driven more by physical gratification than emotional commitment and long-term responsibility.

#### 4. Conclusion

In general, the law of marriage in Islam is permissible, which means that it is neither obligatory nor prohibited, depending on the circumstances of the individual who performs it. Therefore, the legal status of marriage can change to sunnah, obligatory, *makruh*, or haram, depending on the circumstances of the decision. *Misyar* marriage is a form of sharia-compliant marriage in which the conditions and pillars of marriage are fulfilled, but there is an agreement between the husband and wife to waive the obligations of maintenance and residence. This means that they do not always live together like a normal couple, and usually occurs in the context of polygamy or second marriages. However, this practice often ignores the rights of the wife and contradicts the provisions in the Compilation of Islamic Law, especially regarding the husband's responsibility for maintenance and fulfillment of children's rights. Nashiruddin Al-Bani categorically forbids *misyar* marriage because it is close to adultery, where the husband can play with the dowry, divorce and marriage without responsibility. The practice is also often done with ulterior motives and for personal gain, which dehumanizes the wife and undermines the very purpose of marriage in Islam.

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