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Continuity and Change in Islamic Law: Debates Among Nahdlatul Ulama Scholars on *Misyār* Marriage and Its Legal Dynamics in East Java

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Abstract

Misyār marriage constitutes one of the most contentious issues in contemporary Islamic legal discourse. Although it is formally recognized as valid, it raises significant social and ethical challenges. Previous research has primarily focused on the legality of *misyār* marriage within *fiqh* (Islamic jurisprudence), state regulations, or public responses. This article addresses a gap in the literature by examining how religious scholars affiliated with Nahdlatul Ulama (NU) in East Java negotiate normative texts, scholarly traditions, and social realities in their responses to this phenomenon. Employing a socio-legal framework, the study draws on semi-structured interviews with 14 key informants, non-participant observations within four residential communities in Surabaya, and document analysis of classical *fiqh* texts alongside marriage archives. The findings identify three principal models of *misyār* marriage in Surabaya: as a strategy utilized by career women, as short-term unions designed to circumvent bureaucratic complexities, and as transnational marriages involving foreign men. These practices are motivated not solely by biological needs but also by economic, social, and cultural factors. The responses of NU religious scholars coalesce into two main orientations: cultural scholars, who emphasize the contractual validity based on the principle of *tarāḍī* (mutual consent), and structural scholars, who oppose the practice by highlighting the sacredness and ethical objectives of marriage, particularly the protection of women, children, and the family institution. This article argues that the ensuing debate reflects an epistemological dialectic between formal legality and social legitimacy, while also demonstrating that Islamic law in the Indonesian context serves a dual function: preserving the continuity of the *fiqh* tradition and simultaneously acting as a dynamic site of change responsive to contemporary socio-cultural developments.

[*Nikah misyār merupakan salah satu praktik perkawinan paling kontroversial dalam wacana hukum Islam kontemporer karena, meskipun sah secara formal, praktik ini menimbulkan problematika sosial dan etis. Studi-studi terdahulu cenderung berfokus pada aspek legalitas fikih, regulasi negara, atau respons publik. Artikel ini berupaya mengisi kekosongan tersebut dengan menelaah bagaimana para ulama yang berafiliasi dengan Nahdlatul Ulama (NU) di Jawa Timur menegosiasikan teks normatif, tradisi keilmuan, dan realitas sosial dalam merespons fenomena ini. Penelitian ini menggunakan pendekatan sosio-legal melalui wawancara semi-terstruktur*

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terhadap 14 informan kunci, observasi non-partisipan di empat komunitas perumahan di Surabaya, serta analisis dokumen berupa kitab-kitab fikih dan arsip pernikahan. Temuan penelitian mengidentifikasi tiga model utama praktik nikah misyār di Surabaya: sebagai strategi perempuan karier, sebagai perkawinan jangka pendek untuk menghindari kerumitan birokrasi, dan sebagai perkawinan transnasional dengan laki-laki asing. Motivasi dari praktik ini melampaui sekadar pemenuhan biologis, melainkan juga mencakup dimensi ekonomi, sosial, dan budaya. Respons para ulama NU mengerucut pada dua arus utama: ulama kultural yang menekankan validitas kontraktual berbasis prinsip saling rida, dan ulama struktural yang menolak praktik ini dengan menekankan kesakralan serta tujuan etis perkawinan, khususnya perlindungan terhadap perempuan, anak, dan institusi keluarga. Artikel ini berargumen bahwa perdebatan tersebut mencerminkan dialektika epistemologis antara legalitas formal dan legitimasi sosial, sekaligus menunjukkan bahwa hukum Islam dalam konteks Indonesia berfungsi ganda: melanjutkan kesinambungan tradisi fikih sekaligus menjadi arena perubahan yang responsif terhadap dinamika sosial-budaya kontemporer.]

Keywords: Authority; Islamic Law; *Misyār* Marriage; Muslim Scholars; Nahdlatul Ulama.

Introduction

Misyār marriage (traveler's marriage) has become one of the most contentious issues in contemporary Islamic legal discourse.[1] This practice refers to a marital arrangement in which the spouses agree to exempt the husband from certain normative obligations, most notably financial maintenance and the provision of accommodation.[2] From a normative standpoint, certain Muslim jurists regard *misyār* marriage as valid, given that it fulfills the fundamental pillars and conditions of the marriage contract. However, it has faced significant ethical and social criticism, with opponents contending that it may disadvantage women and children, undermine the sanctity of marriage, and promote the exploitation and commodification of gender relations—particularly when practiced covertly or motivated primarily by biological gratification.[3] Consequently, debates surrounding *misyār* marriage extend beyond questions of doctrinal legality to encompass issues of ethics, authority, and social justice.

The phenomenon initially emerged in the Middle East as a pragmatic adaptation for independent women seeking marital flexibility without assuming full domestic responsibilities, particularly within patriarchal socio-cultural frameworks.[4] Over time,

1 See: Ahm Ershad Uddin, "The Practice and Legitimacy of Misyār Marriage: A Critical Analysis within Islamic Law," *Journal of The Near East University Islamic Research Center* 9, no. 2 (December 2023): 254–70; Alia Imtoual and Shakira Hussein, "Challenging the Myth of the Happy Celibate: Muslim Women Negotiating Contemporary Relationships," *Contemporary Islam* 3, no. 1 (April 2009): 25–39; Anne Sofie Roald, "Female Islamic Interpretations on the Air: Fatwas and Religious Guidance by Women Scholars on Arab Satellite Channels," in *Media and Political Contestation in the Contemporary Arab World* (New York: Palgrave Macmillan US, 2016), 211–31.

2 See: Petra Kuppinger, *Faithfully Urban Pious Muslims in a German City* (New York: Berghahn, 2015),89–90; Pramai Shella Arinda Putri. J, Yandri Radhi Anadi, and Nurdeng Deuraseh, "The Phenomenon of Development Misyar Marriage from the Perspective of Islamic Law and Human Rights," *De Jure: Jurnal Hukum dan Syar'iah* 15, no. 1 (July 2023): 99–114.

3 See: Chomim Tohari, "Fatwa Ulama tentang Hukum Nikah Misyar Perspektif Maqasid Shari'ah," *Al-Tahrir: Jurnal Pemikiran Islam* 13, no. 2 (November 2013): 207–32.

4 See: Muhammad Chaidir and Sudirman Suparmin, "Legal Analysis of Misyar Marriage According to the Views of Nashirudin Al Bani," *Jurnal Daulat Hukum* 7, no. 3 (October 2024): 298; Martha Bailey and Amy

analogous practices have appeared in various Muslim-majority contexts, including Indonesia. In Surabaya, *misyār* marriages are typically arranged discreetly through informal intermediaries such as the *modin* (village religious officer) or a *walī muḥakkam* (appointed guardian) operating outside the jurisdiction of the Office of Religious Affairs (*Kantor Urusan Agama*, KUA).[5] The motivations of participants are multifaceted, encompassing the fulfillment of biological needs and the desire for offspring, including in transnational unions involving foreign men.[6] This complexity has elicited divergent responses among Nahdlatul Ulama (NU) religious scholars in East Java: while the majority reject *misyār* marriage on the grounds of protecting women's rights and preserving the sanctity of marriage, a minority adopt a more permissive stance under specific conditions.[7] These dynamics highlight that *misyār* marriage in Surabaya cannot be understood solely as a matter of formal legality but must be contextualized within the broader socio-cultural and religious configurations of local authority.[8]

A review of the existing literature identifies three primary trajectories in the study of *misyār* marriage. The first trajectory focuses on its juridical status within Islamic law and state regulatory frameworks.[9] For example, Maleki and Baharlouei equate *misyār* with *mutʿah* (temporary marriage), conceptualizing both as alternative mechanisms for fulfilling sexual needs.[10] Similarly, Carolyn Fluehr-Lobban notes that although the practice was historically rejected, certain Sudanese jurists have sought to normalize and institutionalize it.[11] The second trajectory examines public discourse and popular responses, including those expressed through digital platforms.[12] Sarkhel H. Taher Karim's analysis of Kurdish social media interactions categorizes responses into nine types, ranging from supportive and skeptical to humorous and suggestive.[13] The third trajectory adopts a phenomenological approach, investigating participants' motivations and the socio-legal implications for women and children.[14] Mochamad Rochman Firdian demonstrates that while biological satisfaction

J. Kaufman, *Polygamy in the Monogamous World: Multicultural Challenges for Western Law and Policy* (Santa Barbara, Calif: Praeger, 2010), 13.

5 "Observations on the Practice of Misyār Marriage in the Perum Graha Family," August 2019.

6 "Observations on the Practice of Misyār Marriage in the Palm Spring Regency Complex," June 2019.

7 NA, "Interview with an Intellectual Scholar of Nahdlatul Ulama in Surabaya," November 2021.

8 Mochamad Rochman Firdian, "Factors and Reasons that Influenced the Misyar Marriage Phenomenon in Surabaya Urban Communities," *Journal of Social Science* 3, no. 1 (January 2022): 137–46.

9 See: Moath Alnaief and Maher Haswa, "Nikah al-Misyar (Traveller's Marriage): Between Contemporary Islamic Jurisprudence and Emirati Law," *Manchester Journal of Transnational Islamic Law and Practice* 20, no. 1 (2024): 187–200; Abdullah Bin Hussein Al Khalifa and Fatima Al Kubaisi, "The State of Marriage in the Arab Gulf States: The UAE, Bahrain, Saudi Arabia, Oman, Qatar, and Kuwait," in *The Handbook of Marriage in the Arab World. Gulf Studies*, by Amer Al Saleh (Singapore: Springer Nature Singapore, 2024), 1–75.

10 A. Maleki and S. Baharlouei, "Investigate the Misyar Institution in the Islamic Legal System," *Advances in Environmental Biology* 9, no. 2 (2015): 1182–87.

11 Carolyn Fluehr-Lobban, "Be Careful What You Ask for: The Unintended Consequences of Sudan's Islamism," *Hawwa* 14, no. 1 (August 2016): 94–112.

12 See: Maaike Voorhoeve, "Law and Social Change in Tunisia: The Case of Unregistered Marriage," *Oxford Journal of Law and Religion* 7, no. 3 (October 2018): 479–97; Janet Afary and Roger Friedland, "The Practice of Informal Marriages in the Muslim World: A Comparative Portrait," *British Journal of Middle Eastern Studies* 51, no. 5 (October 2024): 1068–90.

13 Sarkhel H. Taher Karim, "Kurdish Social Media Sentiment Corpus: Misyar Marriage Perspectives," *Data in Brief* 57 (December 2024): 110989.

14 See: Tofol al-Nasr, "Gulf Cooperation Council (GCC) Women and Misyar Marriage: Evolution and Progress in the Arabian Gulf," *Journal of International Women's Studies* 12, no. 3 (March 2011): 43–57; Putri. J et al., "The Phenomenon of Development Misyar Marriage from the Perspective of Islamic Law and

constitutes a central motivation, economic, religious, and social factors are equally significant.[15] Departing from these prevailing approaches, which tend to emphasize formal legality, state regulation, or public perception, this article offers a novel contribution by exploring how NU scholars in Surabaya negotiate normative texts, inherited juristic traditions, and lived social realities in their responses to *misyār* marriage. In doing so, the study situates *misyār* marriage within the epistemological dialectics of Islamic law, highlighting its dual function as both a continuation of juristic continuity and a site of contestation and transformation within contemporary socio-legal contexts.

Research Methodology

This article is grounded in field research utilizing a socio-legal approach that combines normative analysis of Islamic law with empirical observation of social practices at the community level. The fieldwork was conducted intensively over two phases, spanning a total of seven months: June to August 2019 and October 2021 to January 2022, in Surabaya, East Java. Data collection employed three primary methods: interviews, observation, and documentary analysis. Semi-structured interviews were conducted with 14 key informants, including four individuals directly involved in *misyār* marriages and ten scholars affiliated with NU in East Java (see Table 1). These scholars were categorized into three groups:[16] two cultural scholars, six structural scholars, and two academic scholars. Informants were purposively selected based on their religious authority, intellectual expertise, and direct engagement with the practice of *misyār* marriage. Non-participant observation focused on social interactions and the practice of *misyār* marriage within four residential communities in Surabaya: Palm Spring Regency Complex, Perum Bulak Rukem, Perum Graha Family, and Perum Kebon Agung. Additionally, documentary analysis was conducted, examining classical *fiqh* (Islamic jurisprudence) texts, marriage archives, and pertinent academic literature to enhance source triangulation.

The data were analyzed using a qualitative framework as delineated by Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, which emphasizes an interactive and iterative process encompassing three stages.[17] Initially, data reduction was performed by

Human Rights," 99–114; Ratno Lukito, "Continuity and Change in Law: Confabulating Misyar Marriages in Indonesia," *Oñati Socio-Legal Series* 12, no. 1S (December 2022): 240–63.

15 Firdian, "Factors and Reasons that Influenced the Misyar Marriage Phenomenon in Surabaya Urban Communities," 137–46.

16 Scholars affiliated with NU can generally be categorized into three groups: cultural scholars who focus on preserving the community's traditions and practices; structural scholars who hold official leadership positions within the organization; and academics who use a scientific approach to advance religious discourse and thought. See: Muhammad Turhan Yani et al., "Advancing the Discourse of Muslim Politics in Indonesia: A Study on Political Orientation of Kiai as Religious Elites in Nahdlatul Ulama," *Heliyon* 8, no. 12 (December 2022): e12218; Khoirun Niam, "Nahdlatul Ulama and the Production of Muslim Intellectuals in the Beginning of 21st Century Indonesia," *Journal of Indonesian Islam* 11, no. 2 (December 2017): 351; Umdatul Hasanah, Khairil Anam, and Muassomah Muassomah, "Modernising Tradition: Reinforcing ASWAJA al-Nahdhiyah Authority among Millennials in Indonesia," *HTS Teologiese Studies / Theological Studies* 80, no. 1 (April 2024), a9425.

17 Matthew B Miles, A Michael Huberman, and Johnny Saldana, *Qualitative Data Analysis: A Methods Sourcebook* (SAGE Publications, 2018), 30–2.

Table 1
Research Informants

No.	Informant Code	Gender	Date of Interview	Informant Classification
1.	ZF	Male	November 2021	Cultural Scholar
2.	AWS	Male	December 2021	Cultural Scholar
3.	MK	Male	December 2021	Structural Scholar
4.	AM	Male	January 2022	Structural Scholar
5.	SH	Male	October 2021	Structural Scholar
6.	IS	Male	January 2022	Structural Scholar
7.	AS	Male	January 2022	Structural Scholar
8.	MS	Male	October 2021	Structural Scholar
9.	AFH	Male	January 2022	Academic Scholar
10.	NA	Male	November 2021	Academic Scholar
11.	MM	Female	August 2019	*Misyār* Participant
12.	SS	Female	August 2019	*Misyār* Participant
13.	LL	Female	June 2019	*Misyār* Participant
14.	ST	Female	July 2019	*Misyār* Participant

filtering information pertinent to the research focus. Subsequently, data presentation was organized through tables, narratives, and diagrams to facilitate interpretation. Finally, conclusions were drawn inductively and interactively, ensuring coherence between empirical findings and the study's overarching arguments. To enhance the validity of the data, both methodological and source triangulation were employed. Additionally, the conceptual analysis utilized Wael B. Hallaq's framework of authority in Islamic law, which underscores the dialectical relationship among Islamic legal texts, the authority of the Muslim scholars, and interpretive traditions.[18] This framework enables an understanding of the divergent views among NU scholars in East Java regarding *misyār* marriage not merely as a matter of *fiqh* but as part of a broader process of negotiating authority and transforming Islamic law within a dynamic social context.

Misyār Marriage from the Perspective of Contemporary Muslim Jurists

Among the four prominent Sunnī schools of law (*madhhab*), the majority of Muslim jurists (*fuqahā'*) concur that a marriage is deemed valid upon the fulfillment of five fundamental pillars: the presence of a prospective husband, a prospective wife, a guardian (*walī*), two witnesses, and the marriage contract (*ijāb* and *qabūl*).[19] However, there exists a unanimous prohibition among the *fuqahā'* regarding four specific types of marriage, which are considered incompatible with the higher objectives of Islamic law (*maqāṣid al-sharīʿah*). First, *nikāḥ mutʿah* or *nikāḥ muʿaqqat* (temporary marriage), wherein the marriage is contracted for a predetermined duration and terminates automatically without the need for divorce.[20] Second, *nikāḥ muḥallil*, a form of temporary marriage in which a man (*muḥallil*) marries a woman who has been divorced thrice by her first husband, solely to facilitate her remarriage to that

[18] Wael B. Hallaq, *Authority, Continuity, and Change in Islamic Law* (New York: Cambridge University Press, 2001), ix–xiv.
[19] Wahbah Al-Zuḥailī, *Al-Fiqh al-Islamī wa Adillatuh* (Damaskus: Dār al-Fikr, 1989), 7:36–37.
[20] See: Moh. Alfin Sulihkhodin, Muhammad Asadurrohman, and Aris Wibowo, "The Reality of Mut'ah Marriage in Indonesia: Reinterpretation of the Opinion of Shia Scholars," *Tajdid* 29, no. 2 (April 2023): 225.

husband.[21] Third, *nikāḥ shighār*, a practice whereby two guardians marry off their daughters or female relatives by exchanging them without a lawful dowry.[22] Fourth, marriage to a woman who remains under another man's formal engagement (*khithah*). Although the contracts involved in these four types formally satisfy the essential requirements of marriage, juristic consensus deems them impermissible due to their contravention of the ethical and teleological objectives of Islamic law.[23]

In classical *fiqh* literature, the terminology and practice of *misyār* marriage are not explicitly delineated. *Misyār* marriage denotes a form of union wherein the wife voluntarily waives certain marital rights—most notably financial maintenance (*nafaqah*) and housing—and often agrees to maintain the marriage in secrecy.[24] This practice originated in the Middle East as an adaptive strategy for independent women seeking marital flexibility without the full spectrum of domestic obligations, particularly within patriarchal societies.[25] Etymologically, the term *misyār* is derived from the Arabic word for "travel," which accounts for its common English translation as "travellers' marriages,"[26] typically contracted by men who travel frequently.[27] Although such marriages were not recognized in premodern times, analogous arrangements existed, including "daytime marriages," "night marriages," or "marriages of legal convenience."[28] Consequently, *misyār* marriage is absent from classical *fiqh* texts and has only recently become a focal point of intensive debate within contemporary Islamic legal discourse.[29]

Regarding its legality, contemporary Muslim scholars are divided into two principal positions.[30] The first group asserts that *misyār* marriage is valid under Islamic law, as it satisfies all contractual requirements. They contend that a wife's voluntary waiver of certain rights does not invalidate the contract, provided that such waiver is given with free consent. Nonetheless, some scholars within this group classify the practice as *makrūh* (reprehensible)

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21 See: Zainal Arifin H. Munir et al., "Tahlil Marriage Among the Sasak Tribe of Lombok Based on Maqashid al-Shari'ah Perspective and Its Relevance to Compilation of Islamic Law," *Al-'Adalah* 19, no. 2 (December 2022): 419–40; Hamdani Hamdani, Fendri Yanto, and Fadiah Nur Afiza, "Nikah Bacindua in the Perspective of Mashlahah Mursalah in South Batipuh District, Tanah Datar Regency, West Sumatra," *Al-Hurriyah: Jurnal Hukum Islam* 9, no. 1 (August 2024): 54–66.

22 See: Mohsin Akhtar, *Oracle of the Last and Final Message: History and the Philosophical Deductions of the Life of Prophet Muhammad* (USA: Xlibris, 2008), 408; Ahmet Acarlıoğlu, "Cahiliye'den İslam'a Evlenme/Marriage from Jahiliyya to Islam," *İlahiyat Akademi*, no. 11 (2020): 101–24.

23 Al-Zuḥailī, *Al-Fiqh al-Islamī wa Adillatuh*, 7:116–19.

24 Anita C. Butera, *The Kingdom of Saudi Arabia Through the Eyes of Saudi Women* (Maryland: Lexington Books, 2021), 121.

25 See: Chaidir and Suparmin, "Legal Analysis of Misyar Marriage According to the Views of Nashirudin Al Bani," 298; Bailey and Kaufman, *Polygamy in the Monogamous World*, 13.

26 'Abd al-Mālik Yūsuf al-Mutlaq, *Zawāj al-Misyār* (Riyāḍ: Dār Ibn al-'Abūn, 2002), 75.

27 Usāmah al-Ashqar, *Mustajiddāt Fiqhiyyah fī Qaḍāyā al-Zawāj wa al-Ṭalāq* (Damaskus: Dār al-'Ilmiyyah, 1422), 161–2.

28 Frank H. Stewart, "The Visiting Husband Revisited: A Cautionary Tale," *Die Welt Des Islams* 58, no. 1 (March 2018): 33–64.

29 See: Alnaief and Haswa, "Nikah al-Misyar (Traveller's Marriage)," 188; Abdulsatar Shaker Salman, "Mass Surveillance and the Maqasid al-Shari'ah: Balancing Security and Human Rights in Contemporary Islamic Discourse," *International Journal of Syariah and Law* 1, no. 1 June (June 2025): 59–72.

30 Ali Hasannia and Mostafa Masoudian, "Temporary Marriage Among Shiite and Sunni Muslims: Comparative Study of 'Istimtā', Mut'ah, and Misyār," in *Temporary and Child Marriages in Iran and Afghanistan: Historical Perspectives and Contemporary Issues*, ed. S. Behnaz Hosseini (Singapore: Springer, 2021), 31–45.

despite acknowledging its validity. Prominent scholars endorsing this view include Yūsuf al-Qaraḍāwī, Wahbah al-Zuḥaylī, Shaykh ʿAlī Jumʿah al-Shāfiʿī, Shaykh ʿAbd al-ʿAzīz bin Bāz, Shaykh ʿAbd al-ʿAzīz Āl al-Shaykh, Shaykh Suʿūd al-Shuraym, Shaykh Muḥammad Sayyid Ṭanṭāwī, Aḥmad al-Ḥajjī al-Kurdī, Shaykh ʿAbd al-Sattār al-Jubālī, and Shaykh Yūsuf al-Duraywīs.[31] The second group prohibits *misyār* marriage, arguing that it undermines the higher objectives of marriage (*maqāṣid al-nikāḥ*), jeopardizes the rights of women and children,[32] and frequently involves secrecy that contravenes the principle of transparency in marital relations. Scholars advocating this position include Nāṣir al-Dīn al-Albānī, Muḥammad Zuḥaylī, ʿAlī Qurrah Dāghī, and Ibrāhīm Fāḍil.[33]

The practice of *misyār* marriage has attained legal recognition in several Middle Eastern countries. In Saudi Arabia, its legitimacy was affirmed by a *fatwā* (legal opinion) issued by Shaykh ʿAbd al-ʿAzīz bin Bāz, who served as the Grand Muftī (jurist-consults) of Saudi Arabia from 1993 to 1999. The majority of Saudi scholars endorse its validity under stringent conditions, considering it a viable solution for men who travel frequently and for widowed women who are financially independent.[34] In Egypt, *misyār* marriage was legitimized through a *fatwā* issued by Shaykh Muḥammad Sayyid Ṭanṭāwī, the Grand Muftī of Egypt from 1986 to 1996. However, the Egyptian discourse has been more contentious, with some scholars accepting the practice conditionally, while others strongly oppose it.[35] Consequently, the controversy surrounding the legality of *misyār* marriage extends beyond the Middle East and continues to resonate in other Muslim-majority contexts, including Indonesia.

The Practice of *Misyār* Marriage in Surabaya: Models, Motivations, and Legal Implications

Based on observations conducted at four research sites and in-depth interviews with key informants, three distinct models of *misyār* marriage were identified within Surabaya's residential communities, each driven by specific motivations. First, professional women opt for *misyār* marriage to avoid familial interference in marital affairs and to circumvent traditional domestic responsibilities typically expected of wives. Second, short-term *misyār* marriage is employed pragmatically to streamline marriage and divorce processes, which are often regarded as bureaucratic and costly. Third, *misyār* marriage occurs between Indonesian women and foreign men, particularly from the Middle East, with the intention of obtaining offspring possessing desired physical characteristics as well as economic benefits. These models illustrate that *misyār* marriage is not solely a religious institution intended to satisfy

31 Yūsuf al-Duraywīsh, *Al-Zawāj al-ʿUrfī* (Riyāḍ: Dār al-ʿĀṣimah, n.d.), 138–9.

32 Ershad Uddin, "The Practice and Legitimacy of Misyār Marriage, 254–70"; Lynn Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam University Press, 2007), 104.

33 Tohari, "Fatwa Ulama Tentang Hukum Nikah Misyar Perspektif Maqasid Shari'ah," 212–16.

34 Madawi Al-Rasheed, "Caught between Religion and State: Women in Saudi Arabia," in *Saudi Arabia in Transition Insights on Social, Political, Economic and Religious Change* (New York: Cambridge University Press, 2015), 299.

35 Achim Rohde, *State-Society Relations in Ba'thist Iraq Facing Dictatorship* (New York: Routledge Taylor & Francis Group, 2010), 114.

biological needs or ensure reproduction, but rather a complex social phenomenon influenced by religious, economic, biological, and sociocultural factors.[36]

The first model, known as *misyār* marriage among professional women, is predominantly practiced by highly educated women who possess considerable financial independence. Their primary motivation is to avoid interference from extended family members in marital decisions and to resist the socio-cultural expectations of domestic roles traditionally assigned within households.[37] For example, MM explained that *misyār* marriage enabled her to pursue her career without being disproportionately burdened by household responsibilities, which are culturally imposed on wives.[38] Similarly, LL entered into a *misyār* marriage to evade what she perceived as excessive familial control over her marital choices.[39] This model highlights women's agency in renegotiating domestic roles; however, it does not entirely free them from the broader patriarchal structures that shape gender relations.[40]

The second model, short-term *misyār* marriage, embodies a pragmatic approach. It is driven by the desire to circumvent the complexities associated with official marriage registration at the KUA, to avoid protracted divorce proceedings in Islamic courts (Indonesian: *pengadilan agama*), and to minimize the financial costs of wedding ceremonies.[41] For instance, SS reported choosing a *misyār* marriage to evade bureaucratic procedures and the high expenses of marriage.[42] Additionally, some participants indicated that *misyār* marriage provided them with the flexibility to terminate the union without engaging in slow, complicated, and costly legal processes.[43] Nevertheless, this model frequently results in adverse consequences for women and children, particularly regarding financial support, custody rights, and legal protection following divorce.[44]

The third model pertains to Indonesian women entering into marriage with foreign men, particularly those from the Middle East. In these arrangements, both parties commonly agree not to cohabit, although the husband remains obligated to provide financial support. Informal prenuptial agreements frequently include provisions related to financial support and, in certain instances, clauses that delay or restrict childbirth.[45] For example, ST disclosed that her motivation was to have children exhibiting physical characteristics similar to their foreign father, while also establishing transnational connections that could advantage her child's prospects.[46] This model underscores the predominance of socioeconomic factors over

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36 See: Firdian, "Factors and Reasons that Influenced the Misyar Marriage Phenomenon in Surabaya Urban Communities," 137–46; Lukito, "Continuity and Change in Law," 240–63.

37 "Observations on the Practice of Misyār Marriage in the Kebon Agung Housing Complex," August 2019.

38 MM, "Interview with a Participant in Misyār Marriage," August 2019.

39 LL, "Interview with a Participant in Misyār Marriage," June 2019.

40 Intan Pelangi, Nitaria Angkasa, and Syamsul Arifin, "The Misyar Marriage and Family Law Reform in Indonesia," *SMART: Journal of Sharia, Traditon, and Modernity* 3, no. 1 (2023): 16.

41 "Observations on the Practice of Misyār Marriage in the Palm Spring Regency Complex," June 2019.

42 SS, "Interview with a Participant in Misyār Marriage," August 2019.

43 Lukito, "Continuity and Change in Law," 240–63.

44 AM, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," January 2022. See: Putri. J et al., "The Phenomenon of Development Misyar Marriage from the Perspective of Islamic Law and Human Rights," 99–114.

45 "Observations on the Practice of Misyār Marriage in the Perum Bulak Rukem," July 2019.

46 ST, "Interview with a Participant in Misyār Marriage," July 2019.

religious motivations, thereby emphasizing the instrumental role of *misyār* marriage in facilitating social and economic mobility.[47]

Across the three models examined, *misyār* marriages in Surabaya tend to be both limited in scope and conducted discreetly. These marriages are limited in that they typically involve only the bride and groom, a *modin*, a *walī muḥakkam*, and two witnesses. They are discreet because they are not registered with the KUA and are not accompanied by traditional wedding ceremonies. Within this framework, the roles of the *modin* and *walī muḥakkam* are pivotal; they serve not only as facilitators but also as religious authorities who ensure that the marriage procedures comply with Islamic law. However, these marriages lack legal recognition by the state due to the absence of official marriage certificates.[48] Field data indicate that, in several instances, these local authorities are unable to adequately verify the good faith of the parties involved. This deficiency increases the risk that *misyār* marriages may be exploited for unilateral advantage, potentially undermining spousal rights.[49] Notably, the findings also suggest that women in Surabaya's *misyār* marriages often exercise greater agency in managing their marital relationships.

Although often presented as an alternative solution to biological needs,[50] *misyār* marriage introduces new vulnerabilities, particularly for women and children. Women frequently relinquish fundamental rights, including financial support, cohabitation, and post-divorce entitlements. While they may appear to exercise autonomy in determining marital arrangements, their position remains situated within a broader patriarchal framework that constrains their choices.[51] Children born from *misyār* marriages experience psychological insecurities due to the absence of a paternal figure and limited emotional support.[52] These vulnerabilities are further exacerbated by the social stigma associated with unregistered marriages, which deprives children of legal recognition and exposes them to discrimination in educational settings and society at large.[53]

Moreover, local cultural norms exert a significant influence on the social acceptance of *misyār* marriage. ZF noted that the society in Surabaya tends to be more conservative, which renders such marriages difficult to accept publicly.[54] Within Javanese culture, marriage is regarded as a sacred institution that unites not only two individuals but also their respective families. Consequently, unions conducted secretly, without familial consent, and outside official frameworks are perceived as social deviations. The stigma associated with *misyār* marriages extends beyond the couples to include the children born from these unions.

47 Alnaief and Haswa, "Nikah al-Misyar (Traveller's Marriage)," 187–200.
48 Lukito, "Continuity and Change in Law," 240–63.
49 See: "Results of Observations on the Practice of Nikah Misyar in the Palm Spring Regency Complex," June 2019; "Observations on the Practice of Misyār Marriage in the Perum Graha Family," August 2019.
50 Maleki and Baharlouei, "Investigate the Misyar Institution in the Islamic Legal System," 1182–87.
51 Intan Pelangi, Nitaria Angkasa, and Syamsul Arifin, "The Misyar Marriage and Family Law Reform in Indonesia," *SMART: Journal of Sharia, Tradition, and Modernity* 3, no. 1 (2023): 16.
52 Nur Islamiah et al., "The Role of Fathers in Children's Emotion Regulation Development: A Systematic Review," *Infant and Child Development* 32, no. 2 (March 2023): e2397.
53 "Observations on the Practice of Misyār Marriage in the Perum Graha Family," August 2019. See: Euis Nurlaelawati and Stijn Cornelis van Huis, "The Status of Children Born out of Wedlock and Adopted Children in Indonesia: Interactions between Islamic, Adat, and Human Rights Norms," *Journal of Law and Religion* 34, no. 3 (December 2019): 356–82.
54 ZF, "Interview with a Cultural Scholar of Nahdlatul Ulama in Surabaya," November 2021.

Observational data further indicate that familial bonds among couples engaged in *misyār* marriage are generally weaker than those observed in traditionally married families.[55] This cultural resistance highlights the tension among religious authority, social structures, and local traditions in defining the legality and legitimacy of marriage.[56] Therefore, *misyār* marriage in Surabaya embodies an ambivalent character: while it serves as a practical alternative for certain individuals, it simultaneously poses significant challenges regarding the rights of women and children, as well as broader social cohesion.

Nahdlatul Ulama Scholars' Debates on the Legality of *Misyār* Marriage: Negotiating Tradition, Text, and Social Realities

The responses of NU scholars to the practice of *misyār* marriage reveal not only divergent legal opinions but also a broader epistemological contestation concerning the relationship among normative texts, scholarly traditions, and evolving social realities.[57] These debates highlight that Islamic law should not be understood as a closed system of formal legality; rather, it operates as a complex network of meanings that interconnect ethical objectives, social structures, and individual motivations. Generally, cultural scholars within NU tend to affirm the validity of *misyār* marriage provided that the essential pillars and conditions of marriage are met, whereas structural scholars reject it on the basis that it contravenes the *maqāṣid al-sharīʿah*, particularly the social and moral purposes of marriage in establishing a just and dignified family. Consequently, the discourse on *misyār* marriage among NU scholars exemplifies a nuanced negotiation among the sanctity of sacred texts, the authority of scholarly interpretation, and the demands of contemporary social realities that necessitate the reinterpretation of Islamic law.[58]

Cultural scholars within NU legitimize *misyār* marriage by emphasizing its contractual nature within the framework of *fiqh*. According to these scholars, the marriage contract remains valid as long as its essential pillars—the groom, bride, *walī*, two witnesses, and the marriage contract itself—are fulfilled, even if the wife voluntarily waives certain spousal rights. The principle of *tarāḍī* (mutual consent) is invoked to affirm the contract's validity, provided that the agreement is based on the free will of both parties. They reference Surāt al-Nisā' verse 21, which underscores the sanctity of the marriage contract, and Surāt al-Baqarah verse 233, which emphasizes deliberation within the family.[59] Contemporary Muslim scholars, such as Yūsuf al-Qaraḍāwī and Wahbah al-Zuḥaylī, are also cited to support the view that the voluntary relinquishment of certain rights does not invalidate the marriage

55 "Observations on the Practice of Misyār Marriage in the Perum Graha Family," August 2019.

56 See: Silvia Vignato, "'Men Come In, Men Go Out': Single Muslim Women in Malaysia and Aceh," *Social Identities* 18, no. 2 (March 2012): 239–57; Supriyanto, Islah Gusmian, and Zaenal Muttaqin, "Cultural Integration in Tafsir al-Iklil fi Ma'ani al-Tanzil by Misbah Mustafa within the Context of Javanese Islam," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 25, no. 2 (October 2024): 392–415; Fitri Wardani and Nurun Najwah, "Tradition of Peutron Aneuk in Matang Seulimeng Village, Aceh (Study of Living Hadiths)," *Nabawi: Journal of Hadith Studies* 5, no. 1 (March 2024): 1–30.

57 Liaquat Ali Khan, "Jurodynamics of Islamic Law," *Rutgers Law Review* 61, no. 2 (2009): 231–93.

58 Nur Hannan et al., "Between Adherence to Madhhab and Adaptation to Context: Fatwās on Female Leadership in Nahdlatul Ulama-Affiliated Islamic Higher Education Institutions," *Journal of Islamic Law* 5, no. 2 (2024): 269–87.

59 ZF, "Interview with a Cultural Scholar of Nahdlatul Ulama in Surabaya," November 2021.

contract.[60] From a social perspective, cultural scholars interpret *misyār* marriage as a rational response to the needs of urban women and diasporic communities seeking greater flexibility and autonomy within marriage.[61] One NU intellectual, AFH, acknowledged that although *misyār* marriage may not fully align with the norms of Indonesian Muslim society, it can be accepted under certain circumstances.[62] This perspective reflects an effort to synthesize normative texts, jurisprudential authority, and social realities within an adaptive framework of Islamic law.[63]

In contrast, structural scholars within the NU tradition maintain that formal legality cannot be separated from the moral objectives of marriage. They argue that *misyār* marriage risks neglecting essential spousal obligations, particularly financial support and family protection, thereby compromising the ethical foundation of marriage.[64] For example, MK contended that although the formal requirements are fulfilled, the practice contradicts Islamic ethics by disregarding the social responsibilities incumbent upon the husband.[65] This argument is grounded in the principles of *maqāṣid al-sharīʿah*, especially the values of *sakīnah* (tranquility), *mawaddah* (affection), and *raḥmah* (mercy), as emphasized in Surāt al-Rūm, verse 21. Moreover, these scholars assert that *misyār* marriage may weaken women's status, facilitate household exploitation, and create vulnerabilities for children due to ambiguous legal recognition.[66] IS further highlighted that children often experience social stigma resulting from their parents' unacknowledged marital status under state law.[67] Consistent with Muslim jurists such as Muḥammad Abū Zahrah and Muḥammad Zuḥaylī, structural scholars argue that practices deemed legally valid may nonetheless be rejected if they violate principles of justice and social protection.[68]

The divergent perspectives within NU originate from the distinct social contexts of individuals involved in *misyār* marriages. The motivations of these participants—ranging from professional women seeking autonomy, couples endeavoring to bypass bureaucratic marriage procedures, to women marrying foreign men for socioeconomic reasons—serve as critical interpretive frameworks. Cultural scholars interpret these motivations as social realities that must be accommodated to maintain the continued relevance of Islamic law, whereas structural scholars regard them as pragmatic rationales that potentially undermine the sanctity of marriage. The findings indicate that NU scholars' authority extends beyond

60 AWS, "Interview with a Cultural Scholar of Nahdlatul Ulama in Surabaya," December 2021.
61 Rochman Firdian, "Factors and Reasons that Influenced the Misyar Marriage Phenomenon in Surabaya Urban Communities," 137–46.
62 AFH, "Interview with an Intellectual Scholar of Nahdlatul Ulama in Surabaya," January 2022.
63 See: Muhammad Anis Mashduqi, "The Integration-Interconnection Paradigm in Islamic Law: Al-Syatibi's Thought in Al-Muwafaqat," *Al-Mazaahib: Jurnal Perbandingan Hukum* 12, no. 2 (2024): 205–21; Ansori Ansori, "Position of Fatwa in Islamic Law: The Effectiveness of MUI, NU, and Muhammadiyah Fatwas," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 22, no. 1 (2022): 53–72; Achmad Roziqi et al., "Institutional Ijtihād and Socio-Legal Adaptation: The Formulation of Waṣiyah Wājibah in Indonesia's Compilation of Islamic Law," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 59, no. 1 (June 2025): 1–18.
64 AM, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," January 2022.
65 MK, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," December 2021.
66 MS, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," October 2021; AS, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," January 2022.
67 IS, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," January 2022.
68 MK, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," December 2021; SH, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," October 2021.

the mere interpretation of normative texts to actively shaping social transformations consonant with the moral vision of Islam.[69] This dynamic reveals an epistemological divide within NU between a textual-formalist orientation and a contextual-ethical approach.[70] While cultural scholars conceptualize law as a contract adaptable to evolving social realities, structural scholars emphasize its moral and teleological dimensions to ensure fidelity to the *maqāṣid al-sharīʿah*. This contestation highlights that Islamic law within the NU tradition is not a fixed entity but rather an ongoing negotiation wherein texts, authority, and social realities intersect to shape contemporary Islamic legal discourse in Indonesia.[71]

The Dynamics of Authority within Nahdlatul Ulama: Balancing Textual Legitimacy and Socio-Ethical Considerations

The debates among NU scholars regarding the legality of *misyār* marriage illustrate that Islamic legal authority is continuously negotiated within a discursive space that integrates normative texts, scholarly traditions, and evolving social realities. Within this context, Islamic law should not be perceived merely as a rigid normative system; rather, it emerges as the product of *ijtihād* (independent reasoning) functioning within a social arena where religious authority is central.[72] Cultural scholars within NU emphasize continuity by affirming the formal legality of *misyār* marriage based on the essential pillars and conditions of marriage. In contrast, structural scholars emphasize change by highlighting the principles of *maqāṣid al-sharīʿah*, particularly the protection of women, children, and the family as an institution. Their contestation extends beyond the validity of the contract to reveal a broader shift in authority: from textual interpretation to social reality, and from normative legality to social legitimacy.[73]

The dimension of continuity in Islamic legal practice is demonstrated by the legitimacy conferred upon *misyār* marriage by cultural NU scholars. Drawing on the classical *fiqh*

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69 See: Zainul Mun'im et al., "'Ulamā', Authority, and Political Relations: How the PCNU Jember Fatwā Influenced Public Policy on Gold Mining in Silo?," *Journal of Islamic Law* 6, no. 1 (2025): 46–66; La Mansi et al., "Transcending Proportional Boundaries: A Study on the Shifting Thoughts of Nahdlatul Ulama and Muhammadiyah Muslims in Gorontalo, Indonesia," *Mankind Quarterly* 65, no. 4 (2025): 415–28.

70 Suud Sarim Karimullah, "From Divine Revelation to Legal Practice: Contextualizing Islamic Law in the Contemporary Era," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 59, no. 1 (June 2025): 36–47.

71 See: Ali Murtadho Emzaed et al., "Shifting Fiqh Tradition in Zakat Management: Nahdlatul Ulama's Strategies to Enhance the Social Welfare of Nahdliyin," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 2 (2024): 124–41; Alfitri, "Whose Authority? Contesting and Negotiating the Idea of a Legitimate Interpretation of Islamic Law in Indonesia," *Asian Journal of Comparative Law* 10, no. 2 (2015): 191–212; Anwar Mujahidin, Muhammad Shohibul Itmam, and Ahmad Choirul Rofiq, "The Dynamic of Contextualization in Indonesian Qur'anic Tafsirs: A Comparative Study of Tafsir Al-Azhar and Tafsir Al-Mishbāh on the Story of the Prophet Moses," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 25, no. 2 (August 2024): 221–46; Supratman Muslim, Suprapto Suprapto, and Jamaluddin Jamaluddin, "The Tuan Guru Tradition of Nahdlatul Wathan in Pesantren," *Al-Albab* 11, no. 1 (July 2022): 45–62; Qodariah Barkah, Suraya Sintang, and Leanne Morin, "Negotiating Islamic Law and State Norms in Child Marriage Practices in Coastal Indonesia," *Antmind Review: Journal of Sharia and Legal Ethics* 2, no. 1 (June 2025): 43–55.

72 Asif Mohiuddin, "Islam and the Discursive Landscape of Globalisation: Knowledge and Disjunctures of Authority," *Religion and Theology* 27, nos. 1–2 (2020): 74–113.

73 See: Nanda Nabilah Islamiyah, "When Religious Leaders Become Marriage Brokers, *Penghulus,* and Marriage Consultants: The Authority of *Kyai* in the Process of Unregistered Marriage," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 2024): 21–40; Asy'ari Asy'ari and Triansyah Fisa, "Interfaith Marriage in Perspectives of Classical and Modern Scholars," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (November 2022): 287–300.

tradition, these scholars consider the marriage contract valid provided that all essential pillars—such as the guardian, witnesses, and the marriage contract itself—are fulfilled. For example, ZF contended that *misyār* marriage is categorically permissible because it satisfies the formal conditions and requirements established by *fiqh*.[74] This viewpoint corresponds with legal developments in several Middle Eastern countries, where *misyār* marriage has been incorporated into national legal frameworks as a response to socioeconomic needs and contemporary mobility.[75] However, in contrast to the Middle Eastern context, the practice of *misyār* marriage in Surabaya affords women, particularly professional women, greater agency by enabling them to sustain their careers without the encumbrance of traditional domestic responsibilities.[76] This observation indicates that, although the practice appears to maintain continuity with classical jurisprudence, it functions within a contested social arena. The flexibility it provides is frequently perceived as a compromise that challenges prevailing moral values and the protection of women.[77]

The dimension of change is underscored in the position of NU structural scholars who reject the legality of *misyār* marriage on the basis that it contravenes the *maqāṣid al-sharīʿah* and Indonesia's local socio-cultural norms. These scholars emphasize that a marriage contract, even if textually valid, may be deemed unethical if it undermines the moral and social functions of marriage. AS asserted that *misyār* marriage should not be practiced as it deviates from the primary objectives of marriage in Islamic law.[78] Similarly, SH contended that this practice is pertinent only within the Middle Eastern context and is not applicable in Indonesia due to differing social conditions.[79] Their stance aligns with the perspectives of contemporary scholars such as Nāṣir al-Dīn al-Albānī, Muḥammad Zuḥaylī, ʿAlī Qurrah Dāghī, and Ibrāhīm Fāḍil,[80] who argue that *misyār* marriage compromises the sanctity of marriage and heightens the risk of marginalizing women.[81] Furthermore, MK emphasized that the application of Islamic law should not be confined to textual compliance but must also consider its broader implications for individuals and communities.[82] Consequently, Islamic law is understood not merely as a continuation of textual tradition but also as a dynamic mechanism of change that necessitates reinterpretation to remain consistent with principles of social justice.[83]

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74 ZF, "Interview with a Cultural Scholar of Nahdlatul Ulama in Surabaya," November 2021.

75 See: Chaidir and Suparmin, "Legal Analysis of Misyar Marriage According to the Views of Nashirudin Al Bani," 298; Bailey and Kaufman, *Polygamy in the Monogamous World*, 13; Al-Rasheed, "Caught between Religion and State," 299.

76 AWS, "Interview with a Cultural Scholar of Nahdlatul Ulama in Surabaya," December 2021.

77 See: Nurul Ain Norman and Mohammad Eisa Ruhullah, "Exploring the Ethical Dimensions of Fiqh: The Role of the Soul in Achieving Maqasid al-Shari'ah," *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)* 29, no. 1 (2024): 47–77; Erfaniah Zuhriah et al., "Childfree, the Digital Era, and Islamic Law: Views of Nahdlatul Ulama, Muhammadiyah, and Gender Activists in Malang, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 3 (September 2023): 1606.

78 AS, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," January 2022.

79 SH, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," October 2021.

80 Tohari, "Fatwa Ulama tentang Hukum Nikah Misyar Perspektif Maqasid Shari'ah," 212–16.

81 Ershad Uddin, "The Practice and Legitimacy of Misyār Marriage," 254–70; Welchman, *Women and Muslim Family Laws in Arab States*, 104.

82 MK, "Interview with a Structural Scholar of Nahdlatul Ulama in Surabaya," December 2021.

83 See: Ayu Sari Ningsih et al., "Reforming Islamic Family Law: The Relevance of Ibn Qayyim al-Jawziyyah's Concept of Legal Change," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 2 (2025):

These debates demonstrate that Islamic law functions dually as both an instrument of religious authority and a site of social contestation. The legitimacy granted to *misyār* marriage by certain scholars within NU reflects not only adherence to textual sources but also an authoritative strategy aimed at addressing the practical needs of specific social groups, including urban women, migrant workers, and members of the Muslim diaspora seeking greater flexibility in marital arrangements.[84] In contrast, the rejection of *misyār* marriage by structural scholars can be interpreted as an effort to preserve the moral integrity of Islamic law and to resist pragmatic rationalities perceived as undermining the sanctity of marriage. This analysis complements Achmad Kemal Riza's argument that divergences in approach between senior and younger NU scholars have further broadened the range of internal differences.[85] Ultimately, the dynamics of authority within NU exemplify a dialectic between formal legality and socio-ethical considerations, illustrating the processes through which Islamic law is produced, reproduced, and transformed amid contemporary social change.[86]

Conclusion

This study elucidates that *misyār* marriage constitutes a contemporary marital practice characterized by significant controversy, positioned at the nexus of textual legality, *fiqh* tradition, and social realities. From a normative standpoint, the majority of contemporary *fuqahāʾ* consider the contract valid, provided it satisfies the essential pillars and conditions of marriage. Conversely, critics argue that the practice contravenes the *maqāṣid al-sharīʿah*, particularly regarding the protection of women, children, and the sanctity of the family unit. Field research conducted in Surabaya identified three principal models of *misyār* marriage: first, as a strategy employed by career women to renegotiate domestic roles; second, as a pragmatic means to circumvent bureaucratic complexities associated with marriage and divorce; and third, as a mechanism for socio-economic mobility within transnational unions. These models demonstrate that *misyār* marriage operates not merely as a means to fulfill biological needs but as a multifaceted social phenomenon influenced by religious, economic, gendered, and cultural factors. The discourse among Nahdlatul Ulama (NU) Muslim scholars further complicates this dynamic: cultural scholars emphasize contractual legitimacy grounded in the principle of *tarāḍī* (mutual consent), whereas structural scholars highlight moral-teleological dimensions rooted in the *maqāṣid al-sharīʿah*, thereby revealing an epistemological dialectic in the formulation of contemporary Islamic law.

392–405; Ismail Saifnazarov et al., "The Interplay between Sharia Law, Religious Principles, and Social Justice in the Islamic Tradition," *Pharos Journal of Theology* 106, no. 3 (2025): 1–13; Maqdis and Rizqotul Luqi Mufidah, "The Dialectics of Text and Reason: Badr al-Dīn al-Zarkashī's Contribution to Qur'anic Interpretive Methodology in the 8th Century Hijriyah," *Basmala: Journal of Qur'an and Hadith* 1, no. 1 (July 2025): 86–114.

84 Rochman Firdian, "Factors and Reasons that Influenced the Misyar Marriage Phenomenon in Surabaya Urban Communities," 137–46.

85 Achmad Kemal Riza, "Contemporary Fatawa of Nahdlatul Ulama: Between Observing the Madhhab and Adapting the Context," *Journal of Indonesian Islam* 5, no. 1 (2011): 35–65.

86 See: Nor Ismah, "Women's Fatwa-Making in Indonesia: Gender, Authority, and Everyday Legal Practice," *International Journal of Islam in Asia* 4, nos. 1–2 (2024): 75–97; Michael Laffan, "The Fatwā Debated? Shūrā in One Indonesian Context," *Islamic Law and Society* 12, no. 1 (2005): 93–122; Hovhannes Sargsyan et al., "Beyond Anthropocentrism: Reinterpreting Islamic Legal Ethics through Transspecies Rights and Ecological Jurisprudence," *Indonesian Journal of Islamic Law* 8, no. 1 (June 2025): 92–112.

The findings of this study suggest that legal authority within the NU tradition is dynamic and continuously negotiated within a discursive framework that interlinks normative texts, scholarly authority, and social realities. Islamic law thus serves a dual role: maintaining continuity with the *fiqh* tradition while simultaneously facilitating avenues for change to ensure its relevance to socio-cultural dynamics and the practical needs of communities. However, this study is limited by its exclusive focus on the Surabaya context and NU Muslim scholars in East Java, which necessitates caution when generalizing the results to other regions or Islamic organizations. Additionally, the socio-legal approach adopted here emphasizes discourse, practice, and authority but engages only minimally with the implications for Indonesia's positive law. Future research should therefore undertake comparative regional studies, interdisciplinary analyses incorporating gender and state law perspectives, and investigations of practices within global Muslim communities. Such inquiries are essential for advancing our understanding of how Islamic legal authority adapts to evolving forms of contemporary marriage.

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