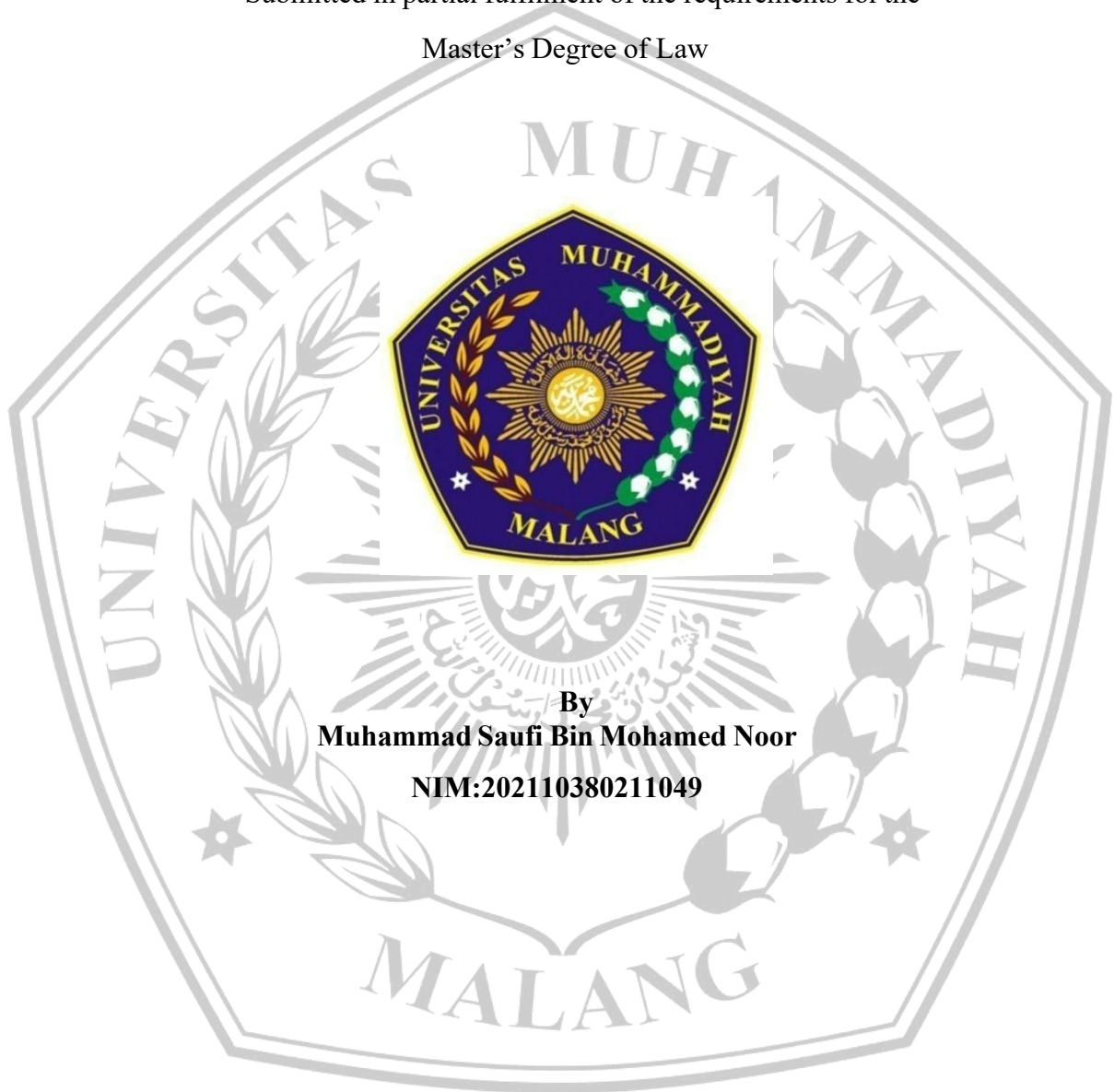


**MISYAR MARRIAGE: A Comparative Study on Yusuf Al-Qaradhawi  
And Suhailah Zainul Abidin Hammad Perspective**

**THESIS**

Submitted in partial fulfilment of the requirements for the  
Master's Degree of Law



By  
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**November 2023**

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## LETTER OF STATEMENT

I, the undersigned:

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Hereby, declare that:

1. The thesis entitled: **MISYAR MARRIAGE: A COMPARATIVE STUDY ON YUSUF AL-QARADHAWI AND SUHAILAH ZAINUL ABIDIN HAMMAD PERSPECTIVE** is my original work and contains no one's scientific paper that may be proposed to achieve an academic degree at any universities. Besides, there is no other's idea or citation except those which have been quoted and mentioned at the bibliography.
2. If this thesis is proven as a form of **PLAGIARISM** in this thesis, I am willing to accept the consequences including accepting the **CANCELLATION OF THE GRANTING OF MASTER'S DEGREE** and undergoing any procedures required by the prevailing law.
3. This thesis can be used for literature review which can be accessed by others freely (**NON-EXCLUSIVE ROYALTY**).

Thus, this statement is made truthfully to be used as appropriate.

Malang, 17 November 2023

The Writer,

  
**Muhammad Saufi Bin Mohamed Noor**

## ACKNOWLEDGMENT

All praise be to Allah, the Most Merciful, whose mercy extends wider than the world and all that it contains. Thanks to His abundant mercy, the researcher has been able to complete the thesis titled 'Misyar Marriage, A Comparative Study on Yusuf Al-Qaradhawi And Suhailah Zainul Abidin Hammad Perspective'. May blessings and peace always be upon the Prophet Muhammad SAW, his family, companions, and the entire community. The accomplishment of this paper would not have been possible without the invaluable support of numerous individuals, and the researcher wishes to extend utmost appreciation to the following:

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The researcher welcomes feedback and recommendations from everyone as a means to enhance future endeavors and aspires for this thesis to be of value, both personally and to its readers. Ultimately, our prayers are directed to Allah SWT, with the hope that He will reward the goodwill offered by all.

Singapore, 17 November 2023

Muhammad Saufi Bin Mohamed Noor  
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## ABSTRACT

This study delves into the perspectives of Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad on the complex topic of Misyar marriage within the framework of Islamic jurisprudence. The objective of this study is to analyze and compare their viewpoints on the legitimacy, societal implications, and ethical dimensions of Misyar marriage within the Islamic context. Utilizing a qualitative approach, this study takes the form of a library research inquiry. Employing a descriptive-comparative approach, researcher scrutinize Misyar marriage law through the lenses of both Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad. The data was gathered from various documents, and the principal data originates from Al-Qaradhawi's book "Zawajul Misyar, Haqiqatuhu Wa Hukumuhu" and Suhailah's "Zawajul Misyar." Key findings reveal that Al-Qaradhawi tends to adopt a more lenient stance, emphasizing its potential to address specific societal needs. In contrast, Suhailah expresses significant reservations, highlighting potential exploitation and its consequences on familial relationships and broader societal dynamics.

**Keywords:** Misyar Marriage, Islamic jurisprudence, Women's Rights

## INTRODUCTION

*Misyar* marriage or known as *Zawaj al-Misyar* is the type of marriage that was first recognised in the Arab countries and became notable due to the attention that was received by the society and even became one of the topics of discussion among contemporary Fiqh Scholars at the international level. There has been many debates among scholars regarding this marriage, but they are unable to reach a consensus on it's ruling. Some of scholars allowed this marriage and ruled it as permissible or not encouraged but some of them prohibited it and ruled it as haram.

Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad have different perspectives regarding this marriage. Both lecturers are well-known individuals in Saudi Kingdom particularly on their inscription on the phenomenon of *Misyar* marriage in the country. They have different thoughts on this marriage which were contradictory towards each other in their writings regarding it's permissibility and validity and whether it is suitable for the muslim community to practise it. Comparatively, both of them presented their views regarding *Misyar* marriage by referring strictly to the outlines of *maqasid al-shari'ah*. These views did create confusion in the muslim community as the application of *jalb al-maṣāliḥ and dar' al-māfasid* became subjective.

Al-Qaradhawi is inclined towards sanctioning of this marriage which is according to his research that *Misyar* marriage is a legal marriage that fulfills all terms and requisites in accordance to Fiqh ruling, and the wedding contract is undoubtedly valid even though the wife waived off her conjugal rights such as provision, clothes, a place of residence and equal division between co-wives.



His edict regarding *Misyar* marriage stems from his firsthand experiences during his travels across Gulf countries. In certain Arab nations, he noted a noticeable surge in the practice of *Misyar* marriage within the Muslim populace. And because of it, he faced strong objections from a faction of women and academics.

Suhailah vehemently disagrees with *Misyar* marriage, aligning herself with the perspectives of some reknown scholars who criticize this form of marriage. Based on her interpretation, while *Misyar* marriage may meet the traditional criteria and fundamentals of marriage as defined by classical scholars, it falls short of fulfilling the essential principles of marriage in Islam. She holds that marriage transcends a mere contractual arrangement, emphasizing that a comprehensive range of elements must coexist to establish a morally sound Islamic marriage

She continues to argue that *Misyar* marriage will exacerbate the existing problems of high divorce rates, leading to more harm and instability within Muslim families and communities. Furthermore, she contends that this practice could also contribute to the decline and eventual disappearance of conventional traditional marriage and its established norms. Regarding polygamy, she highlighted that *Misyar* marriage could give rise to situations where women have multiple husbands and men have more than four wives.

This form of marriage is typically carried out discreetly, which could contribute to an increase in divorce rates. Ultimately, her concern is that the widespread practice of *Misyar* marriage and marriages entered into with the

intention of divorce could disrupt the stability of family structures and have negative implications for society as a whole.

In accordance with Islamic teachings, marriage is viewed as a form of devotion, wherein couples are bestowed with unique blessings from Allah right from the moment of their union. Through marriage, individuals can discover serenity, harmony, and empathy. It stands as the exclusive means by which families are established, bearing great significance for the broader human community. Given that families constitute a fundamental cornerstone of society, Islam encourages those who are eligible to enter into marriage contracts.

There are certain procedures in Shari'ah to be observed for the process of entering the contract of marriage. They are verbal consent from spouses, presence of a guardian, and presence of two witnesses. Upon marriage, there are rights and obligations that a married couple is obliged to comply with. The husband is obliged to provide the dowry, financial support and shelter and he also deserves good treatment from his wife. On the other hand, a wife is also obliged to serve her husband well. The husband as the head of the family is also fully responsible for the welfare his children from education, medical care and good emotional support.

As time evolved, it created social issues such as gender disparity, differences in education level, increase in wedding costs, rising divorce rates and social expectations of marriage that lead to the emergence of *Misyar* marriage. This caused some changes in the culture of the locals and thus affect the foundation and stability of the family in the society.

According to *Sa'ad Al-Unzi*, the term for this marriage was absent in the understanding of earlier scholars. This particular concept of marriage has only gained recognition recently. It pertains to a marital arrangement where a woman willingly gives up her legitimate Islamic rights.<sup>1</sup>

Certain Muslims encounter circumstances that lead them to opt for alternative forms of marriage divergent from the conventional practices prevalent in their community. This type of marriage has spread in our generation and was never known in the previous generation of Muslims and was never recommended by the Prophet.

Basically, *Misyar* marriage is accepted by some locals who practised it as the wedding contract itself complied with the conditions and pillars of traditional marriage which in accordance with the *Shari'ah*. However, as the outcome of this marriage does not portray the real purpose of marriage, which is encouraged in Islam, more issues surface in the family.

Muhammad Ar-Rawi, stated that *Misyar* marriage is not truly a marriage, because a genuine marriage encompasses tranquility, affection, building a family, preserving dignity, and upholding all rights and responsibilities.<sup>2</sup>

Muhammad Zainuddin Sunarto & Zainuri Chamdani, conducted a study on the aspects of benefit and harm in *Misyar* marriage conclude that *Misyar* marriage practices within Middle Eastern societies, if they lead to legitimate benefits, they should be considered permissible. However, some scholars prohibit this type of

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<sup>1</sup> Saad Al-Unzi, *Ahkamul Zawaj: Al-Kuwait*: Maktab As Sohwah, 1998, pg.314.

<sup>2</sup> Ahmad Shauqy Ibrahim, *Qadhayas Shabab*, Al-Qaherah: Dar Nahdhah Misr, 2012, pg. 9.

marriage due to hidden aspects associated with prior unions, even though they are deemed valid under Islamic law. Evaluating the benefits and harms of *Misyar* marriage, the authors lean towards not supporting this practice, as it often fails to achieve its intended purpose and could potentially lead to harm for the wife in the future.<sup>3</sup>

Examining a different perspective, the analysis of the psychological and sociological implications of *Misyar* marriage highlights certain concerns. To begin with, the future status of children born from a *Misyar* marriage is uncertain, particularly when the marriage is conducted in secrecy. It is evident that such children may encounter complexities when addressing essential aspects of their lives, such as obtaining birth certificates and official records of birth. Secondly, from a cultural standpoint, our society still struggles to fully embrace couples who deviate from traditional norms in their marital practices.<sup>4</sup>

Given the concerns mentioned earlier, the researcher identifies the necessity to compare the viewpoints of Al-Qaradhawi and Suhailah. This entails a comprehensive assessment of the foundations of *Misyār* marriage within the context of Islamic teachings.

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<sup>3</sup> Muhammad Zainuddin Sunarto & Zainuri Chamdani, *Nikah Misyar; Aspek Masalah Dan Mafsadah*, 2021,

<sup>4</sup> Agung Tri Nugroho, M.Sy, *Problematika Nikah Misyar Dalam Tinjauan Sosiologis Dan Psikologis*, *Al Qadhi : Jurnal Hukum Keluarga Islam*, 2019, pg. 79–95.

## A. Research Questions

The researcher has compiled several problems that will be discussed in this paper as limitations in the discussion of the contents of the chapter.

Some of these problems include:

- a) What are the perspectives of Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad on *misyar* marriage?
- b) What are the differences and similarities perspectives of Yusuf Al-Qaradhawi And Suhailah Zainul Abidin Hammad on *misyar* marriage?

## B. Research Objectives

- a) To analyze the perspectives of Yusuf Al-Qaradhawi And Suhailah Zainul Abidin Hammad on *misyar* marriage.
- b) To analyze the comparative differences and similarities perspectives of Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad on *misyar* marriage.

## LITERATURE REVIEW

Faisal, Faculty of Islamic Law, National Islamic University, published year 2016, titled “*Studi Komparatif Keabsahan Nikah Misyār Dalam Fiqih Klasik Dan Fiqih Kontemporer*”.<sup>5</sup> In this study, the researcher compares the ruling from classical *Fiqh* and the legal ruling of contemporary scholars regarding *Misyar* marriage and the necessity according to the context in Indonesia. The researcher

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<sup>5</sup> Faisal, *Studi Komparatif Keabsahan Nikah Misyār Dalam Fiqih Klasik Dan Fiqih Kontemporer*, UIN Sumatera Utara Medan, 2016.

concluded that the ruling for *Misyar* marriage is legal and valid as it conform with the requisites and pillars of marriage such as the existence of guardian, dowry, two witnesses and the groom and bridegroom.

Caesar Shan Fitri Argo Putro, Faculty Of Shari'ah, National Islamic University, published year 2022, titled "*Studi Komparatif Pendapat Yusuf Qardhawi Dan Ibnu Hazam Tentang Keabsahan Nikah Misyar*".<sup>6</sup> This study focuses on the different perspectives of Al-Qaradhawi who is one of the contemporary scholars and Ibnu Hazm who is well known as one of the classical scholars. Al-Qaradhawi viewed *Misyar* marriage as valid firstly based on the requisites and pillars of the marriage, then with the consensus of the wife. And the wife must understand the situation of the marriage itself. Whereas Ibnu Hazm viewed that the marriage is not valid as once the wedding pledge is conducted, the husband is obliged to provide material provisions such as shelter, sustenance, clothing and security according to his affordability even though he is poor. Al-Qaradhawi approach is based on analogy and necessity whereas Ibnu Hazm method is based on text and *istishab*.

Ahmad Kholil, Faculty Of Shari'ah, National Islamic University, published year 2018, titled "*Pandangan Ulama Nahdlatul Ulama Dan Muhammadiyah Kota Malang Tentang Fatwa Nikah Misyar Yusuf Qardhawi*".<sup>7</sup> In this study, Nahdhatul Ulama agreed on the validity of *Misyar* marriage as long the wife is agreeable to it

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<sup>6</sup> Caesar Shan Fitri Argo Putro, *Studi Komparatif Pendapat Yusuf Qardhawi Dan Ibnu Hazm Tentang Keabsahan Nikah Misyar*, UIN Prof. K.H. Saifuddin Zuhri Purwokerto, 2022.

<sup>7</sup> Ahmad Kholil, *Pandangan Ulama Nahdlatul Ulama Dan Muhammadiyah Kota Malang Tentang Fatwa Nikah Misyar Yusuf Qardhawi*, Malang: UIN Maulana Malik Ibrahim, 2018.

based on the Syafi'iyah scholars and it can be conducted with anyone and not necessarily to spinsters. Whereas Muhammadiyah Malang agreed to this marriage as long as the marriage is bound with strict restrictions and the couples are aware and ready to face the family conditions that they are going through in future.

## **THEORITICAL FRAMEWORK**

### **A. Yusuf Al-Qaradhawi Perspectives on Misyar Marriage<sup>8</sup>**

His full name is Yusuf bin Abdullah bin Ali bin Yusuf Al-Qaradhawi. Born on 9 september 1926M in one of the villages of the Arab Republic of Egypt, the village of Saft Turab, the center of Mahalla al-Kubra, Gharbia Governorate. Al-Qaradhawi is a surname taken from the name of the district where he came from, al-Qardhah.

He completed the memorization of the Qur'an, and mastered the provisions of its recitation, when he was under ten years old. He joined Al-Azhar Institute, where he completed his primary and secondary studies and was always at the forefront, and was ranked in the second secondary certificate in the Kingdom of Egypt, despite the circumstances of his detention at that period.<sup>9</sup>

The Muslim personality who significantly influenced Al-Qaradhawi's intellectual growth and ideas was Hasan al-Banna. Al-Qaradawi's exposure to Hasan al-Banna and The Muslim Brotherhood began during his educational journey in the city of Thontho. It was through this association that Al-Qaradawi came to

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<sup>9</sup> <https://www.al-qaradawi.net/content/السيرة الذاتية> , accessed on 28/5/2023.

grasp the genuine essence of Islam. His encounter with Hasan al-Banna led him to deeply comprehend the challenges faced by the Muslim community. Al-Qaradhawi frequently accompanied Al-Banna to various locations, attentively attending his speeches and studying his writings. His connection with this movement left a more pronounced impact on him compared to his formal education at al-Azhar.<sup>10</sup>

Al-Qaradhawi's ideas exerted a significant global influence. His dynamic thinking, aligned with contemporary circumstances and environments, frequently positioned him as a point of reference and guidance for Muslims. One of al-Qaradhawi's notable contributions was his introduction of a dynamic approach to interpreting Shari'ah law through various concepts of jurisprudence and methodology that he championed.

These encompassed concepts like jurisprudence of textual evidence (*fiqh al-Nusus*), situational jurisprudence (*fiqh al-waqi'*), balanced jurisprudence (*fiqh al-muwazanat*), jurisprudence of priorities (*fiqh al-awlawiyyat*), evolving jurisprudence (*fiqh al-taghayyur*), jurisprudence of Jihad, jurisprudence of revolution (*fiqh al-thaurah*), Islamic economic jurisprudence (*fiqh al-iqtisadi al-Islami*), minority jurisprudence (*fiqh al-aqalliyyat*), moderate jurisprudence (*fiqh al-wasatiyyah*), jurisprudence of propagation (*fiqh al-dakwah*), and the Salafi methodology (*manhaj al-salafi*).<sup>11</sup>

According Al-Qaradhawi, *Misyar* marriage is permissible as traditional marriage in Islam. *Misyar* marriage creates maslahat in *Shari'ah* where a married

<sup>10</sup><https://www.encyclopedia.com/international/encyclopedias-almanacs-transcripts-and-maps/qaradawi-yusuf-1926>. Accessed on 2/6/2023.

<sup>11</sup> Zulkifli Hasan, *Yusuf Al-Qaradawi Dan Sumbangan Pemikirannya*, *Global Journal Al-Thaqafah*, 3.1 (2013), pg. 51–66.



couple able to fulfil biological needs and build a family with dignity. As for the ruling regarding *Misyar* marriage, it is valid as it fulfilled the requisites and pillars of marriage. With regards to conjugal rights on the husband, both have agreed on certain rights to be relinquished such as to stay together in a living place, and equal division among co-wives. The husband was given freedom to visit the wife at any time he desired. The wife only needed a husband who is able to care and protect her and she does not impose anything on him as she has sufficient resources for her needs.<sup>12</sup>

A scholar does not have the authority to prohibit a woman from entering into a *Misyar* marriage, where she willingly gives up certain rights with the intention of gaining something more beneficial for herself. This is especially applicable when the woman is an adult and capable of making wise decisions for her own well-being.

One example is the case of Saudah binti Zama'h, one of Prophet Muhammad's wives. Saudah voluntarily gave up her equal division of nights with the Prophet to Aisha, another wife, in order to maintain her status as the Prophet's wife. Her intention was to secure her position in the Prophet's life, as she feared the possibility of being divorced if the Prophet did not want to be with her in the future.<sup>13</sup>

*Misyar* marriage can be seen as a potential solution for unmarried women and spinsters, particularly if they find men who possess good character. It should

<sup>12</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu* Al-Qahirah: Maktabah Wahbah, 1999, pg 4.

<sup>13</sup> Muhammad bin Ismail bin al-Bukhari, *Sahih Al-Bukhari*, Al-Qaherah: Darul Hadith, 2004, vol. 3, pg. 392.

only occur when both parties willingly accept the agreement without any coercion and no one has the right to forbid something that is in accordance with Islamic law.

However, it is important to note that despite acknowledging the possibility of *Misyar* marriage as a solution in certain situations, Al-Qaradhawi clarified that he does not favor or actively encourage the practice. This implies that while he acknowledges its potential under specific circumstances, he does not actively advocate for *Misyar* marriage as a preferred or recommended form of marriage.<sup>14</sup>

There are some issues raised by some scholars regarding *Misyar* marriage which were refuted by Al-Qaradhawi. Some claimed that *Misyar* marriage is the same as *nikah Al-U'rfy* (customary marriage) whereby the marriage contract mainly requires the presence of a guardian, two witnesses and a dowry and basically not registered with the state authorities.

Al-Qaradhawi explained that customary marriage is still considered valid according to Shari'ah even though it is not registered with the state authorities and without documentation. As for *Misyar* marriage, if it is not registered, it is equal to customary marriage but mostly are registered and with proper documentation as taken place in the kingdom of Saudi, Emirates, and many other countries.<sup>15</sup>

This form of marriage has been scrutinized for its lack of prospects due to the absence of affection and empathy between partners. Al-Qaradhawi acknowledged that *Misyar* marriage doesn't align with the ideal type of marriage encouraged in Islam. Nonetheless, he recognized it as a viable option during

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<sup>14</sup> Chomim Tohari, *Fatwa Ulama Tentang Hukum Nikah Misyar Perspektif Maqasid Shari'ah'*, Al-Tahrir: Jurnal Pemikiran Islam, 2013, pg. 213.

<sup>15</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999, pg. 10.

challenging circumstances, shifts in societal values, and changes in living conditions. Even if it doesn't meet all expectations, the marriage commitment remains valid according to him.<sup>16</sup>

According to Al-Qaradhawi with regards to guardianship, Allah granted men the ability to be the guardians for women as men have the resilience to bear the responsibilities given to them and patience in managing the people under their guardianship more than women. Hence, by giving the dowry to the wife, the husband has the right of guardianship over women even before giving her the daily financial support.<sup>17</sup>

Some scholars compared *Misyar* marriage with *mut'ah* marriage as the husband only goes to his wife as and when he needed to. As a matter of fact, both marriages are different. *Mut'ah* marriage is temporary and bounded with a period and the dowry depends on the duration of marriage. The marriage concludes upon reaching its designated end date. Additionally, the dowry differs between a one-week marriage and a one-month marriage. On the contrary, *Misyar* marriage is indefinite and not constrained by a specific timeframe; it concludes solely through the process of divorce.<sup>18</sup>

*Misyar* marriage isn't exclusively intended for practicing polygamy, as some men opt for their first marriage through this arrangement. Contemporary

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<sup>16</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999, pg. 11.

<sup>17</sup> *Ibid.*, pg. 16.

<sup>18</sup> *Ibid.*, pg. 16.

occurrences involve individuals who are already married seeking *Misyar* marriage as a means to conveniently find an additional companion to fulfill their needs.<sup>19</sup>

Syahrial Dedi's analysis of *Maqasid Shariah* regarding *Misyar* marriage suggests that when the primary goal of a marriage remains unfulfilled, individuals may necessitate alternative regulations that offer concessions (*rukhsah*) to accomplish that fundamental aim. This concept is termed as "*hajjiyah*," denoting the advantageous factors required by humans to overcome challenges related to meeting essential needs. This juncture is where the option of practicing polygamy can be employed, drawing parallels from the actions of Prophet Ibrahim (peace be upon him). To put it differently, polygamy serves as a means to address the "*hajjiyah*" requirement within the institution of marriage.<sup>20</sup>

Certain *Misyar* marriages are officially recorded with proper documentation by state authorities, dispelling the notion of secrecy. It is deemed satisfactory for a legal guardian or a representative thereof to be present, meeting the basic requirement for formalizing the marriage announcement.<sup>21</sup>

This type of marriage emerged as a remedy for a specific subset of individuals grappling with obstacles that hindered them from conventional marriage. This category encompasses unmarried individuals who have exceeded their optimal marital age, divorcees, and widows. Notably, many among these individuals possess substantial financial resources and assets.<sup>22</sup>

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<sup>19</sup> *Ibid.*, pg. 18.

<sup>20</sup> Shahrial Dedi, '*Nikah Misyar: Analisis Maqashid Asy-Syari'ah*', *AlHurriyah: Jurnal Hukum Islam*, 2018, pg.51.

<sup>21</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999, pg. 19.

<sup>22</sup> *Ibid.*, pg 5.

## **B. Suhailah Zainul Abidin Hammad Perspectives on Misyar Marriage<sup>23</sup>**

Suhailah Binti Zainul Abidin Hammad, a Saudi social activist and senior member of the National Society for Human Rights, born in Madinah Al-Munawwarah, Saudi Arabia year 20 January 1958. A renowned lecturer at King Saud University. Received her early education from her father Zainul Abidin Hammad, one of the scholars in Madinah Al-Munawwarah and also an Imam in Nabawi mosque.

Among her literary works are analyses of historical scholars' perspectives on women, and she advocated for a shift in the perception of women. She held a contrary stance to the notion that women inherently hold a lower status than men, even though certain interpretations of the Quran seemed to imply so.

In several instances, she has expressed concerns about an inequitable bias in court rulings, particularly when women are involved as either defendants, or even more so, when they are victims of a male perpetrator. This unjust bias in rendering judgments is often ascribed to Shari'ah law, drawing upon hadith that are occasionally forged, isolated, deficient, or possess uncertain authenticity. She asserted encountering instances where a divorce document invoked fabricated hadith to question the legitimacy of parentage.<sup>24</sup>

Additionally, she asserted that there were instances when legal decisions were founded on misunderstandings of specific Quranic verses and verified hadiths, solely to elevate the position of men and establish their superiority over women. In

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<sup>23</sup> <http://dr-suhaila-z-hammad.blogspot.com>, accessed on 31 May 23.

<sup>24</sup> <https://www.mohamah.net/law>, accessed on 5 June 2023.

order to preserve this elevated status of men, these verdicts were bolstered by unreliable or fabricated hadiths, ultimately revealing what she perceived as an unjust disposition of God towards His creation.<sup>25</sup>

However, Suhailah encounters criticism from certain instructors due to her interpretations that are perceived as contradictory to the prevailing Islamic doctrine. She makes assertions about the equitable standing of traditional and modern scholars in *ijtihad*, challenging the consensus (*ijma'*) on the matter of *Diyat* for women by disagreeing with the notion that a woman's *Diyat* is half that of a man's. Furthermore, she disparages the reputations of well-known classical scholars like Ibn Qudamah and Ibn Qayyim.<sup>26</sup>

While she supports women's rights in the Gulf states, she opposes the viewpoint of certain modern scholars regarding the legitimacy of *Misyar* marriage. In her perspective, this form of marriage fails to fulfill the genuine objectives of matrimony and doesn't address any family-related issues.

In her book, “*Zawajul Msyar*”, she commented on some issues related to the characteristics of *Misyar* marriage and the problems associated with it. She listed some issues on *Misyar* marriage which are detrimental to the well-being of women if they were to proceed with the marriage.

1. It does not fulfil one of the pillars of marriage which is annunciation as the wife is confined into her living space only and the husband required her not to inform or contact any of his family members and make known

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<sup>25</sup> <https://www.mohamah.net/law>, accessed on 5 June 2023.

<sup>26</sup> <http://saaid.org/daeyat/fauzea/70.htm>, accessed on 15 June 2023.

to them about this marriage. On the other hand, the husband not known to anyone will create suspicion among the neighbours when entering her house and this will dishonour her dignity among them.

2. It lacks three important requirements of marriage which are comfort, compassion, and mercy. As mentioned in Surah Ar-Rum verse 21, that Allah has created for spouses for them to find comfort and He has placed among them compassion and mercy. This marriage does not encourage comfort as the husband is not around most of the time and the lack of compassion and mercy as the husband is not responsible for her well-being and is not present when she needed him.
3. Certain women are deprived of appropriate living conditions. Even if the wife is financially comfortable or holds her own job, it remains the husband's duty to ensure she is provided with a suitable living space and to take responsibility for her daily support.
4. The husband's control over the wife should not be asserted if he has not been fulfilling his responsibility of providing for her daily needs. He can only be regarded as having authority over his wife and expecting obedience from her if he has fulfilled his duty of providing for her, as outlined in Surah An-Nisa, verse 34. This verse indicates that men are responsible for the welfare of women due to the advantages they have been granted by Allah and the financial support they offer for their upkeep. Merely offering a dowry to the wife upon marriage does not

automatically grant the husband authority over her, as the dowry is a mandatory offering at the time of marriage.

5. Having offspring is part of marriage in Islam and in *Misyar* marriage, it discourages in having children as the wife has to agree on not having children throughout the marriage.
6. Unfair treatment towards the children if they are blessed with them in this marriage. If the husband is a married person with another wife, he is not responsible for the children he has in *Misyar* marriage. He will not provide them with proper education or daily sustenance as he will only focus on children from a wife in a normal marriage.
7. The relationship between families from both spouses does not exist. The wife and her children will be prevented from contacting the family of the husband and they will not recognise their grandparents and relatives from their father's side.
8. The wife's prospects in this marriage are limited, as it is commonly referred to as a quick marriage and will not last. Furthermore, there have been cases where husbands have abandoned their wives without any intention of returning to them.
9. Lacks the regard for the wife, perceiving women merely as tools for fulfilling their biological desires, rather than treating them with respect.<sup>27</sup>

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<sup>27</sup> Suhailah Zainul Abidin Hammad, *Zawajul Misyār*, Ar-Riyadh: Maktabah Obeikan, 2010, pg. 53



## RESEARCH METHOD

This research is a qualitative research which belongs to the type of library research. It focuses on collecting data from the literature relating to the characteristics of *Misyar* marriage and the legal rulings of contemporary scholars regarding this marriage.

It adopts a descriptive-comparative approach to analyze the law of *Misyar* marriage according to the perspectives of Yusuf Qaradhawi and Suhailah Zainul Abidin Hammad.

The descriptive aspect of the research involves an analysis that describes the law of *Misyar* marriage as presented by each of the two scholars, Yusuf Qaradawi and Suhailah Zainul Abidin Hammad. This analysis would explore into their writings, opinions, and interpretations regarding the concept and practices of *Misyar* marriage within the context of Islamic law.

The comparative aspect of the research, on the other hand, involves a study that compares the opinions of Yusuf Qardhawi and Suhailah Zainul Abidin Hammad to identify the differences and similarities in their views on *Misyar* marriage. This comparison would focus on key points, arguments, and positions taken by each scholar, highlighting areas of agreement or disagreement.

By adopting this descriptive-comparative approach, the research aims to provide a proper understanding of *Misyar* marriage by considering the perspectives of these two prominent individuals in the field of Islamic studies.

## **DATA COLLECTION AND DISCUSSION**

### **A. Yusuf Al-Qaradhawi**

In his book, *Zawajul Misyar: Haqiqatuhu Wa Hukumhu*, the writer focused on addressing various controversial topics related to *Misyar* marriage that have been debated among contemporary scholars. He based his arguments and analysis on references primarily derived from the Quran, Hadith (the sayings and actions of Prophet Muhammad), and the rulings of classical Islamic scholars, including Abu Hanifah, Malik Anas, Muhammad bin Idris (Imam Shafi'i), and Ahmad bin Hanbal.

By drawing from these primary sources, the writer aimed to provide a thorough and well-grounded exploration of *Misyar* marriage within the framework of Islamic jurisprudence. These classical scholars are considered authoritative figures in Islamic law, and their opinions hold significant weight in the discussions and interpretations of Islamic principles and practices.

By referring to the Quran and Hadith, the writer aimed to find guidance from the fundamental sources of Islamic teachings to ascertain the legitimacy and implications of *Misyar* marriage. Additionally, by referring to the rulings of classical scholars, the author sought to understand how this form of marriage was historically understood and practiced in Islamic societies.

Overall, the writer's approach in this book involved a combination of in-depth scriptural analysis and the examination of historical perspectives to shed light on the subject of *Misyar* marriage from an Islamic legal standpoint. This allowed for a comprehensive exploration of the topic, taking into consideration the viewpoints of classical scholars alongside contemporary debates among Islamic scholars.

As for his fatwa on *Misyar* marriage, Al-Qaradhawi did not expect it will cause a commotion in Qatar and other Gulf states. When he visited Morocco around two weeks or more, he felt the impact of it all. He thought the different opinions are natural in response to new phenomenon that appeared, and it differs among laymen as well as educated people. It came to him from some of his friends admitting that many women in Qatar are unhappy with his fatwa and suggested that the fatwa be retracted just like other scholars who forbid *Misyar* marriage, solely to seek the attention of women. Al-Qaradhawi does not agree and believe that there is a valid reason for a woman to be in *Misyar* marriage and relinquished her conjugal rights for good purposes.<sup>28</sup>

Following his fatwa on *Misyar* marriage, he encountered criticisms from some scholars and women activists as to their perception, it will lead to a change of Islamic marriage system and bring unfairness towards muslim women in the society. Among contemporary scholars who does not agree with the permissibility of this marriage are Nashiruddin al-Albani, Abdul Sattar al-Jubali, Abu Malik

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<sup>28</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999.

Kamal bin al-Sayyid Salim. They viewed that this marriage does not embody marriage orientations, such as living together, expressing affection towards each other, intention to have offspring, showing concern towards wife and children and also absence of fairness for the wives. In addition, it is degrading for women especially when they must give up their rights just to be in this marriage.<sup>29</sup>

Based on his research, he affirmed that *Misyar* marriage, is a legal marriage according to *Shari'ah* that fulfills all terms and requisites, and the contract is valid although the wife waives her conjugal rights such as provision, clothes, a place of residence and equal division between co-wives.

In the context of the validity of *Misyar* marriage, Al-Qaradhawi emphasizes that a *Fiqh* scholar does not have the authority to nullify a marriage contract and label it as fornication merely because the wife has chosen to waive some of her rights from the husband. He argues that the decision of a marriage is a serious and individual matter for both the husband and wife.

Al-Qaradhawi suggests that the wife is a "*mukallaf*," meaning she is of sound mind and responsible for her actions in Islamic law. As such, she has the right to make decisions regarding her marriage based on what she believes will be beneficial for her, considering the positive and negative aspects of the relationship.

The scholar acknowledges that in a *Misyar* marriage, the husband's time and commitment to the wife may be limited, and the traditional rights of a wife in a standard marriage may be waived. However, he argues that if the wife willingly

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<sup>29</sup> Usamah al-Asyqar, *Mustajidat al-Fiqhiyyah fi Qadhaya al-Zawaj wa al-Thalaq*, Damaskus: Dar al-Ilmiyyah, 2001, pg 189 – 190.

chooses to enter into such a marriage, knowing the implications and benefits according to her own judgment, it should not be automatically considered as fornication or invalid.

Al-Qaradhawi 's highlights that the decision to enter into such a marriage is a personal one for the wife, and she should be allowed to exercise her judgment in determining what is best for her, even if it means foregoing some traditional rights in a conventional marriage.<sup>30</sup>

He emphasized the numerous benefits and advantages of *Misyar* marriage, which include aiding in the support of a significant number of single women, divorcees, widows, and individuals with unique circumstances. Additionally, he highlighted how it can assist certain men in attaining moral virtues and lawful enjoyment by avoiding the traditional, expensive form of marriage by choosing *Misyar* marriage, which is seen as a more cost-effective alternative.

However, he pointed out that *Misyar* marriage does have several drawbacks and adverse consequences for both the community and families. Some men might exploit this arrangement solely for sexual gratification, which can lead to feelings of shame among women involved, and the children born from such marriages may not receive proper ethical upbringing.

In his research's conclusion, he advised that men desiring a virtuous life and lawful pleasures through polygamy should adhere to the path of the Prophet, follow

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<sup>30</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999, pg.8.

Allah's commandments, and uphold the authentic teachings of Islam, refraining from entering into such marriages (*Misyar*).

Women seeking marriage should be open to a man who upholds Islamic values and ethics, regardless of whether he is already married, less affluent, or older than herself. Furthermore, married women should not impede their husbands if they choose to enter into additional marriages.

Given that community issues can impact the social stability of the country, he recommended that the governing authorities take an active role in addressing the challenges experienced by single women, widows, and divorced women. He also stressed the importance of emphasizing that polygamy is not disgraceful for women; rather, it is permitted in our Islamic religion. Additionally, he highlighted the benefits that polygamy can bring to society as a whole.

He does believe the importance of carrying out more research on *Misyar* marriage to uncover more details regarding its advantages and disadvantages towards individual and the muslim community.

According to Al-Qaradhawi 's response, despite his efforts in preaching and educating about traditional Islamic marriage (marriage without *Misyar*) for more than thirty years, certain issues or challenges in marriage continue to persist. As a result, he suggests that *Misyar* marriage could be considered as part of the solution to address some of these challenges.<sup>31</sup>

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<sup>31</sup> Yusuf Al-Qaradhawi, *Zawajul Misyar, Haqiqatuhu Wa Hukumuhu*, Al-Qahirah: Maktabah Wahbah, 1999, pg 24.

His perspective seems to imply that *Misyar* marriage might offer an alternative approach for individuals who face specific difficulties in finding a traditional spouse or establishing a conventional marriage. By acknowledging that *Misyar* marriage exists as an option, he may be proposing that it could be a valid solution for some people who are unable to enter into a standard marriage due to certain circumstances or constraints.

It is important to recognize that Al-Qaradhawi viewpoint on *Misyar* marriage as part of the solution is his personal opinion and might not be globally accepted. The topic of *Misyar* marriage continues to be a subject of debate within Islamic scholarly circles, with varying opinions regarding its permissibility, implications, and impact on individuals and generally muslim society.

#### **B. Suhailah Zainul Abidin Hammad**

Suhailah as an active lecturer spend most of her time writing research papers and giving lectures physically in various universities and conferences. Till today, some of her lectures are circulated online through some social medias. Being involved in many research and seminars regarding women's issues in the gulf states, she is very much concern on the rights, roles, and responsibilities of women in the society.

In her research on *Misyar* marriage, she explained the definition and the origin of the marriage that is happening in Saudi. She also presented the opinions of some scholars who supported this marriage and adjudged it as permissible (*Mubah*) and those who discouraged this marriage and adjudged it as abominable (*Makruh*) and forbidden (*Haram*). She also compared their opinions and made

references to Al-Quran and Hadith. Subsequently, she made conclusion and elucidate the adjudgment of this marriage according to the opinions of the scholars that concur with her views based on her experiences as a women's' right activist in Saudi Kingdom.

In her understanding, *Misyar* marriage lacks certain conditions for a marriage to function well according to *Shari'ah*. She pointed out that the wife has to be confined at home and the husband will compel the wife to not have any contact with others especially her family members so as to avoid their relationship being known to public.

She stated some of the negative impacts that occurred on women who relinquished their rights solely to perform this marriage.<sup>32</sup> Based on her findings, it appears that some couples who enter into *Misyar* marriages do not publicly declare their marital status. This lack of disclosure extends to the point where even close relatives, neighbours, and sometimes even the wife's children from her previous marriage are unaware of the husband's identity or their marriage.

This secrecy and lack of public acknowledgment can lead to situations where the husband is considered a stranger by those around, including the wife's children. The husband's presence in the household may be seen as questionable or suspicious, and his relationship with the wife and her children may not be clearly understood.

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<sup>32</sup> Suhailah Zainul Abidin Hammad, *Zawajul Misyār*, Ar-Riyadh: Maktabah Obeikan, 2010, pg. 52 – 60.



As a consequence, this lack of transparency can discredit the mother's reputation and status, especially if her children are unaware of the marriage. The secrecy surrounding the relationship may lead others to make assumptions or judgments about the nature of the association between the man and the woman.

She further argued that *Misyār* marriage does not produce tranquility, peace and compassion as the husband's presence in the house is only temporary and only there to fulfill biological needs whereas in marriage it should have tranquility, peace and compassion by living together and loving each other.

Indeed, one of the critical aspects of *Misyār* marriage is that the husband is not legally obligated to provide financial support to the wife and children as he would be in a standard or conventional marriage. This lack of financial responsibility can have significant implications for the well-being and care of the wife and children.

Without the husband's financial support, the burden of providing for the family falls solely on the wife. She may face financial difficulties and hardships in meeting the needs of herself and her children. This can lead to increased stress and pressure on the wife, affecting her emotional well-being and the overall stability of the family unit.

The lack of encouragement for having children in *Misyār* marriages can result from the absence of financial provisions and a sense of temporary commitment. Without the assurance of stable financial

support and long-term commitment from the husband, some women may be hesitant to bring children into such a marriage.

In cases where a wife becomes pregnant in a *Misyar* marriage, the lack of support and care from the husband can lead to emotional and physical abuse, as well as neglect of the wife and child. This can be emotionally devastating for both the wife and the unborn child.

The inability or unwillingness of the husband to provide for the child's needs may lead to desperate situations where the child is abandoned, most probably left at the door of a mosque or orphanage.

In cases where a person practices polygamy, it is essential to consider the fair treatment and care of all children, regardless of the type of marriage they are born into. However, as *Misyar* marriage often involves limited time and commitment from the husband, it can lead to situations where the children of *Misyar* marriages may receive unequal treatment compared to those from standard marriages. This inequality in treatment can have negative consequences for the emotional well-being and development of the children.

Suhailah hope for the International Islamic Fiqh Academy to reconsider the ruling on *Misyar* marriage and cease its practice is a reflection of her concerns about the potential negative consequences of such marriages within the Muslim community. Her findings and observations may have led her to believe that *Misyar* marriage could lead to injustices, inequalities, and negative impacts on women, children, and family dynamics.<sup>33</sup>

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<sup>33</sup> Suhailah Zainul Abidin Hammad, *Zawajul Misyār*, Ar-Riyadh: Maktabah Obeikan, 2010, pg. 182.

Ultimately, any reconsideration of the ruling on *Misyar* marriage by Islamic scholars and institutions would require careful examination, scholarly deliberation, and consensus within the broader Muslim community.

## DATA ANALYSIS

Based on Al-Qaradhawi's perspectives on *Misyar* marriage, the researcher understood some points that led him to agree on the validity of this marriage. He argued that basically *Misyar* marriage fulfilled the requisites and pillars and is conducted in accordance with *Shari'ah* and no *Fiqh* scholars has the right to ban this marriage. Suhailah contended that this marriage lacks validity due to the fundamental absence of one of its pillars, namely, the act of annunciation. According to the researcher, the essential elements and foundational aspects of marriage encompass the necessity of mutual consent. In this context, both the bride and groom are required to provide voluntary and verbal agreement to proceed with the marriage. It's crucial to note that within Islamic teachings, coerced marriages are explicitly prohibited.

The groom is required to provide the bride with a marriage gift, known as the dowry which is a symbol of the husband's responsibility to financially support his wife. The marriage contract must also be witnessed by at least two adult Muslim witnesses whose role is to ensure that the marriage is conducted appropriately in accordance with *Shari'ah* and with the consent of both the husband and wife.

The guardian of the bride who acts on her behalf during the marriage contract and if he is absent or incapable, the judge or his representatives can assume

this role. The final pillar is the marriage contract which is established through a proposal from the guardian and an acceptance from the husband in the presence of the witnesses. Referring to the pillars of marriage, the researcher agrees that *Misyar* marriage fulfilled all the pillars mentioned above.

Regarding annunciation as mentioned by Suhailah, it is not a mandatory requirement for the validity of the marriage contract. The annunciation of marriage is more commonly practiced in some communities to inform family, friends, and the community about the marriage. Even if the marriage is not announced publicly or being made known to their relatives, it will not be nullified.

Regarding the requisites of marriage, in *Misyar* marriage, both the husband and wife have reached the legal age of marriage and mentally capable of understanding the commitment they are entering into. Therefore, both of them already anticipate the challenges they will be facing if they were to commit in this marriage.

Both Al-Qaradhawi and Suhailah agreed that this marriage lacks some important requirements of marriage which are comfort, compassion, and mercy. The husband is not present most of the time to give comfort to the wife and the lack of compassion and mercy as he is not responsible for her safety and well-being. However, Al-Qaradhawi affirmed that even it lacks these spiritual essentials, the marriage can still take place depending on the needs that arise due to the changes of environment and perception of the society.

The researcher's finding that the society of this generation is different from the past, with Muslims being more open to different views and cultures, can have

significant implications for the acceptance and prevalence of practices like *Misyar* marriage. This changing societal mindset may indeed contribute to the spread of *Misyar* marriage among certain groups of Muslims without facing significant opposition.

As societies evolve and become more interconnected through globalization, advancements in communication, and exposure to diverse cultures and ideas, traditional practices and beliefs can undergo transformation. In the case of *Misyar* marriage, the shifting societal perceptions and attitudes towards marriage, family, and individual rights may create an environment where some Muslims are more receptive to alternative forms of marriage, even if it goes against traditional norms.

Furthermore, as the younger generation grows up in this changing social landscape, they may be less bound by the boundaries set by their forefathers and may be more inclined to challenge traditional practices. This can lead to a willingness to explore different viewpoints, including the acceptance of *Misyar* marriage.

It is essential to recognize that while *Misyar* marriage may find acceptance among certain groups of Muslims, there are diverse opinions and perspectives within the Muslim community. Some individuals and scholars may continue to oppose or critique the practice, while others may see it as a valid option in specific circumstances.

The researcher alongside with Suhailah's arguments, disagreed with Al-Qaradhawi's perspective on the authority of the husband over the wife is rooted in the interpretation of the concept of dowry in Islam. The disagreement centers on

whether the dowry signifies authority or control over the wife and the role of providing daily provisions in establishing the husband as the protector.

In Al-Qaradhawi's view, once the husband gives the dowry to the wife, he gains authority over her even before providing her with daily provisions. This perspective suggests that the dowry represents a form of control or ownership, giving the husband some level of authority over the wife.

On the other hand, the researcher maintains that the dowry is a mandatory gift from the husband to the wife, as mentioned in Surah An-Nisa verse 4 of the Quran. This view aligns with the traditional understanding of mahr as a symbol of love, care, and financial security that the husband provides to his wife as a sign of his commitment and responsibility.

Additionally, the researcher emphasizes that the husband's role as the protector for his wife is contingent upon providing her with daily provisions. In Islam, the husband is considered the qawwam (protector) of the family and is responsible for the financial support and well-being of his wife and children. Providing for the wife's daily needs is an essential aspect of this role.

The disagreement between Suhailah and the researcher centers on the issue of having children in Misyar marriage and its compatibility with Islamic teachings. Suhailah argues that Misyar marriage is not part of Islam because some couples may intentionally choose not to have children throughout the marriage. She may view this as contradicting the Islamic emphasis on procreation and family life.

On the other hand, the researcher acknowledges that having children is not compulsory in Islam and does not affect the validity of a marriage, including Misyar

marriage. This aligns with the Islamic view that procreation is encouraged but not obligatory, and individuals have the right to make choices regarding family planning based on their personal circumstances and preferences.

Furthermore, the researcher highlights that having children in a *Misyar* marriage might exacerbate issues, given the agreement between the husband and wife that he will not be responsible for providing daily sustenance for her or her children.

To the researcher, Suhailah's arguments highlight significant challenges and implications that *Misyar* marriages pose, particularly for the wife involved. The temporary and transient nature of *Misyar* marriage means that the husband has the freedom to come and go as he pleases, without any obligation to provide ongoing support or stability for the wife and any potential children.

The uncertainty surrounding the husband's presence and commitment in a *Misyar* marriage can lead to emotional distress and instability for the wife. She may face the risk of being abandoned without any prior notice, as some husbands may choose not to return after leaving. This uncertainty can have a profound impact on the wife's well-being, self-esteem, and financial security, especially if she has children to care for.

To Al-Qaradhawi, *Misyar* marriage can create "*maslahat*" (benefit) for the couple involved. According to his perspective, *Misyar* marriage allows individuals to fulfill their biological needs within the bounds of marriage while also building a family with dignity as in accordance with Islam. Suhailah disagreed as the behavior of a husband who look upon his wife as an object to fulfill his biological needs is

deeply concerning and disrespectful. Such an attitude perpetuates gender inequality and objectification of women, disregarding their rights, and value as equal partners in a marriage.

The researcher acknowledges that physical intimacy in a marriage is a mutual and two-sided experience. Both the husband and wife have biological needs and desires that are fulfilled through this aspect of their relationship. It is recognized that a healthy and satisfying sexual relationship can be beneficial for both partners on physical, emotional, and psychological levels. And being in a marriage for the purpose of having sexual relationship within the bounds of a lawful and consensual marriage is not offensive in Islam.

## **CONCLUSION**

From the description and discussion that the researcher has presented regarding the Comparative Study of the Perspectives of Yusuf Al-Qaradhawi and Suhailah Zainul Abidin Hammad on Misyar Marriage, the researcher can draw the following conclusions:

- A. Yusuf Qardhawi's perspective on Misyar marriage considers it a valid form of marriage, emphasizing the importance of mutual consent and agreement between the husband and wife. He believes that Misyar marriage can provide a potential solution for addressing specific social challenges faced by Muslims both in his time and in the future. On the other hand, Suhailah disagrees with the validity of *Misyar* marriage and argues that it lacks many essential elements required for a complete marriage. She raises concerns about the negative impact



of Misyar marriage on the couples involved, particularly the wife and any children they may have. Furthermore, she believes that *Misyar* marriage may have broader negative effects on the Muslim society as a whole.

B. The difference in *ijtihad* between Al-Qaradhawi and Suhailah Hammad lies in the methods they use to approach the issue of *Misyar* marriage. Al-Qaradhawi employs the method of analogy (*qiyas*) along with the approach of public interest (*maslahat*) and fiqh legal maxim '*Al-Hajah Qad Tunazzalu Manzilah Al-Darurah Āmmah Kanat Aw Khassah*' which means "Necessity makes the prohibited permissible, whether it is a general or specific necessity" to address the ruling for *Misyar* marriage. Additionally, Al-Qaradhawi's considers the intended benefits '*masalahat*' and objectives '*maqasid*' of Islamic law to find a solution that aligns with the social needs and welfare of the Muslim community by incorporating the fiqh legal maxim '*Al-Hajah Qad Tunazzalu Manzilah Al-Darurah Āmmah Kanat Aw Khassah*'. On the other hand, Suhailah also adopts the method of analogy from fiqh legal maxim '*Dar'ul Mafasid Muqaddamun ala Jalbil Mashalih*' which means 'Preventing harm takes precedence over seeking benefit' concerning the negative impact on women involved in *Misyar* marriage is a significant concern within the Muslim society. Suhailah's efforts to strive for the prohibition of *Misyar* marriage altogether stem from her belief that the practice can lead to detrimental consequences for women, their well-being, and their rights within the context of marriage.

## REFERENCES

- Ahmad Shauqy Ibrahim, (2012), *Qadhayas Shabab*, Al-Qaherah: Dar Nahdhah.
- Ahmad Kholil, (2018), *Pandangan Ulama Nahdlatul Ulama (Nu) Dan Muhammadiyah Kota Malang Tentang Fatwa Nikah Misyar Yusuf Qardhawi*.
- Agung Tri Nugroho, M.Sy, (21019), 'Problematika Nikah Misyar Dalam Tinjauan Sosiologis Dan Psikologis', *Al Qadhi: Journal of Islamic Family Law*, <<https://doi.org/10.47902/alqadhi.v1i1.16>>
- Caesar Shan Fitri Argo Putro, (2022), *Studi Komparatif Pendapat Yusuf Qardhawi Dan Ibnu Hazm Tentang Keabsahan Nikah Misyar*, Faculty Of Syariah.
- Dedi, Syahrial, (2018), Nikah Misyar (Analisis Maqashid Asy-Syari'ah), *ALHURRIYAH JOURNAL OF ISLAMIC LAW*, 3.1,41 <<https://doi.org/10.30983/alhurriyah.v3i1.554>>
- Faisal, F, (2016), Studi Komparatif Keabsahan Nikah Misyār Dalam Fiqih Klasik Dan Fiqih Kontemporer, <<http://repository.uinsu.ac.id/1367/>>
- Hasan, Zulkifli, (2013), *Yusuf Al-Qaradawi Dan Sumbangan Pemikirannya*, *Global Journal Al-Thaqafah*.
- Tohari, Chomim, (2013), *Fatwa Ulama Tentang Hukum Nikah Misyar Perspektif Maqasid Shari'ah*, *Al-Tahrir: Journal of Islamic Thought*, <<https://doi.org/10.21154/al-tahrir.v13i2.14>>
- Al-Al-Qur'ān English Translation, Lebanon: Beirut ClearAl-Qur'ān,
- Muhammad Bin Ismail, (2004), *Sahih Al-Bukhari*, Al-Qaherah: Darel Hadith.
- Muhammad Zainuddin Sunarto & Zainuri Chamdani, (2021), *Nikah Misyar; Aspek Masalah Dan Mafsadah*.
- Saad Al-Unzi, (1998), *Ahkam Az-Zawaj*, Al-Kuwait: Maktab As-Sohwah.
- Suhailah Zainul Abidin Hammad, (2010), *Zawajul Misyār*, Ar-Riyadh: Maktabah Al-Obeikan,.
- Usamah Umar Sulaiman Al-Ashqar, (2000), *Mustajaddat Fiqhiyyah Fi Qadhaya Az-Zawaj wa At-Talaq*, Jordan: Dar An Nafais.
- Wahbah Az Zuhaili, (1985), *Al Fiqhul Islami Wa Adillatuhu*, (2nd ed.). Dimasyq:Darul Fikr.

Yusuf Al-Qaradawi, (1999), *Zawajul Misyar, Haqiqatuhu Wa Hukmuhu*, Al-Qahirah: Maktabah Wahbah.

#### FROM WEBSITE

<http://www.alukah.net/sharia/0/75315/>

<http://www.alyaum.com/article/1289896>

<https://www.al-qaradawi.net/content/العيرة الذاتية>

<https://www.encyclopedia.com/international/encyclopedias-almanacs-transcripts-and-maps/qaradawi-yusuf-1926>

<http://www.al-jazirah.com/2000/20000825/is1.htm>

<http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=FatwaId&Id=74398>, <https://fatwa.islamonline.net/15180>

[http://dr-suhaila-z-hammad.blogspot.sg/p/blog-page\\_6755.html](http://dr-suhaila-z-hammad.blogspot.sg/p/blog-page_6755.html)

<http://mohamah.net> (2023) الدفنة من حياة زين العابدين حماد بن محمد بن عمار الجعفي عن أثر العوروث البلخي والفاقي على الواقع النجدي والبيضاوي

<http://saaid.org/daeyat/fauzea/70.htm>

[http://dr-suhaila-z-hammad.blogspot.com/p/blog-page\\_23.html#](http://dr-suhaila-z-hammad.blogspot.com/p/blog-page_23.html#)