

Misyar Marriage: A Comparative Legal Analysis of Yusuf al-Qaradawi and 'Abd al-'Aziz ibn 'Abd Allah ibn Baz's Thought

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Abstract

This study examines the opinions of several contemporary scholars regarding the practice of misyar marriage, which represents a relatively new issue within the discourse of Islamic law. Fundamentally, marriage is a sacred bond established between a husband and wife through the fulfillment of mutual rights and obligations as a marital partnership. This research employs a library-based research method, collecting data in the form of scholarly opinions on the practice of *misyar* marriage. The data sources are derived from various books and academic journals related to the *Misyar* marriage. The findings of this study suggest that the issue of *misyar* marriage presents a contemporary legal challenge among modern scholars, as it is not explicitly addressed in the works of classical jurists. This condition has prompted scholars of the *muta'akhkirin* period to conduct extensive analyses to address issues related to the practice of misyar marriage. Following an examination of these scholarly analyses, the author finds a fundamental divergence of opinion regarding the legal validity of misyar marriage. Among these views, Yusuf al-Qaradawi permits misyar marriage unconditionally, whereas 'Abd al-'Aziz ibn 'Abd Allah ibn Baz permits it subject to certain conditions.

Keywords: *Misyar* Marriage, Islamic Marriage Law, Contemporary Ulama Perspectives.

Introduction

Marriage (*nikāh*) in Islamic law is fundamentally conceived as a sacred contract ('aqd shar'i) aimed at realizing tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*), while at the same time safeguarding moral order and social stability. Classical Islamic jurisprudence (*fiqh*) establishes marriage not merely as a private agreement between two individuals but as a legal and ethical institution that carries rights, obligations, and broader social consequences. However, contemporary social transformations—such as economic pressures, changing gender roles, migration, and evolving patterns of family life—have generated new marital practices that challenge conventional juristic frameworks. One such phenomenon is *misyār* marriage.

Misyār marriage refers to a form of marital contract in which the essential pillars (*arkān*) and conditions (*shurūt*) of marriage are fulfilled, yet one or both spouses—typically the wife—voluntarily waive certain marital rights, such as financial

maintenance (*nafaqah*) or cohabitation. Although formally valid according to some jurists, *misyār* marriage has sparked intense debate among contemporary Islamic legal scholars due to its perceived tension with the ethical objectives (*maqāṣid*) of marriage and its potential social implications. Critics argue that it undermines the moral and social dimensions of marriage, while proponents view it as a pragmatic legal solution to specific social needs within the bounds of Islamic law (Soenarto & Zainuri, 2021).

Among the most influential contemporary scholars who have articulated contrasting legal positions on *misyār* marriage are Yusuf al-Qaradawi and 'Abd al-'Aziz ibn 'Abd Allah ibn Baz. Al-Qaradawi, known for his moderate and contextualist approach to Islamic jurisprudence, tends to emphasize legal flexibility (*taysīr*) and public interest (*maṣlahah*) in responding to modern social realities. In contrast, Ibn Baz, a prominent Saudi scholar and former Grand Mufti of Saudi Arabia, represents a more textualist and precautionary orientation, prioritizing strict adherence to classical legal norms and the prevention of potential harm (*sadd al-dharā'i*).

Marriage in Islam is a ritual imbued with sacred value, as for its adherents marriage is regarded as an act of worship (*'ibādah*). It is not merely a ceremonial bond uniting a man and a woman; rather, within the Islamic worldview, marriage is an institution aimed at realizing tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*) between the spouses. The Qur'an explicitly affirms this purpose, as Allah the Exalted declares:

وَمِنْ عَائِتَهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي
ذَلِكَ لَآيَاتٍ لِّقَوْمٍ يَتَفَكَّرُونَ

Meaning: "And among His signs is that He created for you spouses from among yourselves so that you may find tranquility in them, and He placed between you affection and mercy. Indeed, in that are signs for a people who give thought." (Qur'an, al-Rūm 30:21)

The encouragement to marry is not confined to Qur'anic verses alone. Numerous prophetic traditions (*ahādīth*) record that the Prophet Muhammad (peace be upon him) urged his community to enter into marriage, emphasizing that marriage entails manifold benefits and serves significant religious and social interests (*maṣāliḥ*). In one such tradition, the Prophet Muhammad (peace be upon him) stated:

يَا مَعْشَرَ الشَّبَابِ ، مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلِيَتَرْوَجْ ، فَإِنَّهُ أَغَضُّ لِلْبَصَرِ ، وَأَحْصَنُ لِلْفُرْجِ ،
وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ ; فَإِنَّهُ لَهُ وِجَاءُ . (مُتَّفَقُ عَلَيْهِ)

Meaning: "O young people, whoever among you is able to afford marriage, let him marry, for marriage lowers the gaze and guards chastity. And whoever is unable, let him fast, for fasting serves as a restraint." (Agreed upon; *Muttafaq 'Alayh*)

Within the framework of Islamic law, a marriage contract must fulfill specific pillars and conditions, namely the presence of a prospective groom and bride, a legal guardian (*wali*) for the bride, two witnesses who meet the criterion of moral integrity ('adālah), and the formal exchange of offer and acceptance (*ijāb* and *qabūl*). When these legal requirements are satisfied, the marriage contract is deemed valid under Islamic law (Rusdaya, 2019). Beyond its formal legality, marriage is also governed by fundamental principles that function as moral commitments between the prospective spouses, including mutual consent and approval (*ridā*), the intention to establish a permanent marital bond, and the husband's responsibility as the head of the household to provide care and support for his family.

In marital practice, the husband is expected to be present for his wife both physically and emotionally. It is widely acknowledged that following marriage, women often rely on their husbands to fulfill various needs, including economic, social, and biological needs. However, as social conditions continue to evolve, many men are engaged in occupations that require prolonged physical separation from their wives. At the same time, it has become increasingly common in contemporary society to find women who have reached a socially appropriate age for marriage yet remain unmarried due to various factors. These circumstances have contributed to the emergence of a new form of marital practice commonly referred to as *misyār* marriage.

This article aims to conduct a comparative analytical study of the legal reasoning employed by Yusuf al-Qaradawi and Ibn Baz regarding *misyār* marriage. By examining their respective methodological frameworks, legal arguments, and underlying assumptions about the objectives of marriage in Islam, this study seeks to highlight how divergent juristic approaches can lead to different legal conclusions on the same issue. Furthermore, the article explores the broader implications of these differing perspectives for contemporary Islamic family law discourse and the ongoing negotiation between legal formalism and ethical substance in modern Muslim societies.

Research Methods

This study employs a qualitative library-based research design, which involves the collection, examination, and critical analysis of scholarly sources relevant to the subject under investigation. The primary materials consist of classical and contemporary works of Islamic jurisprudence (*fiqh*), legal opinions (*fatāwā*), and authoritative writings of Yusuf al-Qaradawi and 'Abd al-'Aziz ibn 'Abd Allah ibn Baz concerning *misyār* marriage. These primary sources are complemented by secondary materials, including academic journal articles, books, and previous studies that address Islamic family law, contemporary marriage practices, and comparative legal thought.

In addition, this research adopts a comparative analytical approach to identify and examine the similarities and differences in the legal reasoning of the two scholars.

This approach is grounded in a structured analytical framework that focuses on their respective methodological orientations, sources of legal authority, interpretive principles, and underlying assumptions regarding the objectives (*maqāṣid*) of marriage in Islam. Through systematic comparison, the study seeks to reveal how distinct juristic methodologies can produce divergent legal conclusions on the same legal issue.

To ensure analytical rigor, the data are analyzed using content analysis and normative legal analysis. Relevant texts are examined to extract key legal arguments, evidentiary bases, and normative principles employed by each scholar. The findings are then interpreted within the broader discourse of contemporary Islamic family law, allowing for a critical assessment of the implications of these differing perspectives for modern Muslim societies. This methodological framework enables the study to contribute to a deeper understanding of the dynamic interaction between legal tradition and contemporary social realities in Islamic jurisprudence.

Result and Discussion

The Concept of *Misyār* Marriage and Its Differences from Other Forms of Marriage

The term *misyār* marriage is derived from two Arabic words: *nikāh* and *misyār*. The word *nikāh* is the verbal noun (*maṣdar*) of the past tense verb *nakaha* (نكاح), which means marriage or to marry. Al-Farrā' explains that when Arabs use the expression *nakaha al-mar'ah*, it refers to engaging in sexual intercourse (Nur et al., 2022). Meanwhile, *misyār* is a noun derived from the verb *sāra* (سَارَ), which means to travel or journey. Terminologically, according to Yusuf al-Qaradawi, *misyār* marriage refers to a legally valid (*shar'i*) marriage that differs from conventional marriage in that certain marital rights of the wife are not fulfilled, such as the right to financial maintenance and residence, despite the existence of a marital relationship. This form of marriage commonly occurs in the context of polygamous relationships (Yusuf, 2002). Umar bin Su'ūd al-'Āyid defines *misyār* marriage as a marriage in which some of the woman's rights are waived, particularly those related to residence and financial maintenance (Nugroho, 2019).

Yusuf al-Qaradawi explains that in the past, women who entered into *misyār* marriages often lived on inheritance from their husbands or parents and did not possess a stable source of income. Having been widowed for some time and having children, they required a male figure to protect and lead their families. On the other hand, many women involved in *misyār* marriages in contemporary contexts are economically independent and successful, such as doctors, educators with fixed incomes, business owners, or wealthy widows whose husbands have passed away and who live alone or as single mothers. These women may be willing to remarry without demanding material rights from their husbands (Kasim, 2019).

Misyār marriage is also influenced by specific social circumstances, such as traditions of long-term travel and the status of widows who have children and a home.

In such arrangements, the husband typically visits his wife once a week for one or two days, regardless of whether the residence belonged to her deceased husband or is her own property. Furthermore, the husband does not provide material support such as financial maintenance or housing. One notable phenomenon of the twentieth century is the increasing number of women who seek men willing to marry them without assuming responsibility for their living expenses (Hilal, 2020).

A significant similarity between *misyār* marriage and *mut‘ah* marriage is the absence of financial maintenance provided by the husband to the wife. However, unlike *mut‘ah* marriage, *misyār* marriage involves a formal offer and acceptance (*ijāb* and *qabūl*), the presence of a legal guardian (*walī*) and witnesses, no predetermined time limit, and the marital bond is terminated only through divorce. Moreover, spouses in *misyār* marriage retain mutual inheritance rights. In contrast, *tourism marriage* (*nikāh siyāhi*) differs substantially from *misyār* marriage. Tourism marriage is temporary in nature, similar to *mut‘ah* marriage, meaning that once the man leaves the place he has visited, the marital relationship automatically ends. In *misyār* marriage, the guardian is either a lineage guardian (*walī nasab*) or a legally recognized guardian (*walī ‘adl*), whereas in tourism marriage the identity of the guardian is often unclear, thereby violating one of the essential pillars of marriage.

Despite differing contemporary scholarly opinions regarding the legal status of *misyār* marriage—some declaring it unlawful (*harām*) and others adopting a position of *tawaqquf* (suspension of judgment)—these disagreements primarily stem from divergent criteria for determining the validity of marriage. Scholarly debates largely focus on the rights and obligations of spouses following marriage. Some scholars argue that *misyār* marriage is legally valid because it fulfills the essential pillars and conditions of marriage. Among them is Shaykh Irfan bin Salim al-Dimashqi, who maintains that *misyār* marriage is valid under Islamic law, with an agreed-upon dowry (*mahr*), although two fundamental elements are absent: the husband’s obligation to provide financial maintenance and housing for the wife (al-Dimashqi, 2002).

Nevertheless, other scholars prohibit this form of marriage on the grounds that it fails to fulfill the rights and obligations established within the general legal concept of marriage. Moreover, a marriage based solely on sexual or biological desire is viewed as inconsistent with the Islamic objective of forming a family characterized by *sakinah*, *mawaddah*, and *rahmah*, and is considered detrimental to women. This position is articulated by Nashiruddin al-Albani.

Essentially, *misyār* marriage is a contemporary term. Some scholars argue that similar marital practices have existed for decades. Ibn Qudamah, in his work *al-Mughnī*, refers to what he describes as “marriage for several nights and days,” which closely resembles *misyār* marriage. In such arrangements, a man marries a woman under specific conditions, such as visiting her only once a week, limiting the amount

of financial maintenance provided, or cohabiting only for a predetermined number of days within a month (Umar, 2016).

Analysis of Yusuf al-Qaradawi's Thought on *Misyār* Marriage

Yusuf al-Qaradawi argues that *misyār* marriage is a relatively new term within the discourse of Islamic jurisprudence, practiced primarily in the Arabian Peninsula, and not explicitly found within the framework of classical *fiqh*. According to him, *misyār* marriage constitutes a legal concession that allows the husband not to provide financial maintenance as part of his marital obligations, based on the wife's voluntary consent, as she seeks the presence of a man who can protect her, provide companionship, and fulfill her biological needs.

In his view, Yusuf al-Qaradawi permits *misyār* marriage because it fulfills the essential pillars and conditions of marriage. He maintains that a jurist does not have the authority to invalidate a *misyār* marriage contract so long as its pillars and conditions are properly fulfilled (Saefullah & Hanafiah, 2017). From the perspective of *maqāsid al-shari‘ah*, he argues that *misyār* marriage is highly relevant to the protection of religion (*hifz al-dīn*) at the level of *darūriyyāt*, as well as the protection of lineage (*hifz al-nasl*) at the same level, since the legal requirements of marriage are satisfied. Moreover, this type of marriage typically occurs under circumstances of necessity, such as the need to safeguard personal honor and chastity while being separated by distance due to certain unavoidable conditions that prevent the establishment of a conventional marriage. In such cases, *maqāsid al-shari‘ah* views *misyār* marriage as serving the objective of preserving religion (*hifz al-dīn*) at the level of *hājiyyāt*.

Nevertheless, Yusuf al-Qaradawi emphasizes that *misyār* marriage does not represent the ideal form of marriage. However, this does not mean that it is entirely devoid of the core objectives of marriage. Rather, both parties mutually consent to and accept the absence of certain marital rights, particularly those owed by the husband to the wife. On this basis, he contends that *maqāsid al-shari‘ah* remains relevant to the protection of life and human dignity (*hifz al-nafs*) at the level of *darūriyyāt*, namely the preservation of honor—especially the honor of women—which, in his view, can only be properly safeguarded through marriage (Halilurrahman & Supeno, 2022).

According to Yusuf al-Qaradawi, *misyār* marriage may serve as a solution for women who are unmarried or who have passed the socially appropriate age for marriage, provided that they choose a man of good moral character and that both parties willingly agree. Therefore, he argues that people should not obstruct a path that has been permitted by Islamic law. Nonetheless, he explicitly states that he is neither fond of nor an advocate of *misyār* marriage (Qaradawi, 2005).

Yusuf al-Qaradawi classifies the legal ruling of *misyār* marriage as *mubāh* (permissible) but tending toward *makrūh* (reprehensible). He stresses that he has never called for or promoted *misyār* marriage and does not approve of it as a preferred

marital model. He further asserts that he has never written in defense of *misyār* marriage nor delivered sermons advocating it. According to Yusuf al-Qaradawi, this type of marriage is not encouraged by Islam; however, he cautions against ignoring the significant developments and complexities of human life in contemporary society (Halilurrahman & Luwihta, 2023).

As an illustration, he refers to professions such as seafaring, in which men frequently travel to different countries for extended periods while their wives remain at home. During such prolonged absences, men may seek to fulfill their biological needs by marrying women in the places they visit. In these situations, the women involved are often willing to enter into such marriages despite being aware that their husbands will not reside with them permanently and may not return for a long time. Yusuf al-Qaradawi considers this type of marriage to be legally unobjectionable. He also challenges scholars who argue that *misyār* marriage serves merely to satisfy biological desires and degrades the dignity of women, stating: "It should be said that seeking pleasure and satisfaction within marriage is not a vile or contemptible objective, as some have portrayed it." According to Yusuf al-Qaradawi, the pursuit of enjoyment within marriage is a legitimate objective shared by both men and women (Saefullah & Hanafiah, 2017).

With regard to textual evidence, Yusuf al-Qaradawi refers to a prophetic tradition concerning Saudah bint Zam'ah, one of the wives of the Prophet Muhammad (peace be upon him), who relinquished her turn to spend the night with the Prophet in favor of 'Ā'ishah bint Abī Bakr, as narrated by Imam al-Bukhari:

عن عائشة : أن سودة بنت زمعة وهبت يومها لعائشة وكان النبي صلى الله عليه و كان النبي صلى الله عليه وسلم يقسم لعائشة بيومها ويوم سودة

Meaning: "It is narrated from 'Ā'ishah that Saudah bint Zam'ah relinquished her allotted turn to 'Ā'ishah, and the Prophet (peace be upon him) thereafter allocated to 'Ā'ishah her own turn in addition to the turn that had belonged to Saudah."

From the above evidence, it can be understood that the voluntary waiver of certain marital rights by a wife does not, in any way, affect the legal validity of a marriage. Safeguarding oneself from reprehensible conduct is a commendable and noble act that is consistent with Islamic teachings. The mutual need between men and women is part of human nature (*fitrah*). Human beings are not angels devoid of desire; rather, they are creatures created by God in perfection, one aspect of which is the existence of sexual desire. Nevertheless, such a desire must be channeled through means prescribed by Islam.

Misyār marriage is considered valid and legally binding when it adheres to the standards and principles of conventional marriage. Although providing financial maintenance to the wife is fundamentally an obligation of the husband, this obligation may be waived if the wife willingly relinquishes it. Such a waiver may be formalized

through an agreement that employs the contract of *sulh* or *ibrā' al-dhimmah*, thereby absolving the husband of the obligation to provide material maintenance.

Although this form of marriage may be permissible under Islamic law, it is argued that moral considerations (*adab*) also play a significant role in marriage, and that *misyār* marriage lacks moral propriety. According to the Ḥanafī school of law, deviation from ethical conduct or good moral character is tantamount to straying from the path of the Prophet Muhammad (peace be upon him) and falling into reprehensible (*makrūh*) or even morally blameworthy behavior.

Misyār marriage is considered permissible insofar as it reflects the circumstances of some of the Prophet's wives who, in order to accommodate his marriage to 'Ā'ishah (may Allah be pleased with her), voluntarily relinquished certain aspects of their marital rights, particularly those related to conjugal companionship. It is further clarified that while such a marriage may be legally valid, it should only be conducted under stricter and more regulated guidelines. Ultimately, emphasis is placed on adhering to the objectives of marriage as articulated in Qur'an, Sūrat al-Rūm (30:21), namely the pursuit of tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*) within marital life.

While the waiver of the husband's obligations may be legally permissible, the importance of moral guidelines and regulatory frameworks—such as those outlined in the Indonesian Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI)—is emphasized in order to legitimize or regulate *misyār* marriage. Such regulation is deemed necessary to prevent the practice from becoming unlawful or socially unacceptable within Indonesian society.

Analysis of the Thought of 'Abd al-'Azīz ibn 'Abd Allāh ibn Bāz on *Misyār* Marriage

'Abd al-'Azīz ibn 'Abd Allāh ibn Bāz permits *misyār* marriage under specific legal conditions. When he was asked about the ruling on *misyār* marriage—particularly in cases commonly associated with polygamous practices, where the wife resides with her parents while the husband visits intermittently—he responded that there is no objection to such a marriage provided that the contract fulfills the requirements prescribed by Islamic law. These requirements include the presence of a legal guardian (*wali*), the mutual consent of both spouses, the testimony of two morally upright witnesses (*'adl*), and the absence of any legal impediments to marriage on the part of the woman.

Ibn Bāz bases this permissibility on the general meaning of the Prophet's statement: "Indeed, the conditions most deserving of fulfillment are those by which you make lawful sexual relations (through marriage)," as well as another prophetic tradition stating: "Muslims are bound by the conditions they agree upon." Accordingly, he maintains that there is no harm if the spouses agree that the wife may

reside with her parents during the day rather than at night, or on specific days or nights, so long as the marriage is not conducted in secrecy and is publicly announced.

According to Ibn Bāz, agreements reached between spouses—such as the wife remaining in her parents' home or limiting cohabitation to certain times—do not invalidate the marriage contract, as long as the essential pillars and conditions of marriage are fulfilled. In this regard, *misyār* marriage remains legally valid, provided that it is publicly acknowledged and does not violate the fundamental principles of Islamic marriage. The emphasis on public declaration reflects Ibn Bāz's insistence on distinguishing lawful marriage from illicit relationships.

However, Ibn Bāz later expressed strong caution after observing widespread abuses associated with the practice of *misyār* marriage. He noted that some individuals had exceeded proper limits by following their desires, leading to serious deviations such as the emergence of brokers who charged fees to arrange such marriages, the involvement of illegitimate or false guardians, and the performance of marriage contracts in secrecy. In response to these developments, Ibn Bāz stated on one occasion that it is obligatory for every Muslim to enter into marriage in a manner that fully conforms to Islamic law, emphasizing that one of the essential conditions of a lawful marriage is its public announcement. He further asserted that a marriage conducted secretly by both parties is invalid, as it closely resembles the act of adultery (Faisal, 2016).

From a methodological perspective, Ibn Bāz's position reflects a predominantly textualist and precautionary approach (*ihtiyāt*), which prioritizes strict adherence to explicit legal requirements and the prevention of moral and social harm (*sadd al-dharā'i*). While he does not categorically prohibit *misyār* marriage in principle, his concerns about its practical implementation demonstrate a strong emphasis on protecting the moral objectives of marriage and safeguarding society from abuse and exploitation.

Thus, unlike Yusuf al-Qaradawi—who approaches *misyār* marriage through a contextual and *maqāṣid*-oriented lens—Ibn Bāz's legal reasoning places greater weight on formal legality, public accountability, and the avoidance of practices that may blur the distinction between lawful marriage and prohibited relationships. This difference highlights a broader juristic divergence between adaptive legal flexibility and preventive legal conservatism within contemporary Islamic legal thought.

Conclusion

This study demonstrates that both Yusuf al-Qaradawi and 'Abd al-'Aziz ibn 'Abd Allah ibn Baz generally permit *misyār* marriage, albeit with differing legal emphases. Al-Qaradawi considers *misyār* marriage legally valid but inclines toward viewing it as *makrūh*, suggesting that it should be avoided when a conventional form of marriage is feasible. In contrast, Ibn Baz permits *misyār* marriage more categorically,

provided that it fulfills the essential pillars and conditions of marriage, including the presence of a guardian, mutual consent, and two morally upright witnesses.

The divergence between the two scholars is particularly evident in their views on the public announcement of marriage. Al-Qaradawi maintains that official registration or minimal public acknowledgment suffices, drawing on the Maliki view that public announcement is recommended rather than obligatory. Ibn Baz, however, regards public declaration as a fundamental requirement, emphasizing that secrecy undermines the moral and legal integrity of marriage.

Methodologically, al-Qaradawi adopts a predominantly *maṣlahah*-oriented (*istiṣlāḥi*) approach, prioritizing the prevention of illicit relationships and the protection of personal dignity, while also employing limited analogical reasoning (*qiyās*), such as the precedent of Saudah bint Zam'ah relinquishing her marital rights. Ibn Baz, by contrast, emphasizes legal formalism, precaution, and the prevention of moral abuse. Despite these differences, both scholars acknowledge that *misyār* marriage is not an ideal model of marriage but may function as a contextual legal solution under specific circumstances.

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