



## Nikah Misyar Perspective Of Women And Child Protection Law

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**Abstract:** *Marriage in Islam is conceived as a mitsaqan ghalizha (a solemn covenant) intended to establish a harmonious family characterized by sakinah (tranquility), mawaddah (love), and rahmah (compassion). However, contemporary social dynamics have introduced alternative marriage practices, one of which is Nikah Misyar. In this arrangement, typically the wife voluntarily waives certain rights such as financial maintenance, housing, or a turn in polygamy. While often motivated by professional obligations, geographical separation, or social considerations, this practice has raised concerns for its potential to undermine women's and children's rights as well as broader moral and social values.*

*This study adopts a qualitative method with a normative and descriptive-analytical approach to examine Nikah Misyar from the perspective of Indonesian law on the protection of women and children, alongside its social and psychological implications. The findings reveal that although Nikah Misyar may be valid under Islamic law if the essential pillars and conditions are met and properly registered, it risks contravening legal principles of protection. In particular, women's and children's rights to maintenance and custody are highly vulnerable, as the voluntary waiver of such rights lacks a strong legal mechanism for future enforcement.*

**Abstrak:** Pernikahan dalam Islam dipahami sebagai *mitsaqan ghalizha* (akad yang kokoh) yang bertujuan membentuk keluarga harmonis yang bercirikan *sakinah* (ketenangan), *mawaddah* (cinta), dan *rahmah* (kasih sayang). Namun, dinamika sosial kontemporer telah melahirkan praktik pernikahan alternatif, salah satunya adalah *Nikah Misyar*. Dalam praktik ini, biasanya pihak istri secara sukarela melepaskan sebagian haknya seperti nafkah, tempat tinggal, atau giliran dalam poligami. Meskipun sering didorong oleh alasan profesional, jarak geografis, atau pertimbangan sosial tertentu, praktik ini menimbulkan kekhawatiran karena berpotensi melemahkan hak-hak perempuan dan anak serta nilai moral dan sosial yang telah terbangun. Penelitian ini menggunakan metode kualitatif dengan pendekatan normatif dan deskriptif-analitis untuk mengkaji *Nikah Misyar* dalam perspektif hukum perlindungan perempuan dan anak di Indonesia, serta implikasi sosial dan psikologisnya. Hasil penelitian menunjukkan bahwa meskipun *Nikah Misyar* sah menurut hukum Islam apabila rukun dan syaratnya terpenuhi serta dicatatkan, praktik ini berisiko bertentangan dengan prinsip-prinsip hukum perlindungan. Secara khusus, hak perempuan dan anak atas nafkah serta pemeliharaan menjadi sangat rentan, karena pelepasan hak secara sukarela tidak memiliki mekanisme hukum yang kuat untuk menuntutnya kembali di kemudian hari.

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## A. Introduction

There are three major events in life, namely birth, marriage and death, Marriage is the longest worship in the mission of life and is a social institution that is comprehensively regulated in the concept of Islam as a form of solid bond (*mitsaqan ghalidzan*), marriage has a very important mission in the continuation of life.

The provisions of this marriage are contained in the words of Allah SWT Surah Ar-Rum verse 21:

{وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا وَالْيَهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ۝ ٢١ }

Meaning: "And among the signs of His power is that He has created for you wives of your own kind, that you may live in peace with them, and He has made love and affection between you. Surely in such things are signs for those who think." (Ar-Rum[30]:21).<sup>1</sup>

In their nature, a man or woman will feel empty in life if they do not have a partner. Whereas in Islam, every human being has a sense of attraction to the opposite sex and realises it in an ark household.<sup>2</sup> marriage is human nature, therefore anyone who has enough conditions is ordered to get married immediately <sup>3</sup>

The fulfilment of human biological is only one that is fulfilled but furthermore marriage is the beginning of the formation of a family which is certainly proclaimed as part of a noble hope, namely a family full of happiness,

The rules made in the religious and Indonesian concept want the relationship between men and women.

In this context, marriage is an important foundation for the formation of a spiritually, emotionally and socially healthy society.

Islam prescribes marriage with the aim of realising a *sakinah*, *mawaddah* and *rahmah* home life. To realise this goal, one way is by uniting the couple in the same place. If after marriage the

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<sup>1</sup> Department of Religious Affairs of the Republic of Indonesia, Al Quran and its Translations, 30-21

<sup>2</sup> Khoiruddin Nasution, Marriage Law 1 (Yogyakarta; Academia & Tazzafa, 2005), 17

<sup>3</sup> Jarbi, M. A. (2019). Marriage according to Islamic law. *PENDAIIS*, 1(01), Article 01.

couple does not live in the same house, or in other words live separately, it is quite difficult to realise the purpose of marriage. This is also in accordance with Marriage Law No. 1 of 1974 article 1 which reads "*Marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on God Almighty*".<sup>4</sup>

In terms of social society, as with the reality that occurs in society, marriage is also a process of uniting two large family groups. With marriage, it is expected to be a means for the formation of one large family from the families of the bridegroom and the bride. The two families who previously did not know each other then became a harmonious unit. Therefore, marriage, which was originally

Therefore, marriage, which was originally a process of uniting two beings who love each other, can also be a place to unite two large families.

The occurrence of marriage, has an impact on the emergence of rights and obligations. according to their respective portions. couples ..<sup>4</sup>

One of the ideal concepts offered in Islam is very inversely proportional to the practices carried out in *Misyar* marriage, for example there is no maintenance for the wife, no place to live, and so on, only the distribution of intimate relationships, the husband is not required to pay dowry when married, is not required to provide maintenance, and is not required to provide a place to live. This condition is certainly not found in the concept of Islamic teachings and the Law on the Protection of Women and Children.

Generally, this misyar marriage is carried out by a husband who wants to be polygamous but does not get permission to remarry, other factors due to social status and age, economic factors, as well as to avoid immorality and factors of freedom and independence, including finance.

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<sup>4</sup> Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage.

The phenomenon of misyar marriage among scholars there is a controversy of thought, Yusuf Al-Qardawi is a contemporary scholar who allows the practice of *Misyar* marriage, in the context of when a marriage is carried out by a man to a woman who has abundant wealth in this context according to him, her husband may not provide physical maintenance but must provide mental maintenance, and when performing marriage the pillars and conditions are fulfilled in contrast to the opinion of Muhammad Az-Zuhaili categorising haram because does not meet the essence of an ideal marriage, namely creating a strong and harmonious family. As for the scholar Ibn Uthaimin recognises the validity of Nikah Misyar in fiqh but he criticises the practice of marriage like this has a dominant mudarat

The socio-cultural conditions that surround an area are enough to trigger the emergence of Nikah Misyar, the tendency to choose a pragmatic attitude to fulfil biological and social needs without disrupting the professional life or routine of each party. This view may seem safe at first glance, but they do not realise that this situation has a negative impact and worries many people, because this model harms women and children and the moral ethics that have been built.

This study aims to examine the issue of Nikah Misyar from the perspective of the Law on the Protection of Women and Children and its social and psychological implications for individuals and society. Through a normative approach and critical analysis, this research is expected to make a significant contribution in clarifying the position of Misyar Nikah in existing laws and regulations, especially Law No 35 of 2014 on the Protection of Women and Children, as well as providing guidance for the community to make wise decisions in accordance with the principles of justice and harmony in marriage.

## B. Research Method

This research uses a qualitative method with a normative and descriptive analytical approach. The normative approach<sup>5</sup> descriptive analytical is used to describe the state of Nikah Misyar and

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<sup>5</sup> Ali, Z. (2010). *Legal Research Methods*. Sinar Grafika.

Benuf, K., & Azhar, M. (2020). Legal Research Methodology as an Instrument to Unravel Contemporary Legal Issues. *Gema Keadilan*, 7(1), 20-33. <https://doi.org/10.14710/gk.2020.7504>. Creswell, 2014; Miles & Huberman, 1994.

evaluate its impact in social, legal, and moral contexts.

This type of research is conducted through an approach to existing facts through observation and research which are then reviewed and examined based on the Law on the Protection of Women and Children<sup>6</sup> This focuses on the general principles that underlie the manifestation of units of symptoms that exist in human life. Related to this research is a library study (Library Research) then the place to get the data needed in this research is the literature, namely a study conducted by collecting the necessary books and studying them. Document study is a written data collection tool. In collecting data, researchers collect data that is relevant to the problematic discussion. The data obtained is then arranged and explained systematically. Data analysis is carried out descriptively with a series of stages: reduction, display, conclusion drawing, and verification.

### C. Discussion

#### Overview of Misyar Marriage

Nikah Misyar is a new model of marriage in Islam that never occurred in the past, let alone during the time of the Prophet Muhammad. This marriage first appeared in Saudi Arabia and Egypt in 1999. When reviewed based on the evidence, there will be no Qur'anic or Hadith texts that directly examine it. Therefore Nikah Misyar is one of the discussions in *Nawazil Ahkam al-Usrah*.<sup>7</sup>

Nikah misyar is a form of marriage that occurs in Islamic societies, in which a couple agrees to forgo some of the obligations of traditional marriage, such as living together or providing full external maintenance to each other. With nikah misyar, the husband is relieved of the obligation to provide maintenance, provide housing, and stay overnight with his wife or is relieved of some of the obligations according to the agreement made by both spouses.<sup>8</sup>

In nikah misyar, the woman usually accepts this arrangement for reasons such

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<sup>6</sup> Ismail, N. (2015). *Research Methods for Islamic Studies Practical Guide and Discussion of Issues*. Blue Ocean.

<sup>7</sup> Simbolon, P. (2019b). MISYAR MARRIAGE IN THE VIEW OF ISLAMIC LAW. *Al Himayah Journal*, 3(2), Article 2.

<sup>8</sup> Fatimawali, F. (2024). Unravelling the Controversy and Benefits of Misyar Marriage. *Al Qodiri: Journal of Education, Social and Religious*, 22(2), Article 2.

as busyness or a desire for independence, while the husband may also have practical or social reasons.

Misyar marriage has been practised in Saudi Arabia and Egypt. It has been formalised in Saudi Arabia through a fatwa issued by Abdullah bin Baz and in Egypt by the Egyptian Mufti Sheikh Muhammad Sayyid Tantawi in 1999. This marriage is an official marriage relationship between a man and a woman. However, in terms of rights and obligations, it is not the same as an ordinary marriage in Islam. This is because the wife does not live in the same house as her husband and does not make any financial or residential demands on her husband. In other words, the husband is not obliged to provide physical maintenance to his wife.

Yusuf Qaradhawi states that a religious scholar has no reason to forbid a woman from entering into a misyar marriage by means of *tanazul*. Because she is a woman who is bailgh, intelligent and knows better what is best for her. Marriage is one of the most important moments in human life anywhere in the world. In Islam itself marriage is termed with the expression "*Mitsaqan Ghalizhon*" (A very strong bond).

This indicates that Allah swt wants to emphasise that marriage is a sacred bond between the opposite sex to form a *sakinah* household. In Islam, there is a type of marriage that can be said to be an uncommon form of marriage which until now the law is still debated by scholars, namely *Nikah al-Misyar* or *Zawaj al-Misyar* <sup>9</sup>

So in this marriage a woman does not get any rights at all even though Islam has confirmed that a husband is required to provide housing and bear all the costs needed by his children, providing maintenance is entirely the husband's obligation as well as being obliged to provide housing<sup>10</sup>. Although in essence the obligation of maintenance is the responsibility of a man to a woman as explained in the law and the Qur'an, but the woman can also negate her right to be supported by agreement.

These marriages are usually entered into by travellers and women who are old but unmarried, and have lost hope of a normal marriage. These marriages are usually entered into by merchants, scholars and soldiers in foreign lands, in order to protect themselves from corruption. The pillars of this marriage usually fulfil all the pillars of marriage, namely the contract, the permission of the guardian, two witnesses, and the dowry.

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<sup>9</sup> Ghazaly, Abd. (2003). *Fiqh Munakahat*. Prenada Media.

<sup>10</sup> Faisal. (2016). The Validity of *Nikah Misyār*: (Comparative Study of Classical Fiqh and Contemporary Fiqh). *Al-Mizan Journal*, 3(2), Article 2. <https://doi.org/10.54621/jiam.v3i2.440>

## A. Definition of *Misyar* Marriage

*Misyar* marriage is derived from the Arabic word *saara* and the word *muyaasara*, which is the *isim* alat form, meaning travel. Yūsuf al-Qardāwī defines nikah *misyar* as a marriage in which a man (husband) travels to the home of a woman (wife), and she does not move in with him. Usually, this happens with the second wife, while the man has another wife at home whom he is supporting.<sup>11</sup> According to Sa'ad al-'Inzi, nikah *misyar* is a new term and was not discussed by fuqaha in the past. The name is used to define a marriage in which the wife waives her right to a marriage contract.<sup>12</sup>

Nikah *misyar* is a type of marriage that removes the essential purposes of marriage. Peace of mind (*al-sakan al-nafsi*), good company (*al-mu'a> syarah bi al-ma'ru>f*), childcare, sincere love, affection, mutual help, and love for the wife, which are the fundamental goals of marriage, are lost in *misyar* marriage. The husband is like a guest who comes to his wife's house, fulfils his biological needs and then leaves her.

From the above understanding, it can be interpreted that this *misyar* marriage provides an opportunity and ease for the husband to not fulfil obligations such as fulfilling a place to live and maintenance. The wife only wants the existence of a man who can protect and maintain her (from biological needs) by loving her. Although he does not provide the obligation of material fulfilment and responsibility to the fullest. However, the granting of this relief does not close the husband who has one wife.

## B. Perspective of the Law on the Protection of Women and Children

### 1. Protection of Women

Nikah *Misyar* poses a risk of gender inequality and violation of women's rights in marriage. In this practice, women are often denied their full rights, such as maintenance and housing. This is contrary to the principles of justice, equality and protection of women mandated in various national

<sup>11</sup> Yusuf al-Qardawi, *Zawajul Misyār Haqiqatuhu wa Hukmu*, (Cairo: Maktabah Wahbah, 1999) pp. 9

<sup>12</sup> Sa'ad al-Inzi, *Ahka>m al-Zawa>j fi> al-Syari>'ah al-Isla>miyah*, (Kuwait: Maktabah al- Shahwah, 1988), 214.

regulations, including Law No. 1/1974 on Marriage and human rights principles.

*"One of the problems that arise in Nikah Misyar is the potential for gender inequality. In this practice, some of the rights and obligations of marriage are ignored, and this can lead to injustice for one of the parties, especially for the woman."*

## 2. Child Protection

Nikah Misyar has the potential to violate children's rights as stipulated in **Law No. 35/2014 on Child Protection**. Article 1 paragraph 2 of the law states that children are entitled to protection, optimal growth and development, and basic rights such as recognition of identity and parental affection, as well as protection. In the practice of Nikah Misyar, children born from these marriages are often denied these rights, such as difficulties in obtaining birth certificates, not receiving maintenance and affection from the father, and are vulnerable to discrimination and violence.

*"Nikah Misyar also has an impact on the children born from these marriages... children who received a living from their father now have to live in deprivation with their mother alone, do not receive affection from their father, and so on, so that when the child wants to apply for a birth certificate it is difficult because the father has left home. This is certainly contrary to Law No 35 of 2014 on Child Protection..."*

## 3. Legal Aspects of Marriage

Misyar Nikah is **not expressly regulated** in the Indonesian Marriage Law. However, from the perspective of Law No. 1/1974, the practice of Nikah Misyar is considered to violate a number of articles that regulate the purpose, rights and obligations of husband and wife, as well as the protection of women and children, such as articles 1, 2, 9, 30-37. In addition, in the Compilation of Islamic Law, Nikah Misyar is also not in accordance with articles governing the rights of wives and children.

*"From the perspective of Law No.1 of 1974, this misyar marriage violates the provisions of articles 1, 2, 9, 30, 31, 32, 33, 34, 35, 36 and article 37 of Law No.1 of 1974 concerning Marriage. From the perspective of the Compilation of Islamic Law, the practice of misyar marriage ... is also incompatible with articles 2, 3, 77, 79 and 80 of the Compilation of Islamic Law."*

## 4. Social and Psychological Impacts

In addition to the legal aspects, Nikah Misyar also has **social and psychological impacts** on women and children, such as loss of security, family stability, and potential social stigma. The practice is also considered to dehumanise women and potentially lead to exploitation.

Comparison Table: Misyar Marriage vs Principles of the Law on the Protection of Women and Children



Aspect	Nikah Misyar	Law on the Protection of Women & Children
Wife's right to maintenance	Often waived/diminished	Must be fulfilled by husband
Residence	Not always given	Must be provided by husband
Child Rights	Vulnerable to neglect	Fully guaranteed, without discrimination
Protection of women	Vulnerable to injustice	Guaranteed equality and justice
Legal Status	Not strictly regulated, often informal	Must be recorded and protected by law

From the perspective of Law No.1/1974, this misyar marriage violates the provisions of articles 1, 2, 9, 30, 31, 32, 33, 34, 35, 36 and article 37 of Law No.1/1974 on Marriage. From the perspective of the Compilation of Islamic Law, the practice of misyar marriage between couples A and B in Purwakarta is also not in accordance with articles 2, 3, 77, 79 and 80 of the Compilation of Islamic Law.

Indonesian laws related to the protection of women and children in the context of misyar marriage are:

- **Law No. 1/1974 on Marriage** regulates the validity of a marriage, the rights and obligations of husband and wife, and the legal consequences of the marriage. Under this law, every marriage must fulfil the applicable conditions and pillars to be legally valid. Nikah misyar, despite its special characteristics such as the relinquishment of some of the wife's rights (e.g. maintenance and cohabitation), can still be considered valid if it fulfils the terms and conditions of marriage according to this law.
- **Law No. 35/2014 on Child Protection** emphasises the obligation of parents to care for, nurture, educate, protect and develop children. In the context of nikah misyar, even though the husband does not always provide maintenance or live in the same house as his wife and children, the law does not require this obligation to be on the father's side alone. As long as the mother (woman) has the adequacy and capability to care for and fulfil the needs of the child, the obligation to protect the child is fulfilled
- However, from the perspective of Islamic legal studies and maqashid sharia, nikah misyar is controversial because:
- The practice of misyar marriage usually involves the relinquishment of women's rights such as maintenance and housing, which has the potential to cause mudharat (harm) to women and their children.

- Some scholars consider misyar marriage to be legally valid, provided that the woman voluntarily relinquishes her rights, while others consider misyar marriage to be incompatible with the ideal purpose of marriage (forming a *sakinah, mawaddah, warahmah* family) and contains *mudharat* (harm), so it is prohibited.
- The legal protection of **women's right to life and maintenance in misyar marriages** is very limited because the main characteristic of misyar marriages is the *willingness* of the woman to give up some or all of her rights, especially the right to physical maintenance, housing, and the right to live with her husband in full. This can be seen from several aspects including:
  - **The Right to Livelihood and Support:** In a misyar marriage, the woman consciously and voluntarily waives her right to physical (material) maintenance and shelter. She demands only inner (conjugal) maintenance. This is different from a conventional marriage where the husband is obliged to provide both physical and mental maintenance and a place to live for the wife.
  - **The basis of Islamic law:** The majority of scholars who allow misyar marriage are of the opinion that this waiver is valid as long as it is done willingly by the wife. A historical example is the Prophet Muhammad's wife, Saudah bint Zam'ah, who gave up her turn to Aisha. However, other scholars argue that this practice contradicts the main purpose of marriage in Islam (*maqashid ash-shari'ah*), which is to form a harmonious family and protect women from exploitation.
  - **State Legal Protection:** From the perspective of positive law in Indonesia (the Marriage Law), misyar marriage is still considered valid as long as it fulfils the terms and conditions of marriage. However, the legal protection of women's rights is very weak if the wife has voluntarily relinquished her rights from the outset. The state does not specifically regulate or prohibit the practice of waiving maintenance rights in a misyar marriage, so in the event of a dispute, a wife who has signed a waiver may find it difficult to claim maintenance rights in the future.
  - **Potential Harm:** Many scholars and legal practitioners consider *nikah misyar* to be potentially harmful to women, as it opens the door to exploitation and ignores the protection of the wife's basic rights, especially if there is an imbalance of power or social pressure in the disinheritance process.

Looking at the opinions of scholars regarding the law of misyar marriage. In this case there are at least two groups of scholars who have different legal views, namely:

**First, the group that allows misyar marriage.**

The majority of contemporary scholars who have issued fatwas on the issue of misyar marriage consider it to be a valid shar'i marriage. However, some of those who allow misyar marriage emphasise that they are not advocates of this kind of marriage, while others state that the ruling is makrooh, even if it is valid. Thus the rulings that come with such a marriage apply, as do its consequences. Because depriving the wife of some of her rights and making that a condition of the marriage does not affect the validity of the marriage, so long as the marriage is valid. This does not affect the validity of the marriage, so long as it fulfils the pillars and conditions.

Scholars who allow misyar marriage are Shaykh 'Abd al-'Aziz bin Baz, Shaykh 'Abd al-'Aziz Alu al-Shaykh (current Mufti of the Kingdom of Saudi Arabia), Yusuf al-Qardhawi, Shaykh 'Ali Jum'ah al-Shafi, Wahbah Zuhayli,<sup>47</sup> Ahmad alHajji al-Kurdi, Shaykh Su'ud al-Shuraym (imam and khatib Masjid al- Haram), Shaykh Yusuf al-Duraywish, and several other scholars.

**Second, the group that forbids misyar marriage.**

A number of contemporary scholars have forbidden misyar marriage, among them Nasir al-Din al-Albani, Muhammad Zuhayli and Ahim Fadhil. Among their arguments is the prominence of concealing and keeping such marriages secret. Hence it is a way of corruption and evil deeds. People who are corrupt may use it as a vehicle to realise their aims. Everything that leads to haraam things is also haraam. This prohibition is also indicated for the benefit of organising mankind. These adverse effects can certainly arise, and usually become a reality, not just within the limits of predictions, fantasies, or events that are impromptu or rare.

These scholars are also of the opinion that misyar marriage does not fulfil the orientations of marriage, such as cohabitation, affection, the aspiration to have offspring and care for wives and children, and the absence of justice towards wives. Moreover, there is an element of contempt for women and sometimes the content of abrogating the wife's right to fulfilment of biological needs, maintenance, and so on.

**Thirdly, the group that is tawaqquf on the ruling on misyar marriage.**

Some scholars have chosen tawaqquf (abstention) on the ruling, because they believe that the essence of this kind of marriage and the arguments used both in favour and against it are not clear and convincing. They state that it is very important to carry out an in-depth study and extra scrutiny

of this misyar marriage. Among the contemporary scholars who take this position is Shaykh Muhammad bin Salih al-Uthaymin.

#### **D. Conclusion**

1. Misyar marriage in practice has the potential to contradict the Indonesian Law on the Protection of Women and Children, because it can neglect the rights of women and children, and cause inequality and social vulnerability. Although valid according to some scholars
2. From the perspective of Islamic law, national law and human rights protection, this practice raises many legal, social and ethical issues that need serious attention.
3. The legal protection of women's right to life and maintenance in a misyar marriage is very limited, as these rights can be waived voluntarily by the wife. The state and Islamic law recognise the validity of nikah misyar if the pillars and conditions of marriage are fulfilled, but the protection of women's rights depends on the initial agreement and there is no strong mechanism to claim maintenance rights once they have been waived.
4. Indonesia's Child Protection Law and Marriage Law do not explicitly regulate misyar marriage, but the principle of protecting women and children still applies, especially in terms of fulfilling custody and maintenance rights. Meanwhile, in terms of Islamic law, misyar marriage is recognised by some scholars under certain conditions, but has also been criticised for its potential harm to women and children.

#### **Suggestions**

1. Untuk memperoleh perlindungan hukum yang jelas, termasuk hak waris dan status anak lakukan pernikahan yang dicatat secara resmi di instansi yang berwenang dan memastikan seluruh proses berjalan secara transparan dan tercatat secara hukum.
2. Even though the wife waives her rights, you should make a written agreement regarding the children's rights to maintenance, education, care, etc. Because a written agreement can be a legal basis if there is a dispute in the future. Because a written agreement can be a legal basis if there is a dispute in the future.
3. Make sure the basic rights can be fulfilled by consulting with legal experts and religious leaders.
4. For husbands who are separated and out of place, you can involve family or institutions for supervision.

## REFERENCES

- Department of Religious Affairs of the Republic of Indonesia, Al Quran and its Translations, 30-21
- Khoiruddin Nasution, Marriage Law 1 (Yogyakarta: Academia & Tazzafa, 2005),
- Risna. 2022. *Misyar Marriage in the Perspective of Islamic Jurisprudence and Compilation of Islamic Law*. Makassar. Unismuh Makassar.
- Sa'ad al-Inzi, *Ahka>m al-Zawa>j fi> al-Syari>'ah al-Isla>miyah*, (Kuwait: Maktabah al- Shahwah, 1988),
- Adil Ahmad Abdul Maujud, *Al-Ankihah al-Fa>sidah fi> Dlaw' al-Kita>b wa al-Sunnah*, (Beirut: Dar al-Kutub al-'Ilmiyyah, 2005), 228.
- Irfan bin Salim al-Dimasyqi, *Nika>h al-Misya>r wa Ahka>m al-Ankihah al-Muharramah*, (Beirut: Al-Maktabah al-'Ashriyyah, 2002),
- Mardani, Islamic Marriage Law in the Modern Islamic World (Jogjakarta: Graha Ilmu, 2011), 10.
- Ahmad Warson Munawir, *Al-Munawwir, Arabic-Indonesian Dictionary*, (Surabaya: Progressive Library, 1997), p. 625. 625
- Yusuf al-Qardawi, *Zawajul Misyār Haqiqatuhu wa Hukmuhu*, (Cairo: Maktabah Wahbah, 1999).
- Yusuf Qardhawi, *Hady al-Islam Fatawi Mu'asirah Juz III* (Cairo: Dar al-Qalam li al-Nash wa al-Tawzi, 2001),
- Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage.
- asiri Nikah Misyar, Al Hikmah/No.)1.Vol. 04 (juni.2014), 164.
- Jarbi, M. A. (2019). Marriage according to Islamic law. *PENDAIIS*, 1(01), Article 01.
- Faisal. (2016). The Validity of Nikah Misyār: (Comparative Study of Classical Fiqh and Contemporary Fiqh). *Al-Mizan Journal*, 3(2), Article 2. <https://doi.org/10.54621/jiam.v3i2.440>
- Ali, Z. (2010). *Legal Research Methods*. Sinar Grafika.
- Benuf, K., & Azhar, M. (2020). Legal Research Methodology as an Instrument to Unravel Contemporary Legal Issues. *Gema Keadilan*, 7(1), 20-33. <https://doi.org/10.14710/gk.2020.7504>
- Ismail, N. (2015). *Research Methods for Islamic Studies Practical Guide and Discussion of Issues*. Blue Ocean.
- Simbolon, P. (2019b). NIKAH MISYAR IN THE VIEW OF ISLAMIC LAW. *Al Himayah Journal*, 3(2), Article 2.
- Fatimawali, F. (2024). Unravelling the Controversies and Benefits of Nikah Misyar. *Al Qodiri: Journal of Education, Social and Religious*, 22(2), Article 2.
- Ghazaly, A. (2003). *Fiqh Munakahat*. Prenada Media.