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# Unconventional Marriages in Contemporary Islamic Law: Legal Validity, Ethical Concerns, and Social Implications

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## Abstract

This study explores the emergence and evolution of unconventional marriages—such as Nikah al-Misyar, Nikah al-Mut'a, Nikah al-Muhallil, and secret Nikah—within the framework of contemporary Islamic law. It seeks to answer the fundamental question: Do these non-traditional contracts uphold the legal, ethical, and social purposes of Islamic marriage or compromise them under cultural and economic pressures? The primary aim is to analyze the legal validity and ethical implications of these marriage forms through classical jurisprudence, contemporary fatwas, and societal outcomes. The study concludes that while many of these marriages fulfill formal Shar'i requirements, they often undermine the maqāṣid al-nikāḥ—justice, protection, and permanence—especially for women. Methodologically, the research employs a comparative doctrinal approach, analyzing classical fiqh texts alongside modern case studies, socio-legal data, and juristic opinions from multiple Sunni and Shia schools. This paper argues that renewed ijtihād and stronger institutional frameworks are needed to address the gap between legal form and ethical substance in Muslim marital practices. By critically evaluating these alternative contracts, the study contributes to the evolving discourse on family law reform in Islamic societies.

**Keywords:** Nikah al-Misyar, Nikah al-Mut'a, Nikah al-Muhallil, secret marriage, Islamic family law, unconventional marriages, maqāṣid al-sharī'ah, women's rights in Islam, ijtihād, comparative Islamic jurisprudence

## Introduction

Marriage in Islam is more than a legal formality, it is a sacred agreement (‘aqd) between two people, built on understanding, trust, and responsibility. While Islam recognizes and honors this bond, the realities of society, economic conditions, and local traditions have introduced different forms of marriage, such as Nikah-e-Misyar, Nikah-e-Muta', Nikah al-Muhallil (also known as Halala), secret marriages, and even temporary convenience-based unions like Maysaf marriages. Some of these forms are considered technically valid in certain Islamic schools of thought. This research paper critically evaluates these unusual forms of marriage using Islamic jurisprudence, Pakistani legal

principles, and Arabic sources. Each argument is supported by detailed references and academic scholarship, helping to present a balanced understanding.

Marriage itself is one of humanity's oldest social practices. Across time and cultures, it has been seen as a core building block of society. It is not just about two people living together, it is a recognized union that brings legal and moral responsibilities, as well as a framework for having and raising children. In Islamic law, marriage (*nikāḥ*) is a serious contract between an adult man and woman, done with full consent and in front of witnesses. It is both a religious duty and a civil agreement, affecting inheritance, guardianship, sexual conduct, and family lineage. The Qur'an describes marriage as a "solemn covenant" (*mīthāqan ghalīẓan*)<sup>i</sup>, showing how serious and meaningful this relationship is in both legal and spiritual terms.<sup>ii</sup>

According to Islamic scholars, marriage serves two main goals: it provides an ethical and lawful way for intimacy between men and women, and it helps maintain lineage (*nasab*), which ensures that children are properly connected to their family and society. These purposes align with the higher objectives (*maqāṣid*) of Islamic law (*Sharī'ah*), especially in preserving lineage (*ḥifẓ al-nasab*) and social order<sup>iii</sup>.

Whether in Western countries like the United States or England, where marriage is governed by civil law, or in Muslim-majority countries like Pakistan, Iran, and Egypt, where religious personal status laws apply, marriage continues to be a recognized and important institution. Though cultures may differ, marriage everywhere reflects a partnership that respects both individual choice and social responsibility.

Islam doesn't view marriage as a casual or self-serving arrangement. Rather than being a way to satisfy desires, it is a serious, respectful, and purposeful relationship. Islam teaches that a woman is not created for a man's pleasure; she is a dignified and equal partner. Marriage is a trust given by God, not a power structure, but a bond of mutual support, love, and spiritual peace. The Qur'an beautifully captures this idea:

"And among His signs is that He created for you from yourselves spouses that you may find tranquility in them, and He placed between you affection and mercy. Indeed in that are signs for a people who reflect."<sup>iv</sup>

This verse tells us that men and women are from the same origin. Their relationship is based not on power but on companionship (*sukūn*), love (*mawaddah*), and mercy (*raḥmah*), the key ingredients for a stable and meaningful family. In another verse, the Qur'an explains the same idea:

"It is He—Allah—Who created you from a single being, and from it made its mate, so that he might find comfort in her..."<sup>v</sup>

Here, *sukūn* means more than physical closeness. It refers to emotional support, mental peace, and mutual understanding. In this way, Islam elevates

marriage into a partnership of shared goals, respect, and divine purpose. It's not transactional; it's spiritual and ethical.

To protect this sacred bond, Islam strictly forbids all forms of extramarital sexual relationships. The Qur'an repeatedly urges believers to get married in order to live morally and to maintain social order. One of the most touching metaphors in the Qur'an says:

"They (your wives) are a garment for you, and you are a garment for them."<sup>vi</sup>

This verse expresses how spouses protect, comfort, and complete one another, like clothes that cover, shield, and beautify. The relationship is mutual, not one-sided.

Marriage in Islam is not optional for society; it is a communal obligation (*farḍ kifāyah*) for those capable of fulfilling its conditions. Through it, Islam seeks to support procreation (*nasl*), protect lineage (*ḥifẓ al-nasab*), and guide human desires into ethical boundaries. However, not every marriage arrangement is accepted. Islam clearly condemns forms of marriage that contradict its moral goals. These issues will be discussed in more detail later in this paper.

### **Marriage in Islam: A Legal Perspective on Nikāḥ**

Marriage is a timeless institution found in every human society. In Islam, it holds a unique place as both a sacred covenant (*ʿaqd*) and a legally binding contract (*nikāḥ*), designed to provide lawful companionship, ensure moral intimacy, and preserve lineage (*nasab*). It is not merely a social tradition but a system rooted in divine guidance and human responsibility.

Islamic marriage is flexible enough to accommodate social change while remaining faithful to spiritual and legal principles. As Mohammad Hashim Kamali observes, modern realities, like late marriages, intercultural unions, economic pressures, and state regulation, call for renewed *ijtihād* (independent reasoning) within *Sharīʿah* to meet contemporary challenges without compromising core values.<sup>vii</sup>

#### **The Legal and Moral Nature of Nikāḥ**

The *nikāḥ* ceremony is the formal act that brings a Muslim couple into a lawful marital relationship. According to *Sharīʿah*, the contract is valid when:  
Both the bride (*ʿarūs*) and groom (*ʿarīs*) express mutual consent (*ījāb wa qabūl*),  
At least two adult Muslim male witnesses (*shāhidayn*) are present,  
A *mahr* (dower) is offered by the groom to the bride,

#### **The marriage is publicly acknowledged.**

This contract is usually officiated by a religious scholar (*ʿālim*) or a judge (*qāḍī*), and it transforms the couple's relationship from a private emotional bond to a legally recognized union. The Qur'an describes marriage as a solemn covenant:

"And they (your wives) have taken from you a firm covenant".<sup>viii</sup>

This emphasizes that marriage is not just a verbal agreement, it is a deep moral commitment backed by law.

## Social and Spiritual Foundations

The purpose of marriage in Islam goes beyond companionship. It is rooted in emotional well-being, mutual care, and spiritual tranquility. The Qur'an beautifully summarizes this:

“And among His signs is that He created for you from yourselves spouses so that you may find tranquility in them; and He placed between you affection and mercy.”<sup>ix</sup>

“They are a garment for you, and you are a garment for them.”<sup>x</sup>

These verses point to marriage as a source of peace, love, and protection, a framework for emotional intimacy grounded in respect.

### Marriage in Legal and Sociological Thought

Marriage is not unique to Islam. Across cultures and legal systems, it is viewed as a legal status that creates mutual obligations. In secular law, marriage affects one's property rights, inheritance, tax status, and parental duties. As Stephen Michael Sheppard puts it:

“Marriage is a joining between two people that results in an agreement, a partnership, and a legitimate status... where each consents to share life's pleasures and burdens together.”<sup>xi</sup>

Early sociologists echo similar ideas. Edward Westermarck defined marriage as a social contract that regulates sexual behavior, assigns moral responsibilities, and provides economic protection to spouses and children.<sup>xii</sup> Bronislaw Malinowski emphasized that marriage ensures the proper upbringing and welfare of children, a view consistent with Islam's emphasis on lineage and family stability.<sup>xiii</sup>

## Popular Nikāḥ vs. Contemporary Adaptations

The most widely practiced form of marriage in Islam is what scholars refer to as the standard nikāḥ. This form adheres to all classical requirements: mutual consent, witnesses, mahr, and public declaration. It offers the full rights and responsibilities defined under Sharī'ah, including maintenance (nafaqa), cohabitation, inheritance, and child legitimacy (maḥallī al-nasab).<sup>xiv</sup>

In contrast, some modern marriage forms, like misyār and mut'ah, depart from this standard. These models often involve waivers of certain rights (such as shared residence or financial support), and their legal status varies across Islamic schools of thought. While misyār is tolerated by some Sunni scholars as a solution to economic pressures, it remains controversial due to concerns about exploitation and secrecy.

Still, even these forms must fulfill the core legal elements of nikāḥ: mutual consent, witnesses, and mahr. The differences lie in additional conditions and societal implications, not the fundamental validity of the contract.

Islamic marriage is more than a private affair. It is a legal, moral, and spiritual institution that supports individual dignity, social harmony, and family



welfare. Rooted in divine wisdom and human compassion, nikāḥ continues to evolve through informed scholarship and cultural sensitivity. Whether viewed through the lens of Islamic jurisprudence, social science, or legal theory, marriage remains one of humanity's most vital institutions. In Islam, it represents a profound harmony between divine command and human need, legal clarity and emotional support, and social responsibility and personal happiness.

### **Contemporary Forms of Marriage: Nikah-e-Misyar**

Contemporary forms of marriage in the Muslim world, particularly Nikah-e-Misyar, have emerged in response to socio-economic pressures, legal reforms, and shifting cultural norms. These forms are often characterized by modifications to the classical Islamic model of marriage, primarily through the waiving of specific spousal rights. Among them, Nikah-e-Misyar, common in the Gulf region, is perhaps the most debated.

### **Definition and Legal Nature**

Nikah-e-Misyar refers to a marriage in which the wife voluntarily forfeits some of her marital rights—such as residence, maintenance (nafaqa), or equal time-sharing (qasm)—typically due to financial or personal considerations. Despite this unusual structure, the marriage is considered valid under Sunni jurisprudence, provided it meets the essential conditions (arkān) of an Islamic contract: mutual consent (ijab wa qabul), two adult Muslim witnesses (shāhidayn), a specified dower (mahr), and (according to some schools) the consent of a guardian (wali).

### **Linguistic and Juridical Origins**

The term "Misyar" comes from the Arabic root s-y-r, which means "to travel." As Ibn Manẓūr elaborates in *Lisān al-ʿArab*, the word is derived from the exaggerated form mifʿāl, indicating frequent movement. This etymology metaphorically reflects the nature of the marriage, where the husband "travels" to visit the wife rather than cohabiting with her.<sup>xv</sup>

### **Scholarly Definitions**

Dr. Yūsuf al-Qarāḍāwī defines Nikah-e-Misyar as:

"It is the sort of marriage where the man goes to the woman's house, and she does not move to his. This arrangement is common when the woman is a second wife and the husband already lives with his first wife, whom he financially supports".<sup>xvi</sup>

### **Dr. Wahba al-Zuhaylī describes it as:**

"A marriage concluded through offer and acceptance, with the presence of witnesses and a guardian, where the wife relinquishes her rights to housing, maintenance for herself and any children, and overnight stays with the husband".<sup>xvii</sup>

### **Similarly, Abdullah bin Salman bin Menie explains:**

"This marriage meets all the legal conditions, but the couple agrees that the wife has no right to cohabitation or equal division of nights. The husband may visit her at any time he wishes".<sup>xviii</sup>

## Juristic Views

Among Sunni scholars, the validity of Nikah-e-Misyar is a subject of significant debate:

Supporters argue that it is a lawful contract offering an alternative to zina (fornication), particularly for women beyond marriageable age or those unable to afford traditional marriage.

Critics, including human rights groups, label it a veiled form of legalized prostitution, warning that it undermines the ethical goals (maqāṣid) of Islamic marriage.<sup>xix</sup>

## Social Impact and Criticism

Nikah-e-Misyar is increasingly practiced in Saudi Arabia and other Gulf countries, largely due to rising living costs, unemployment, and changing gender dynamics. It is often kept secret and short-lived, with husbands visiting occasionally. In some cases, it serves as an informal method of polygamy, where the first wife is unaware of the second marriage.<sup>xx</sup>

### According to Dr. Ahmad bin Musa al-Sahli:

"The term 'Misyar' first appeared in the Najd region and then spread elsewhere".<sup>xxi</sup>

Nikah-e-Misyar occupies a complex legal and ethical space. While technically valid under Islamic law, it raises serious questions about gender justice, exploitation, and the long-term implications for Muslim family structures. Whether seen as a pragmatic solution or a problematic deviation, it remains a significant topic in contemporary Islamic legal discourse.

## Maysaf Marriage: Socio-Religious Legality or a Masked Exploitation?

Following the model of Nikah-e-Misyar, Maysaf represents yet another contractual form of contemporary marriage practiced within some Sunni communities, predominantly in the Gulf. Unlike Misyar, however, Maysaf marriages have generated deeper controversies due to their consistent association with exploitation, tourism, and covert sexual relations under religious guise.

## Definition and Typologies

Maysaf, often termed the "Summer Holiday Marriage", refers to temporary unions conducted by wealthy men—often from Gulf states such as Saudi Arabia—during travel to economically disadvantaged Arab countries. As described by reports:

"Maysaf marriage is likewise called Summer Holiday marriage. This travel industry marriage is a typical practice among Saudis and Salafis who spend their mid-year occasions in other Arab nations and endeavour the helpless young ladies having a place with 9–16 age bunches primarily for the sake of phony relationships with the assistance of go between who are paid in weighty sums for these marriage plans".<sup>xxii</sup>

### **These exploitative unions typically fall into two categories:**

**Informed Consent with Compensation:** The girl is informed that the marriage will be temporary and sexual in nature. Upon agreeing, she is paid a substantial amount prior to the contract.

**Deception and Abandonment:** The girl and her family are unaware of the temporary nature. They believe it to be a permanent Islamic marriage, expecting the husband to return or take the wife to his home country. However, after spending a short time, the husband vanishes without legal recourse for the abandoned girl.<sup>xxiii</sup>

Such marriages have affected thousands of underprivileged Muslim girls, many of whom, after abandonment, fall into cycles of **social stigma** or **prostitution**.

### **Legal and Social Standing**

While Maysaf arrangements are allegedly solemnized through *ijab* (offer) and *qubul* (acceptance), the contract often lacks documentation, public announcement, and consistent cohabitation—cornerstones of valid *nikāḥ* in most Islamic legal frameworks.

### **Some scholars and analysts argue that:**

“Maysaf marriage can be named as a Sunni comparable to the Shia concept of temporary marriage (*Mut‘ah*), with the distinction that it lacks legal structure or official time limitation. The relationship is often hidden from family and state authorities”.<sup>xxiv</sup>

### **Political and Militant Misuse**

The phenomenon is further complicated when used by militant Islamist groups. Reports have surfaced about groups such as al-Takfir wal-Hijrah utilizing Maysaf marriages to legitimize **sexual access** to female followers or the daughters of high-ranking recruits. In these cases, marriage becomes a **tool of loyalty, initiation, and control** within radicalized movements.<sup>xxv</sup>

### **Religious Legitimacy and Ethical Crisis**

Though often justified as valid under Shar‘ī terms due to offer, acceptance, and witnesses, Maysaf marriages violate ethical and moral underpinnings of Islamic marriage which emphasize permanence, protection (*nafaqa*), family integrity, and transparency. These marriages—when hidden, deceptive, or coerced—challenge the legitimacy of their Shar‘ī foundation.

Thus, while framed under the **external legality of Nikah**, Maysaf marriages in many instances operate in the shadow of exploitation. The blurred boundary between *ḥalāl* union and legitimized sexual tourism calls for **renewed ijtihād**, state regulation, and transnational Islamic scholarly engagement to preserve the sanctity of marriage and to protect vulnerable populations.<sup>xxvi</sup>

### **Nikah al-Muhallil: Legal Repair or Religious Mockery?**

Another widely discussed and controversial practice in contemporary Islamic marital discourse is *Nikah al-Muhallil*, also referred to as *tahleel*



marriage or intervene marriage. The term derives from “ḥalāl,” connoting the act of making something permissible, specifically a woman returning to her first husband after an irrevocable divorce.

### **Nikah al-Muhallil refers to:**

“Wedding a lady that has been trebly separated, on the state of his separating from her after culmination of the marriage, all together that she may get legitimate to be remarried to the previous spouse. On the off chance that the subsequent spouse has proposed to wed such a lady only for legitimizing her for her previous husband, or on the off chance that they previously conceded to this, such marriage is invalid as indicated by Islamic Shariah.” This formulation is directly grounded in hadith literature:

“Allah has cursed the one who makes tahleel (the temporary husband) and the one for whom it was made ḥalāl (the first husband).”<sup>xxvii</sup>

According to majority Sunni jurists—Hanafis, Malikis, Shafi‘is, and Hanbalis—if a man marries a thrice-divorced woman with a precondition or mutual agreement that he will divorce her after consummation, such a marriage is invalid and considered ḥarām. However, if no pre-condition exists but divorce happens voluntarily after consummation, the marriage is technically valid, though discouraged (karāhah).

In contrast, some jurists from the Zahiri school and the Twelver Shia (Ja‘fari) perspective permit the marriage’s formal validity so long as the contractual process and witnesses are fulfilled, regardless of intention. Still, the spirit of Islamic marital law strongly discourages deceit and manipulation of divine boundaries.

The phenomenon is not only of doctrinal concern but also one of growing misuse in South Asian and Gulf regions, where some clerics even commercialize such marriages, charging fees to act as muhallil. Pakistani courts and family law systems have seen litigations where such contracts were challenged for violating the moral objectives of Shari‘ah.

This renders Nikah al-Muhallil a practice in which religious formality is manipulated to override ethical boundaries, posing a severe challenge to both fiqh and modern legal sensibilities. Renewed juristic reflection is essential to confront its abuse and restore the maqāṣid (objectives) of Islamic marriage—protection, dignity, and permanence.

### **Nikah al-Mut‘a: Permissible Contract or Permitted Exploitation?**

Unlike Maysaf, which lacks legal clarity and is often predatory, Nikah al-Mut‘a—a fixed-term marriage—is explicitly recognized in Ja‘fari (Twelver Shia) jurisprudence and rejected by Sunni legal schools. The Arabic term Mut‘a stems from the root ma-ta-a, implying temporary benefit or pleasure. As clarified in the literature:

“Muta is an Arabic expression got from the action word ma-ta-a which can be characterized as, 'that which gives advantage, yet for a brief time,' and it can likewise allude to delight, joy and gratification”.<sup>xxviii</sup>

This concept appears in the Qur'an and the Prophetic tradition. It signifies a contract wherein a man agrees to provide compensation to a woman for a limited duration, in return for sexual companionship. There is mutual consent, no obligation of maintenance, and no inheritance between the parties. At the end of the period, the marriage dissolves automatically.

#### **According to Sheikh Muhammad Al-Hamid:**

“Mut'a is when a man gives a sum of money to marry a woman for a fixed term. When the term ends, the marriage dissolves without divorce. There is no requirement for maintenance or housing, the woman observes a waiting period ('iddah) of two menstrual cycles, and there is no mutual inheritance if either dies before the term ends.”

#### **Imam al-Shāfi'ī is reported to have said:**

“Nothing in Islam has been permitted, then prohibited, then permitted, and then prohibited—except Mut'a.”

Mut'a was practiced in pre-Islamic Arabia, not only for gratification but as a socio-political tool. As Robertson Smith noted, it helped outsiders gain tribal protection through temporary marital affiliation.<sup>xxix</sup>

The practice remains permissible and institutionalized in Ja'fari law. However, Sunni jurisprudence—including the Ḥanafī, Mālikī, Shāfi'ī, Ḥanbalī, and Zāhirī schools—have unanimously declared it unlawful, equating it with exploitation or even legalized prostitution due to the lack of permanence, inheritance, and financial obligation.

Further religious and philosophical challenges to Mut'a rest in the Qur'anic notion:

“And the life of this world is only a deceiving enjoyment (matā')”.<sup>xxx</sup>

“The world is a commodity (matā'), and  
its best commodity is a pious woman”.<sup>xxxi</sup>

While Shia scholars frame Mut'a as a pragmatic response to social needs, Sunni critics argue it violates the Qur'anic spirit of enduring family structure. As such, the debate around Nikah al-Mut'a continues to reflect **deep jurisprudential divisions** and **modern ethical dilemmas**, particularly in its application among youth and migrants across contemporary Muslim societies.

#### **Secret Nikah: Between Shar'ī Validity and Legal Obscurity**

A secret Nikah may appear in two primary forms: First, where all essential components of a valid Islamic marriage are present—ijab (offer), qubul (acceptance), presence of a wali and two witnesses—but the ceremony is kept hidden from public knowledge. Second, where the marriage occurs without the presence of witnesses or wali, known only to the bride and groom. The Prophet Muhammad ﷺ emphasized public announcement of marriage, stating:

"فصل ما بين الحلال والحرام الدف والصوت في النكاح".

"The distinction between the lawful and the unlawful is the beating of the tambourine and vocal expression in marriage" (Reported in al-Tirmidhī).

This Hadith underscores the importance of *ishhār* (publicity) in marriage to prevent hidden arrangements that could lead to doubt, denial of rights, or social abuse. Secret marriages—especially those without witnesses—are considered invalid by the majority of Sunni jurists, including the Mālikī, Shāfi‘ī, and Ḥanbalī schools.

The Ḥanafī school, while acknowledging minimalistic compliance when witnesses are present, still disapproves of secrecy, seeing it as contradicting the ethical goals of marriage. In contrast, Ja‘farī jurisprudence places less emphasis on *ishhār*, focusing instead on consent and legal structure.

In conclusion, secret Nikah arrangements may possess formal Shar‘ī validity under specific jurisprudential opinions but remain legally ambiguous and ethically questionable in most contexts, particularly where the rights of the wife or children are at stake.

### **Reasons Behind Misyar Marriages**

Misyar marriage, also known as “visitation marriage”, has gained popularity in several Arab Gulf countries as a response to increasing socio-economic pressures. This form of marriage, where the wife voluntarily relinquishes certain marital rights (such as financial support, shared residence, or equal time with the husband), is viewed by many women as a practical alternative to either remaining unmarried or entering socially frowned-upon relationships.

One major factor contributing to the rise of misyar marriages is the high divorce rate in the Gulf Cooperation Council (GCC) countries. For example, in Qatar alone, official data revealed that more than 80 divorces among Qatari citizens occurred every month in 2009, and the national divorce rate increased dramatically, from around 4% in 1989 to over 30% by 2009 (Qatar Statistics Authority 2010, Population and Social Statistics Annual Report). This growing trend has alarmed social policymakers, especially because 67% of these divorces involved Qatari nationals, a rate far exceeding that among expatriate populations.

Social norms in these countries often stigmatize divorced women, widows, and older working women. Shereen El Feki notes that in such environments, many women feel marginalized in the traditional marriage market due to their age, employment, or prior marital status. For them, *misyār* becomes “a ray of hope,” allowing them to enter into a lawful relationship without violating cultural or religious norms<sup>xxxii</sup>.

Similarly, Islamic scholar Yūsuf al-Qaradāwī defends misyar as a Sharʿī (legally permissible) contract that can offer a solution to contemporary marital difficulties. He explains that the wife in misyar voluntarily waives her right to cohabitation and maintenance, often because she knows the husband already has another wife or cannot fully support a household. According to al-Qaradāwī:

“It is a marriage in which the man goes to the woman’s house, but she does not move into his. Usually, she is a second wife, and the husband continues to live with his first wife, supporting her financially”.<sup>xxxiii</sup>

Dr. Wahbah al-Zuhaylī, a leading authority in Islamic law, describes misyar marriage as a valid Islamic contract so long as it meets all legal conditions: consent (ijāb wa qabūl), witnesses, and mahr (dower). However, in this arrangement, the wife relinquishes rights like shared residence and financial support:

“It is a marriage concluded with mutual consent and the presence of witnesses and guardian, where the woman gives up her material rights such as housing and maintenance”.<sup>xxxiv</sup>

In practice, misyar marriages tend to appeal to men seeking flexibility, particularly those already married, and to women with fewer prospects for traditional marriage, such as widows, divorcees, or older career women. In some cases, it also serves as a religiously sanctioned way to avoid zināʾ (illicit sexual relations), especially for those facing delayed or unattainable traditional marriages due to economic hardship or social restrictions.<sup>xxxv</sup>

Despite this, misyar marriage remains controversial. Critics argue that it can be exploitative, particularly when used by wealthier men to bypass marital obligations or when vulnerable women agree out of desperation. For example, the CIF International Association has likened misyar to “legalized prostitution,” contending that it reduces marriage to a sexual arrangement lacking long-term commitment and protection”.<sup>xxxvi</sup>

Nevertheless, in countries like Saudi Arabia, misyar has become increasingly common due to rising inflation, youth unemployment, and the high costs of traditional weddings. According to Gulf News, these socioeconomic trends have encouraged more couples to opt for misyar as a practical alternative.<sup>xxxvii</sup>

Misyar marriage has emerged as a response to real-world problems: high divorce rates, shifting gender roles, economic instability, and changing family structures. While it fulfills the technical requirements of Islamic marriage, it also reflects the complexities and inequalities of modern Muslim societies, sparking both legal acceptance and ethical concerns among scholars and communities alike.

### **Origin of Nikāḥ al-Misyār (Misfar)**

Nikāḥ al-Misyār, often translated as “visitation marriage”, is not a modern invention but rather a revival and formalization of earlier marriage practices that existed in Arab societies. It first gained prominence in Saudi Arabia, specifically

in the region of al-Qasim, and gradually spread to other parts of the Arab world such as Egypt, Sudan, Lebanon, Algeria, and Afghanistan.

Its contemporary legal recognition began when major scholars and fatwa authorities approved it. Among the earliest supporters were Shaykh ‘Abd al-‘Azīz ibn Bāz, the former Grand Mufti of Saudi Arabia, and Shaykh Muḥammad Sayyid Ṭanṭāwī, the former Grand Imam of al-Azhar. Their endorsements opened the way for wider acceptance in religious circles.

In April 2006, the Islamic Fiqh Academy (Majma‘ al-Fiqh al-Islāmī), during its 18th session held in Makkah, formally recognized misyar as a valid form of marriage under Sharī‘ah, provided it meets the basic legal requirements such as consent (ijāb wa qabūl), presence of witnesses (shāhidayn), and the provision of mahr (dower).<sup>xxxviii</sup>

According to Dr. Nūr Muḥammad ‘Uthmānī, many contemporary Islamic jurists support this marriage model. He cites Shaykh Yūsuf al-Qaraḍāwī, who stated that:

“A large majority of scholars today are in favor of the legitimacy of Nikāḥ al-Misyār. At a recent international Fiqh convention in Doha, Qatar, over twenty prominent scholars agreed that misyar is legally valid under Islamic law. Even those few who opposed it did not declare it ḥarām (forbidden), but simply warned that it may open the door to unethical consequences or social harm, which is why they preferred it to be discouraged as a precaution.”<sup>xxxix</sup>

Importantly, some scholars argue that misyar is not an innovation (bid‘ah) but a revival of older marital customs. In pre-modern Arabia, daytime marriages, known in Fiqh literature as Zawāj al-Nihāriyyāt, were practiced by merchants and travelers who could not spend nights with their new wives. These arrangements resemble misyar in that the couple would agree to meet during the day, while the husband would return to his first wife at night.

### **As Irfān al-Dimashqī writes:**

“Books of classical Islamic jurisprudence refer to such marriages under the name al-Nihāriyyāt, ‘daytime marriages’. It means one of the spouses sets the condition that their relationship will be limited to daytime visits, out of concern for the husband's overnight obligations to another wife. This feature makes such arrangements very close to the modern idea of misyar.”<sup>xl</sup>

Allāmah Ibn ‘Ābidīn al-Ḥanafī, a classical scholar of the 19th century, **confirms this by stating:**

“There is no objection to a man marrying a woman on the condition that he will only visit her during the day and not at night.”<sup>xli</sup>

Other classical jurists such as al-Ḥasan al-Baṣrī and ‘Aṭā’ ibn Abī Rabāḥ also accepted the reasoning behind such arrangements. ‘Āmir ibn al-Mushāyy was asked:



“What if a man has one wife and marries another with the condition that he will stay with the new wife only one day for every two days spent with the first wife, is that permissible?”

**He replied:**

“There is nothing wrong with that.”

Even though the term *misyār* is modern and colloquial, the legal rationale and structure behind it has historical roots in Islamic jurisprudence. The flexibility it offers, particularly for older, divorced, or financially independent women, has led many scholars to accept it as a valid option, provided it is free from deception, exploitation, or harm.

The Jurists and Religious Scholars in Favour of *Nikāḥ al-Misyār*

A significant number of contemporary Islamic jurists and religious scholars have expressed support for *Nikāḥ al-Misyār*, viewing it as a practical solution for certain social and moral challenges of the modern era. These scholars argue that this form of marriage fulfills all essential *Sharʿī* (Islamic legal) requirements, and therefore cannot be classified as invalid. They emphasize that it offers a lawful outlet for individuals, particularly women facing complex circumstances, to maintain dignity and chastity within the bounds of *Sharīʿah*.

**Shaykh Nāṣir Farīd Wāṣil**

**The former Grand Mufti of Egypt declared:**

“This marriage is correct. It is one hundred percent valid as all the fundamental components required by *Sharīʿah* are present.”<sup>xlii</sup>

**Shaykh Ṣāliḥ al-Ṣidlān**

A prominent scholar from Saudi Arabia, he stated:

“This type of marriage appears to be in accordance with *Sharīʿah*. There is no prohibition in it, as long as it includes the consent (*ijāb wa qabūl*) of both spouses, the presence of a guardian (*walī*), witnesses (*shāhidayn*), and the dower (*mahr*).”<sup>xliii</sup>

**Shaykh Maṣṣūr al-Rifāʿī ʿUbayd**

**A former legal expert at the Egyptian Ministry of Religious Affairs, commented:**

“*Nikāḥ al-Misyār* is not prohibited, as it contains all the essential conditions for a valid Islamic marriage, including the presence of a *walī*, public announcement, witnesses, and *mahr*. Once these elements are met, the marriage is *Sharʿī* and therefore permissible.”<sup>xliv</sup>

**Shaykh ʿAbd al-ʿAzīz ibn Bāz**

The former Grand Mufti of Saudi Arabia offered an extensive legal reasoning:

“In *Nikāḥ al-Misyār*, all essential elements of a valid marriage are present, the consent of both parties, the presence of a *walī*, two upright witnesses, and no involvement in a prohibited type of union. The Prophet (peace be upon him)

said: ‘The most binding of conditions are those that permit sexual relations’ (aḥaqqu mā awfaytum min al-shurūṭ an tuḥillū bihā al-furūj) and, ‘Muslims must honor their conditions’ (al-Muslimūn ‘inda shurūṭihim), provided these conditions do not lead to anything ḥarām. Therefore, if the couple agrees that the wife will remain with her family or that the husband will only visit during certain times (daytime, fixed days, etc.), and the marriage is declared publicly, not kept secret, then such a Nikāḥ is lawful.”<sup>xlv</sup>

### **Shaykh ‘Abd al-‘Azīz ibn ‘Abdallāh Āl al-Shaykh**

The current Grand Mufti of Saudi Arabia stated:

“This marriage is valid so long as its essential components, conditions, and formal agreement are present. There must be no ambiguity or hidden deception between the spouses. Any agreed-upon terms must be respected.”<sup>xlvi</sup>

### **Shaykh Ibrāhīm Ṣāliḥ al-Khaṭīrī**

**He elaborated on the necessity of such marriage:**

“Given today’s circumstances, Nikāḥ al-Misyār is lawful and necessary. When men fear falling into unlawful relationships and women are in need of a protector to guard their dignity, such marriage provides a lawful and moral outlet. Islam allows more than one wife, and this form of marriage protects women’s virtue in difficult life situations.”<sup>xlvii</sup>

### **Shaykh Wahbah al-Zuhaylī**

A leading Syrian jurist and author of *al-Fiqh al-Islāmī wa Adillatuhu*, he emphasized the legal form over formality:

“Any marriage that fulfills the elements (arkān) and conditions (shurūṭ) of a valid Nikāḥ is correct and permissible, as long as it does not serve as a cover for committing what is ḥarām (forbidden).”<sup>xlviii</sup>

The scholars above consistently affirm that Nikāḥ al-Misyār meets the legal minimums under Islamic law: consent, witnesses, guardian, dower, and public declaration. Their arguments are grounded in the classical Islamic legal tradition, supported by ḥadīth, and adapted to contemporary social realities.

### **Arguments Against Nikāḥ al-Misyār and Other Forms of Temporary Marriage**

While some contemporary scholars permit Nikāḥ al-Misyār, a significant number of jurists and Islamic legal committees reject or discourage it, arguing that it undermines the objectives of marriage in Islam (maqāṣid al-nikāḥ) and compromises the essential rights of spouses, especially women.

### **1. Failure to Fulfill Marital Justice**

Many scholars, including Shaykh Nāṣir al-Dīn al-Albānī, Shaykh Muḥammad Ṣāliḥ al-Munajjid, Prof. al-Jubūrī, and Prof. Sa‘ūd Ibrāhīm, argue that Nikāḥ al-Misyār contradicts the Qur’anic requirement of justice among wives. They refer to Qur’ān 4:3, which states:

"If you fear that you will not deal justly with the orphans, then marry those that please you of [other] women—two, three, or four. But if you fear that you will not be just, then [marry only] one... That is more likely to prevent you from doing injustice."<sup>xlix</sup>

The concern is that *Nikāḥ al-Misyār* typically includes unequal treatment, such as limited time, lack of financial support, or concealment, violating the requirement of fairness (‘*adl*) among co-wives.

## 2. Denial of Financial Maintenance

Another core criticism is the waiver of the wife’s right to financial support (*nafaqa*) in *Nikāḥ al-Misyār*. Critics highlight that Islam obliges the husband to provide food, clothing, and shelter, regardless of any contractual condition. The Qur’ān declares:

"Let the man of wealth spend according to his means, and the one whose provision is restricted—let him spend from what Allah has given him. Allah does not burden a soul beyond what He has given it. Allah will bring about ease after hardship."<sup>l</sup>

Waiving *nafaqa* contradicts this obligation. Scholars argue that such conditions are un-Islamic and void, as they attempt to nullify a divinely mandated duty.

## 3. Violation of Women’s Rights

The Prophet Muḥammad (peace be upon him) emphasized the importance of fulfilling women's rights in marriage. In his Farewell Sermon, he instructed:

"Fear Allah concerning women. Verily, you have taken them on the security of Allah, and intercourse with them has been made lawful for you by the word of Allah. Their rights upon you are that you provide them food and clothing in a kind and reasonable manner."<sup>li</sup>

Similarly, in another report, when asked about a wife's rights, the Prophet (PBUH) said:

"Feed her when you eat, clothe her when you clothe yourself, do not strike her on the face, and do not revile her or leave her except within the house."<sup>lii</sup>

Thus, the practice of *misyar*, where a wife may be denied residence or sustenance, is seen as contradicting both ethical and legal responsibilities of the husband.

## 4. Injustice Among Co-Wives

Islam permits polygyny only with the condition of justice among wives. The Prophet (peace be upon him) warned explicitly:

"If a man has two wives and he does not treat them equally, he will come on the Day of Judgment with one side of his body leaning (paralyzed)."<sup>liii</sup>

*Nikāḥ al-Misyār* often results in neglect of emotional, financial, or physical obligations, creating inequality that falls under this prophetic warning.

## 5. Secret Marriages and Lack of Publicity

Many misyar marriages are kept hidden, particularly from the husband's first wife or the public. Scholars emphasize that Islam requires the public declaration of marriage to prevent suspicion and ensure social responsibility. The Prophet (PBUH) said:

"The distinction between the lawful (ḥalāl) and the unlawful (ḥarām) is the [announcement with] the duff (drum) and vocal proclamation at the time of marriage."<sup>liv</sup>

A hidden or secret marriage (nikāḥ sirr) is highly discouraged, if not outright forbidden, by most jurists, as it opens the door to exploitation and social harm.

Many leading Islamic authorities, including members of al-Azhar's Fatwa Committee, argue that Nikāḥ al-Misyār undermines the spirit and substance of Islamic marriage, even if it meets the formal conditions. They emphasize that marriage is not merely a legal contract, but a comprehensive commitment to love, justice, sustenance, companionship, and social responsibility

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<sup>iii</sup> Kamali, Mohammad Hashim. *Shari'ah Law: An Introduction*. Oxford: Oneworld Publications, 2008, 205

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<sup>v</sup> Qur'an 7:189

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<sup>xv</sup> Ibn Manẓūr. *Lisān al-'Arab*, Vol. 4. Beirut: Dār Ṣādir, vol. 4, p. 389

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<sup>xviii</sup> Abdullah bin Salman bin Menie, *Fatawa*, *Majallat al-Dawah*, Rabi' al-Awwal 1423 H, p. 56

<sup>xix</sup> CIF International Association. "Legalized Prostitution in Saudi Arabia." July 11, 2013. <http://www.cifiaonline.com/prostitutionlegalized.htm>

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