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**THE IMPLICATION OF NIKAH MISYAR: A CASE STUDY IN MALAYSIA**<sup>i,\*</sup>Muhammad Ariff Hakim Muhammad Termizi, & <sup>ii</sup>Maizatul Farisah Mohd Mokhtar<sup>i</sup>Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia<sup>ii</sup>Tamhidi Centre, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia\*(Corresponding author) e-mail: [ariffhkim01@gmail.com](mailto:ariffhkim01@gmail.com)**ABSTRACT**

Misyar Marriage, a non-traditional form of marital contract, has gained attention within the Malaysian Muslim community due to its flexible nature, allowing couples to waive or modify certain marital obligations, such as cohabitation and financial support. While this arrangement offers an alternative to conventional marriage, its compatibility with Syariah Law and its impact on the institution of marriage in Malaysia remain subjects of significant debate. This research examines the legal status of Misyar Marriage under Malaysian Syariah Law, exploring whether it aligns with Islamic principles and the extent to which it is practiced. Additionally, the study analyzes the implications of Misyar Marriage on family dynamics, considering potential challenges such as the erosion of marital stability and the welfare of children born from such unions. By reviewing legal texts, scholarly interpretations, and real-life cases, this research aims to provide a thorough understanding of Misyar Marriage's place within Malaysian society. The findings seek to contribute to the ongoing discourse by offering recommendations for more balanced and sustainable practices, ensuring that any adaptation of Misyar Marriage within Malaysia remains in harmony with the core values of Islam and supports the well-being of families.

**Keywords:** *Misyar Marriage, Maqasid Syariah, Legal*

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## Introduction

Marriage is one of the most important institutions in Islam, as it is considered a sacred bond between a man and a woman, and a means of fulfilling their physical, emotional, and spiritual needs (Wan Ismail et al., 2022a). Marriage also has social and legal implications, as it establishes rights and obligations for both spouses and their children (Faisal, 2016). However, marriage is not always easy or accessible for everyone, especially in the modern world where there are various factors that may hinder or prevent people from getting married or staying married (Alias, 2022). Some of these factors include financial difficulties, social pressures, personal preferences, or travel needs (Sonbol, A, 2016).

One of the countries where Misyar Marriage has been reported to exist is Malaysia, a predominantly Muslim country with a diverse and dynamic society. According to a study by Ahmad et al., (2019), Misyar Marriage is practiced by some Malaysian Muslims for various reasons, such as convenience, privacy, affordability, and personal preference. However, the study also found that Misyar Marriage poses many challenges and risks for the spouses and their children, such as lack of legal protection, emotional distress, social stigma, and family conflicts.

The central problem of this study is to explore and understand the implications of Misyar Marriage for the rights and welfare of women, children, and society in Malaysia. The field of study that is relevant to this core problem is sociology, with a focus on gender, family, and religion. The methods that will be utilized to analyze this problem are qualitative methods, such as interviews, observations, and document analysis.

This study is important because it will provide a comprehensive and in-depth understanding of a complex and controversial phenomenon that affects the lives of many Malaysian Muslims. It will also contribute to the existing literature and knowledge on Misyar Marriage and its social and legal implications in different contexts. The significance of this study to the academy and to the world at large is that it will offer new insights and perspectives on the challenges and opportunities of Misyar Marriage for women's and children's empowerment and well-being. It will also propose and recommend possible solutions or alternatives to address the issues and problems posed by Misyar Marriage in Malaysia.

## Definition and Concept of Misyar Marriage

Misyar Marriage, within the Islamic context, is characterized by a more flexible and less formal arrangement compared to traditional Islamic marriages. It involves a temporary and often secretive union between spouses, where certain marital rights are waived or modified. In Misyar Marriages, spouses may agree to live separately, and financial and domestic responsibilities are often less rigid than in traditional marriages (Ahmad et al., 2019).

## Overview Misyar Marriage in Malaysia

In Malaysia, a predominantly Muslim country with a diverse society, Misyar Marriage has been reported to exist. According to Ahmad et al., (2019), Misyar Marriage is practiced by some Malaysian Muslims for reasons such as convenience, privacy, affordability, and personal preference. This practice, while conforming to some Islamic principles, raises concerns due to its divergence from traditional expectations of Islamic marriage. The study highlights various challenges and risks associated with Misyar Marriage in the Malaysian context, including lack of legal protection, emotional distress, social stigma, and family conflicts.

## Aim of the Research

This research aims to delve into the concept and factors surrounding Misyar Marriage in Malaysia, focusing on acquiring a comprehensive understanding of this unique form of marital arrangement. Additionally, the objective is to scrutinize the position of Misyar Marriage within the framework of Maqasid Syariah and Syariah Law, seeking insights into its compatibility with Islamic principles and legal perspectives. The research further endeavors to identify the implications of Misyar Marriage in Malaysia, shedding light on the multifaceted impacts it may have on individuals, families, and society. Furthermore, this study aims to propose recommendations that address the complexities associated with

Misyar Marriage. These recommendations, spanning legal, educational, religious, and public awareness aspects, are intended to offer practical solutions and insights for navigating the challenges posed by Misyar Marriage in the Malaysian context.

## Methodology

Exploring and identifying genuine problems or issues often involves employing research as a method. In this study, a qualitative approach has been selected over quantitative methods, aiming to delve deeply into the understanding of a given topic rather than focusing on numerical data generation. The qualitative methodology involves gathering information by utilizing existing theories or concepts to address the study's questions related to the researched topic (Mokmin., 2012). The study's inquiries serve as the key findings in the material. Qualitative data, encompassing methods such as interviews, observations, and document analysis, is employed to validate the information gathered within the qualitative study (Kamarul., 2012). In conducting this study, the primary methodology employed is doctrinal research through a library-based approach. This approach involves obtaining comprehensive and clear information by extensively reading books and journals. The emphasis is on delving into theories, enhancing understanding, and exploring the legal framework, particularly concerning issues related to Misyar Marriage. On the other hand, non-doctrinal research serves as a complementary method that allows the research to acquire data not feasible through the doctrinal research (library-based approach). This non-doctrinal research is utilized for exploring and investigating experts' perspectives, comprehending their views, thoughts, feelings, and beliefs regarding the implications of Misyar Marriage. A crucial tool within non-doctrinal research is in-depth interviews, which play a significant role in examining individuals' understanding of pertinent issues (Kamarul., 2012).

## Findings and Discussion

### *Misyar Marriage according to Islamic teaching perspective*

Misyar Marriage can be defined as a marriage contract between a man and a woman, in which the woman waives some of the rights she would have in a normal Islamic marriage (Al-Qaradhawi, 2006). A Misyar Marriage is a legally recognized union of a man and a woman with the condition that each spouse voluntarily waives one, two, or more of their rights. These include living together, sharing the same bed at night when there are multiple wives, the wife's entitlement to housing (*sukna*), and receiving financial support (*nafaqa*). This can happen, for instance, when a lot of women find it increasingly challenging to get married as they age. The wife honestly waived her right to not have her husband supply her material and housing needs as is customary in marriage.

Islamic teachings regard marriage as a sacred and solemn covenant between a man and a woman. The Quran emphasizes the importance of marriage to attain tranquillity, companionship, and fulfilment of half of one's faith. While the Quran and Sunnah (traditions of Prophet Muhammad) lay down the principles for marriage, the concept of Misyar marriage, being a flexible and less formal arrangement, can be interpreted and viewed differently by Islamic scholars.

Some scholars argue that Misyar marriages may be valid in Islam if they adhere to the basic principles of consent, mutual respect, and fulfilling the rights and responsibilities of both spouses. They might see it as a solution for individuals facing challenges like financial constraints or those who, due to certain circumstances, prefer a less conventional form of marriage.

On the other hand, critics within the Islamic community may express concerns about Misyar marriages deviating from the traditional expectations outlined in Islamic teachings. The temporary and less formal nature of Misyar marriages could be perceived as undermining the stability and permanence that Islamic marriage is designed to provide.

Misyar's marriage has never been the subject of discussion by previous scholars; rather, it is a recent union whose significance has just recently been clarified by scholars:

- a) According to Sheikh Yusuf Al-Qaradhawi, it is a marriage that is conducted in accordance with Sharia but differs from the traditional Islamic union in that the wife makes concessions regarding her rights that the husband is required to uphold, such as

paying alimony and indulging in sexual relations. This marriage is typically the second or third, which is a type of polygamy. What is most notable about this marriage is the wife's willingness to compromise and contentment with some of her rights (Al-Qaradhwai, 2006).

b) Sheikh Abdullah Muni' who is the Qadhi of Mecca and a member of the Saudi Arabian Ulema Committee, Sheikh Abdullah Muni, referred to Misyar's union as "The perfect marriage of all." This marriage establishes rights in marriage including descent, inheritance, iddah, divorce, the requirement of sexual activity, the supply of a place to dwell, alimony, and other rights and obligations of marriage, just like a typical marriage would. However, both (the husband and wife) have also agreed to give up the wife's rights, such as sharing rights with other spouses, maintaining a home, and so on. In any case, it is up to the husband to decide whenever he wants to visit his wife who was married in this manner (Al Asyqar, 2000).

c) Sheikh Ahmad al-Tamimiy defines it is described as a marriage between a man and a woman who perform aqad, which is legal in terms of syariah and fulfils the requirements for marriage, but the woman (wife) concedes her rights, such as her entitlement to a place to reside and a means of subsistence (Al Asyqar, 2000).

Based on the discussion above, Misyar's marriage is a marriage that satisfies all the pillars and conditions of a marriage required by Islam. the difference is in the wife's rights that have been agreed to be terminated at the wives will own, such as the right to share a bed, maintenance, and other rights.

### ***Islam's view on misyar marriage***

Some scholars assert that this form of marriage arrangement is acceptable and legal if all the prerequisites for an Islamic marriage contract are met. the presence of at least two male witnesses (*shahidayn*), or one male and two female witnesses, who hear and clearly understand the offer and acceptance, and the consent of a legal guardian of the woman (*wali*), according to some Schools of Sunni Islamic Law, is also a necessary requirement. These are the fundamental requirements for a valid marriage according to Syariah (Wan Ismail et al., 2022b; Tohari, C. 2013).

Scholars today argue on whether the Misyar marriage legislation should be upheld; some believe it should, some believe it is haram, and still others are tawaqquf, meaning they do not decide on whether it should or should not.

### ***Harus or harus be with makruh***

This opinion was pioneered by scholars such as Sheikh Abd al-Aziz bin Baz, Sheikh Abd al-Aziz bin Abdullah Aali al-Sheikh, Sheikh Abdullah bin Abd al-Rahman al-Jibrin, Sheikh Yusuf Muhammad alMutlaq, Sheikh Ibrahim bin Solih al-Khudhairi, Sheikh Nasr Farid Wasil, Dr. Wahbah al-Zuhailiy, Dr. Yusuf al-Qaradhowi, Sheikh Abdullah Muni', Dr. Mahmud Abu Lail, Dr. Ahmad al-Hajji al-Kurdi (N.A., 2007) and Sheikh Muhammad Sayyid al-Thanthawi. (N.A., 2007; Al Asyqar, 2000).

Those who favor this marriage claim to be neutral parties, but they also point out its negative aspects and flaws to demonstrate why it shouldn't be promoted or let grow. Sheikh Yusuf al-Qaradhowi is one of those who clarifies such matters. He stated: "*I am not someone who promotes Misyar's Marriage, I have never preached a call for people to carry out Misyar's marriage, and I have never written any paper inviting people to practise this sort of marriage. But because I was questioned about it, I am unable to avoid responding in accordance with my religious teachings*" (N.A., 2004). According to Dr. Wahbah al-zuhailiy, "*This marriage is valid but not encouraged inside Syarak because it does not fulfil the objectives of Sharia through marriage, which are for peace of heart, preservation, and care of family and children as best as possible*" (Al-Zuhailiy, 1999).

The justifications for this viewpoint are as follows:

Translation: From 'Aishah (RA) that Saudah bint Zam'ah gave day to 'Aishah, and the Messenger of God (PBUH) divided it to 'Aishah with his day (part) and the day given by Saudah.

(Al-Bukhari, 1987)

In this hadith, Saudah, the wife of the Prophet SAW, offered 'Aishah (her honey) a day to be with the Prophet SAW, and the Prophet accepted the gift. This demonstrates that the wife has the authority to give up rights including the right to sex with her husband and support.

Misyar Marriage provides several benefits, including the ability to meet women's natural needs and save them from descending into the valley of vice. When a man can protect a woman by marrying her, it makes a significant contribution to fulfilling the demands of Syarak and performing good and rewarding deeds, according to Wahbah alZuhailiy (Al-Zuhailiy, 1999).

#### *Haram*

Among the scholars who think that Misyar's marriage is haram is Sheikh Muhammad Nasir al-Din al-Albaniy (Al-Utaibiy, 2006), Prof. Dr. Ali al-Qurrah Daghi, Prof. Dr. Ibrahim Fadhil al-Dibu, Dr. Jabar al-Fudhailat, Prof. Dr. Muhammad al-Zuhailiy, Prof. Dr. Abdullah al-Jabburi, and Prof. Dr. Umar Sulaiman al-Asyqar (Al-Asyqar, 2000). The justifications for this viewpoint are as follows.

According to Islamic Syariah, this marriage is against the intended purpose of marriage for social, personal, and spiritual reasons, marriage is advised. But according to (Al-Utaibiy, 2006), the goals of Misyar's Marriage do not include love, compassion, tranquilly, respect for human inclinations, and maintenance of the rights and obligations that come with a genuine marriage.

This marriage makes corruption and perversion possible. Men will be critical of the dowry rate because they don't want to be responsible for a family and may utilize their wife's wealth for their own advantage (Simbolon, 2019). When it is simple to get married, it is likely to be simple to get divorced as well, and the aqad may be performed in secret and without a guardian. Therefore, this marriage will be a game for people who are motivated by desire (Al-Utaibiy, 2006).

Dr. Muhammad al-Zuhailiy said: Anything that has the potential to lead to illegal activity is illegal. As a result, Sadd al-Zariah forbids this marriage to block a path that might lead to illegal activity. These results are the most likely common outcome, not just unrealistic expectations.

Marriages involving mut'ah and al-Muhallil are forbidden since they do not fit the Islamic definition of marriage. As a result, it is equivalent to Misyar's Marriage, which is similarly prohibited by Islam for failing to achieve the institution's original intent. In addition, Misyar's Marriage also ends qiwamah al-rijal in the family (Sunarto, M. Z., & Chamdani, Z. 2021).

#### ***Misyar Marriage according to Maqasid Syariah and Syariah Law***

##### *Maqasid Syariah on Misyar Marriage*

Maqasid Syariah, or the Objectives of Islamic Law, serves as a framework for understanding the higher purposes and goals of Syariah. Maqasid Syariah holds a significant role in determining the Islamic legal rulings for contemporary challenges faced by Muslims (Azizi, S. A., & Ahmad, R. 2016). According to Dr. Zaid bin Muhammad Rumani in his book *Maqasid Syariah Islamiyyah* (1994), it can be defined as the objective of Shariah in establishing legal rulings, comprehensively studied through a deep examination of Islamic law and the texts provided by Allah in the Quran and Hadith. The crucial aspects of understanding textual sources, linguistic nuances, and adherence to Shariah terminology and methodologies are essential in deriving Islamic jurisprudence, as elucidated by Ibn Asyur (2011). Imam al-Haramain al-Juwaini, in his book *Ghiyats al-Umam fi al-Tayyats al-Zhulam* (2008), proposes the development of universal maqasid al-Shariah, elevating it from a speculative aspect in the *usul al-fiqh* debate to an unequivocal principle and paramount goal within the Islamic religion.

Misyar Marriage presents a societal issue in Malaysia, impacting the Muslim community. This matter is also interconnected with the principles of Maqasid al-Syariah, which comprises al-daruriyyat, al-hajjiyyat, and al-tahsiniyyat. Al-daruriyyat, essential for both a sound religious life and human well-being, is particularly relevant to misyar marriage. This type of marriage falls under al-daruriyyat due to its association with the preservation of individual well-being (hifz al-nafs) and the safeguarding of progeny (hifz al-nasl).

Maqasid al-Syariah, or the Objectives of Islamic Law, plays a pivotal role in Islamic jurisprudence, offering a comprehensive framework that extends beyond mere legal rulings (Kamali, 2008). This essay explores the profound importance of Maqasid al-Syariah in guiding the interpretation and application of Islamic principles, ensuring justice, and addressing contemporary challenges.

Maqasid al-Syariah encompasses higher purposes and objectives rooted in the Quran and Hadith, emphasizing the preservation of essential values such as religion, life, intellect, progeny, and property (Kamali, 2008). This framework provides a holistic perspective that transcends specific legal injunctions, aiming to achieve overall societal well-being.

One of the paramount roles of Maqasid al-Syariah is its ability to guide legal interpretation. Scholars use these objectives to derive legal rulings, ensuring that laws align with the broader ethical and moral goals of Islam (Hashim, 2014). By examining the objectives behind legal prescriptions, jurists can adapt to evolving societal needs while maintaining fidelity to Islamic principles.

Maqasid al-Syariah serves as a beacon for justice and equity in Islamic jurisprudence. By prioritizing objectives such as justice, fairness, and the common good, this framework ensures that legal decisions uphold the principles of equality and impartiality (Kamali, 2008). It prevents the distortion of laws and practices, emphasizing the overarching goal of creating a just and equitable society. In the face of modern challenges, Maqasid al-Syariah provides a dynamic and adaptive approach (Hashim, 2014). Scholars can apply the objectives to new issues, ensuring that Islamic principles remain relevant and effective in addressing contemporary societal challenges (Rahman, M. Z. 2005). This adaptability contributes to the continued applicability of Islamic law in diverse contexts.

#### **a) Hifz Al-Nafs**

In the context of Misyar Marriage, the principle of Hifz al-Nafs, or the preservation of well-being, underscores the imperative of safeguarding the physical, emotional, and psychological welfare of individuals engaged in this unique marital arrangement. While the term "Misyar" may not be explicitly mentioned in Islamic scriptures, the broader teachings emphasize the sanctity of life, as evidenced by the Quranic verse:

Translation: And do not kill the soul which Allah has forbidden, except by right...

(Surah Al-Isra', 17:33)

The verse highlights the principle of justice, and the balanced approach Islam takes towards the preservation of life and the dispensation of justice (Dedi, 2018). These principal guides believers to avoid actions that may pose a threat to physical safety. Furthermore, Hifz al-Nafs extends beyond physical well-being to encompass emotional and psychological security, emphasizing the importance of fostering an environment that promotes mental well-being and prohibits actions causing emotional harm (Raisuni, 1995).

#### **b) Hifz Al-Nasl**

Hifz al-nasl, also known as the preservation of lineage, is one of the important objectives (maqasid) of Islamic Shariah. It refers to safeguarding and maintaining the integrity of lineage and family ties within the framework of Islamic teachings (Hashim, 2014). Misyar marriage, on the other hand, is a type of marriage recognized in certain Islamic legal perspectives, where some of the traditional rights and obligations of spouses may be altered or reduced by mutual agreement.

In the context of maqasid syariah (objectives of Islamic law), hifz al-nasl plays a crucial role in ensuring the continuity of family lines and the proper upbringing of children within a stable and nurturing environment (Dedi, S. 2018). Misyar Marriage, however, raises some implications in this regard, as certain aspects of the marriage contract may differ from conventional marriages, potentially affecting the preservation of lineage.

From a Quranic perspective, the importance of maintaining lineage is emphasized in several verses. For example, in Surah An-Nisa (4:1), Allah says,

Translation: O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs. Indeed, Allah is ever, over you, an Observer.

(Surah An-Nisa, 4:1)

This verse underscores the divine origin of human beings from a single soul and highlights the interconnectedness of family ties, emphasizing the need for their preservation.

Moreover, the hadith literature also stresses the significance of maintaining lineage. The Prophet Muhammad (peace be upon him) said:

Translation: Marry those who are loving and fertile, for I will boast of your great numbers before the other nations on the Day of Judgment.

(Sunan Ibn Majah)

This hadith encourages Muslims to choose spouses who can contribute to the growth of the Ummah through the preservation of lineage.

Now, when considering Misyar Marriage in the context of hifz al-nasl, scholars may express differing opinions. Some argue that Misyar Marriage, by its nature, may compromise certain aspects of family life, potentially impacting the preservation of lineage. However, others contend that if the basic conditions of a valid Islamic marriage are met, Misyar Marriages are permissible and can still fulfill the objective of hifz al-nasl (Jumria, P., Faisal, F., & Yaqin, H. 2023).

While hifz al-nasl remains a paramount objective in maqasid syariah, the implications of Misyar Marriage on lineage preservation can be subject to different interpretations among scholars. The primary focus should be on ensuring that the marriage adheres to Islamic principles and fulfills the broader objectives of fostering stable and righteous family units.

### *Syariah Law*

The administration of Syariah law in Malaysia falls within the jurisdiction of individual states, as outlined in the ninth schedule of the Federal Constitution's second list. This legal framework is exclusively applicable to Muslims. Syariah law comprises two distinct components, namely civil and criminal matters (Shuaib, F. S. (2012). The civil aspect of Syariah law is confined to specific cases involving Muslim property and family affairs, encompassing aspects like property distribution, engagements, marriages, divorces, child custody, marital property, and mut'ah arrangements.

However, when it comes to Misyar Marriage, a unique and complex form of marriage, the existing Syariah law in Malaysia currently lacks specific provisions or regulations governing claims or compensations related to Misyar Marriages. This legal gap raises questions about the status and legal consequences of Misyar Marriages within the Syariah legal framework. Without dedicated laws or provisions, individuals involved in Misyar Marriages may encounter uncertainties regarding their rights, responsibilities, and legal standing.

The absence of specific regulations for Misyar Marriages underscores the evolving nature of Islamic family law in response to contemporary practices. Scholars and legal experts may engage in ongoing discussions about the need for legal clarity and the potential development of specific provisions within Syariah law to address the intricacies of Misyar Marriages, including matters of claims or compensation family (Johari, A.S.Y, 2023). As Malaysia continues to navigate the intersection of tradition and modernity, legal developments in Syariah law may play a crucial role in shaping the legal landscape for Muslim individuals and families in the country.

### ***The position and practice of Misyar Marriage in Malaysia***

Misyar marriage in Malaysia is a form of Islamic marriage that deviates from the traditional expectations of a standard marriage arrangement. It is recognized and practiced by some Malaysian Muslims, and its position is firmly rooted in Islamic jurisprudence. In a Misyar Marriage, certain customary rights associated with traditional marriages may be adjusted or waived, allowing for a more flexible and less formal union.

The acceptance of Misyar Marriage in Malaysia is multifaceted. Advocates of this practice often argue that it provides a practical solution for individuals facing specific challenges, such as financial limitations or the need for increased privacy and convenience. The flexibility of Misyar Marriage may appeal to those who desire a less conventional marital arrangement while still adhering to Islamic principles.

However, opinions on Misyar Marriage can vary within Malaysian society. While some segments view it as a legitimate and acceptable practice within the framework of Islam, others, including certain scholars and individuals, may express reservations (Ibrahim, H. M., & Tahir, M. 2017). Concerns might be raised about the potential societal implications and whether Misyar Marriages align with the broader goals and values of Islamic marital unions.

### ***The perception of Misyar Marriage among Muslim in Malaysia***

The perception of Misyar's Marriage flexibility and ease among Malaysian Muslims is one way it affects how Muslims view and practice Islamic marriage. Complex rituals, financial commitments, and social expectations are frequent features of traditional Islamic marriages. Misyar Marriage, on the other hand, provides a less formal and more affordable substitute. It gives those who value personal choice and independence the flexibility and autonomy to engage into a marriage contract with less criteria and limitations.

The Misyar Marriage practice is not without disagreement, however. Among many Muslim communities, like Malaysia, it is severely stigmatized. By encouraging temporary relationships and making it simpler to end marriages, detractors contend that it harms the sanctity and stability of marriage (Johari, A.S.Y, 2023). Some people express concern that it might be used to exploit weak people, especially women who would be more prone to the negative aspects of this type of marriage. People's perceptions and approaches to Misyar Marriage can be influenced by the stigma and controversy surrounding it. Social pressure and negative opinions might discourage some people from engaging in it, while others may be more willing to consider it as a possible option. Within Malaysian Muslim communities, there are many different opinions and Misyar Marriage practices, which are influenced by these divergent viewpoints.

Legal consequences have an impact on how Misyar Marriage is viewed and used. Misyar Marriage is not formally recognized under Malaysian civil law because it differs from the standards for a traditional Islamic marriage. The effects of this lack of legal recognition may affect inheritance rights, child custody, and other legal issues. People who are thinking of getting a Misyar Marriage should be informed of any possible legal consequences and get competent legal counsel to understand their rights and obligations.



The perception and use of Misyar Marriage are significantly shaped by both individual choices and religious interpretations. varied scholars and religious authorities have varied opinions about whether Misyar Marriage is acceptable and appropriate (Osmani, N. M. 2010). While some see it as a valid and acceptable alternative within the parameters of Islam, others find it contentious or even problematic from a religious perspective. These conflicting viewpoints may have an impact on how people view and choose this type of marriage. The practice of Misyar Marriage has also sparked debates about how it can affect conventional marriages. Critics contend that because it makes dissolution simpler, it can result in a loss in commitment and stability in partnerships. For those, however, who are unable or unable to participate into a regular marriage for a variety of reasons, such as financial limitations, personal situations, or prior marriages, proponents contend that it can be a valid option.

Based on the discussion, by offering a more adaptable and practical approach to marriage, Misyar Marriage has an impact on how Muslims in Malaysia perceive and practice Islamic marriage. But it also risks societal stigma and debate, ramifications for the law, varying religious interpretations, and worries about how it may affect traditional marriages. In the Malaysian context, these variables influence people's opinions, choices, and attitudes regarding Misyar Marriage. Misyar Marriage is an alternate form of Islamic marriage, and the continuous discussions and arguments over it reflect the variety of viewpoints within the Malaysian Muslim community as well as the difficulties involved.

### ***The implications of Misyar Marriage towards institution of family and marriage in Malaysia***

The implications of Misyar Marriage on the institution of family and marriage in Malaysia are complex and multifaceted, reflecting the dynamic interplay between cultural, social, and religious factors within the country. Misyar Marriage, characterized by its flexible and less formal arrangement, poses both opportunities and challenges to the conventional understanding of family structures and marital relationships in the Malaysian context (Masud, M. K. 2009). As this unique form of Islamic marriage gains recognition among some Muslims in Malaysia, it becomes imperative to explore how it influences established norms, societal perceptions, and the overall fabric of familial bonds. This examination aims to shed light on the potential impacts of Misyar Marriage on the institution of family and marriage in Malaysia, considering factors such as stability, social acceptance, and the fulfillment of religious and cultural expectations.

### ***The effects of Misyar Marriage on an individual***

In the context of Misyar Marriage, the wife undertakes a relinquishment of certain rights and responsibilities inherent in the traditional role of a wife. This includes forgoing the shared residence, the provision of support and maintenance, and unrestricted access to her husband. Moreover, the prospect of societal non-acknowledgment of her Misyar Marriage might subject her to social stigma and isolation from her family and community, potentially leading to feelings of insecurity and loneliness (Mufidah, N. I. M. 2023). These emotional challenges may be exacerbated by concerns about her husband's commitment or fidelity, potentially exposing her to emotional and psychological distress. Additionally, the husband's lack of devotion or faithfulness may contribute to scenarios of abuse, exploitation, or abandonment.

In situations of disagreements or the unfortunate event of the husband's passing, the wife might encounter difficulties asserting her rights to inheritance, child custody, or seeking a divorce. The intricacies of Misyar Marriage thus introduce a myriad of challenges and uncertainties for the wife, affecting various aspects of her personal, emotional, and legal well-being (Asyrofi, M. H. 2018). For the husband, since he does not provide for his wife's necessities and does not reside with her, Misyar Marriage forces the husband to violate his position and responsibilities as a spouse. He can also struggle morally and spiritually since he might neglect his wife and not treat her with care and respect. Additionally, he can feel pressured to commit immoral or illegal acts like adultery, lying, or cheating. In addition, his wife, family, and society may lose faith in him and begin to doubt his moral character. If his marriage is not recorded or acknowledged by the law, he can potentially be subject to legal repercussions.

The child faces the absence of a stable and nurturing environment characterized by active involvement of both parents in their upbringing. This scenario implies that children may encounter challenges in recognizing or knowing their father and his extended family, potentially leading to issues related to identity and emotional well-being. The lack of consistent care and protection from both parents may expose children to neglect and abuse, posing potential threats to their overall welfare (Fluehr-Lobban, C. 2016). Additionally, the absence of access to their father's resources and support may contribute to social and academic difficulties for the children. Furthermore, legal complexities may arise, as the law may not recognize them as legitimate offspring, potentially leading to complications in matters such as inheritance, custody, and other legal rights. The implications of Misyar Marriage extend beyond the marital relationship, significantly impacting the well-being and development of the children involved.

**Emotional implications:** The emotional impact of Misyar Marriage can vary depending on the individual's expectations and circumstances. Some individuals may find emotional satisfaction and contentment in the freedom and flexibility that Misyar Marriage provides. They may experience a sense of liberation and happiness in a relationship that offers reduced commitments or expectations. However, others may experience emotional challenges due to the potential lack of stability, commitment, or emotional support that can arise in Misyar Marriage relationships.

#### *The effects of Misyar Marriage on society*

Misyar Marriage, characterized by a deficiency in dedication and collaboration between spouses, emerges as a factor contributing to the weakening and disruption of the family unit. The consequences extend beyond the couple's dynamics to impact the broader familial structure. The spouses' potential concealment of their marital status or the likelihood of encountering opposition and rejection introduces elements of secrecy and conflict within the family (Johari, A.S.Y, 2023). This secrecy not only erodes trust but also fuels divisions that can strain relationships among family members.

Furthermore, the repercussions of Misyar Marriage extend to the family's ability to provide a secure and nurturing environment. The compromised cohesion within the family may result in a diminished capacity to fulfill its fundamental role as the cornerstone of social organization and development. This disruption in the family's conventional functions can have broader societal implications, influencing the well-being of its individual members and potentially contributing to challenges in community dynamics (Halilurrahman, M., & Supeno, I. E. 2022). Thus, Misyar Marriage not only affects the internal dynamics of the family but also has the potential to influence its external role within the broader social framework.

Misyar Marriage refers to actions that can harm and corrupt a community by spreading immoral and illegal behavior among its members. In this type of marriage, spouses might lie or betray each other and their neighbors, causing conflicts and distrust. This practice doesn't respect the sacredness and importance of marriage in Islam, leading to a loss of values and customs within the community (Abdul M. L, 2023). Additionally, because it doesn't acknowledge or regulate its members' weddings, it can bring about legal and social problems. Overall, Misyar Marriage can negatively impact not just individual relationships but also the ethical standards and legal norms in the entire community.

#### *Creating confusion*

Creating confusion as an implication of Misyar Marriage in Malaysia stems from differences among Islamic scholars regarding its interpretation and acceptance within Islamic teachings. These variations in perspectives among scholars contribute to a lack of consensus on the legitimacy and adherence to Islamic principles of Misyar Marriage. This divergence of opinions may lead to confusion among Muslim communities about the religious standing and societal acceptance of such unions. Individuals engaging in Misyar Marriage may encounter conflicting guidance from different scholars, further contributing to uncertainty regarding the moral, ethical, and religious aspects of their marital choices. Consequently, the lack of a unified stance among Islamic scholars regarding Misyar Marriage creates a complex landscape of interpretation, leaving individuals and communities grappling with differing views and resulting in widespread confusion about the religious and societal implications of this marriage practice in Malaysia.

*Misuse of laws*

Misuse of the law in the context of Misyar Marriage implications in Malaysia arises due to the absence of specific rules and regulations governing this form of marriage. The lack of legal clarity allows for potential misinterpretation or manipulation of existing laws, leading to uncertainties about the legal status and rights of individuals involved in Misyar Marriages. Without explicit legal guidelines, individuals may exploit loopholes or ambiguities in the legal framework, contributing to the misuse of laws related to marriage, inheritance, and other legal aspects. The absence of specific regulations tailored to Misyar Marriage may result in a situation where legal protections and responsibilities are not clearly defined, potentially leading to misuse and legal complications within the Malaysian context.

*Neglect of responsibility*

The implication of neglect of responsibility within the context of Misyar Marriage in Malaysia revolves around the potential disregard for established marital duties and obligations that are typically inherent in more traditional forms of marriage. Misyar Marriages, characterized by their flexibility and informality, introduce a unique dynamic where spouses may not consistently adhere to the customary responsibilities expected in conventional marriages. This neglect may manifest across various aspects of marital life, including financial support, shared living arrangements, and emotional commitment. The absence of a standardized and formal structure in Misyar Marriages can create situations where individuals enter unions with diminished expectations regarding the fulfillment of customary marital responsibilities.

In the absence of clear and universally accepted guidelines, there may be instances where individuals engaged in Misyar Marriages neglect their customary duties, leading to potential imbalances in the distribution of responsibilities between spouses. The lack of a standardized framework for roles and obligations within Misyar Marriages may contribute to a situation where the expectations of each spouse regarding their respective responsibilities are not clearly defined, potentially resulting in a neglect of the customary duties that are integral to the stability and well-being of a marital relationship. This aspect of Misyar Marriage implications underscores the need for a closer examination of the impact of this unique form of marital arrangement on established marital norms and responsibilities in the Malaysian context.

**Recommendations**

Misyar Marriage poses significant drawbacks, impacting individuals, families, communities, and the broader societal fabric. It undermines women's rights and dignity, reducing them to sexual objects rather than equal life partners. Secrecy surrounding marital status erodes trust between couples and their families, disrupting the foundations of a healthy relationship. The practice weakens the moral fabric and family unit crucial to Islamic society, depriving children of a stable, supportive environment. Contrary to Islamic teachings, Misyar Marriage fails to uphold the sacred nature of marital connections and contradicts principles of justice, honesty, and transparency in contractual agreements. To address these issues, recommendations should focus on promoting transparency, ensuring legal protection for all parties involved, and fostering a culture that aligns with Islamic values.

***Enforcing the Islamic Family Law (Federal Territories) Act 1984 and other state enactments that regulate Muslim marriages***

In Malaysia, the responsibility for enforcing the Islamic Family Law (Federal Territories) Act 1984 and other state enactments governing Muslim marriages lies with Islamic religious authorities and Sharia courts. Empower JAKIM to collaborate with Shariah advisory bodies and legal experts to establish clear regulations and conditions for the prohibition of Misyar Marriage. To address concerns regarding Misyar Marriages, it is recommended that these bodies work collaboratively with legal scholars and experts to provide clear legal definitions within existing Islamic family laws. Simultaneously, community and religious leaders should lead awareness campaigns to educate individuals about the legal aspects, rights, and responsibilities associated with Misyar Marriages.

Legislative bodies should be engaged to review and consider amendments to existing laws, specifically addressing the unique challenges posed by Misyar unions. Additionally, counseling services and support mechanisms, facilitated by religious leaders and professionals, should be established to guide individuals involved in Misyar Marriages, addressing issues related to trust, communication, and family dynamics. Strengthening the role of Shariah courts in overseeing Misyar Marriages and fostering collaboration with relevant government agencies are crucial steps to ensure effective implementation, documentation, and legal oversight of such unions. This comprehensive approach aims to bring clarity, address concerns, and uphold Islamic principles within the legal framework governing Muslim marriages in Malaysia.

***Grant Shariah courts the authority to impose penalties for any breaches of Misyar Marriage rules***

In Malaysia, the recommendation suggests granting Shariah courts the authority to impose penalties for breaches of Misyar Marriage rules. Additionally, the proposal entails establishing a monitoring body, potentially under JAKIM (Department of Islamic Development Malaysia), to ensure compliance and accountability. This approach aims to empower Shariah courts to adjudicate cases related to Misyar Marriages, allowing them to impose appropriate penalties for any violations of established rules. Simultaneously, the establishment of a monitoring body, possibly under JAKIM's purview, would enhance oversight, ensuring that individuals involved in Misyar Marriages adhere to the prescribed regulations. This collaborative effort seeks to strengthen the legal framework surrounding Misyar Marriages, fostering accountability and compliance within the existing Islamic family laws in Malaysia.

***Strengthen the public awareness campaigns on Misyar Marriage***

In Malaysia, the recommendation proposes strengthening public awareness campaigns on Misyar Marriage, with a focus on highlighting its implications and promoting responsible practices. The responsibility for implementing such campaigns rests on various stakeholders, including Islamic religious authorities, community leaders, and government agencies. These entities should collaboratively lead efforts to inform the public about the legal, social, and familial aspects associated with Misyar Marriages. By enhancing awareness, individuals considering or involved in Misyar unions can make informed decisions, fostering transparency and responsible conduct within the framework of Islamic principles. This initiative aims to create a well-informed society, ensuring that community members understand the complexities and responsibilities tied to Misyar Marriages in Malaysia.

**Conclusion**

In conclusion, the study highlights that Misyar Marriage, while providing a flexible option for individuals seeking alternative arrangements within the framework of Islamic marriage, is not compatible with the teachings and objectives of Islam. It causes more harm than benefit to the spouses, their families, society, and the nation. The findings underscore the importance of avoiding and preventing such marriages within the Muslim community. Instead, there is a call for a marriage type that aligns with Islamic principles, fulfilling the rights and responsibilities of spouses, and promoting the values and benefits of marriage as a sacred and lifelong commitment, fostering mutual love, respect, and cooperation. In my opinion, the societal disapproval and negative judgments associated with Misyar Marriage, as revealed by the study, pose significant challenges. To address this issue, the recommendation to strengthen public awareness campaigns, enforce Islamic family laws, and grant Shariah courts authority in overseeing Misyar Marriages becomes compelling. These measures aim to educate the public, ensure legal clarity, and establish accountability, thereby mitigating the challenges and controversies surrounding Misyar Marriage. Furthermore, future research endeavors could explore obtaining data directly from couples involved in Misyar marriages. Conducting extensive research on their experiences, challenges faced, and the impact on familial and societal relationships would provide valuable insights. This in-depth understanding could contribute to more nuanced recommendations and strategies to address the complexities associated with Misyar Marriages in Malaysia.

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