

TYOLOGY OF EAST JAVA KIYAI IN RESPONSE TO MISYA<R MARRIED PRACTICE PHENOMENA

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ABSTRACT--East Java is the largest province of the number of Islamic Boarding School (Pesantren). So pesantren graduates become religious leaders who have a variety of thoughts. These figures are usually called kiyai (scholar). There are four typologies of East Javanese chaplain in understanding the practice of mating misya>r. First, the kiyai whose way of thinking is based on the instinct or intuition of the inner eye. This type of thinking model includes the typology of gnostic thinking. In responding to misya>r marriage, they argued that marriage misya>r should not be carried out absolutely, because this marriage had deviated from the original purpose of to be shari>'ah it and also in practice found deviations. **Second**, the kiyai whose way of thinking always puts forward the facts seen. This type of thinking model is a typology of positivistic thinking. In response to misya>r marriage, they argue that marriage is only allowed in the Middle East and cannot be done in Indonesia. That is because the condition of the Middle East community is different from the Indonesian people. Third, the kiyai whose way of thinking only pays attention to the sacred texts without regard to the condition of the community. This kind of thinking model includes the rhetorical thinking typology. In response to misya>r marriage, they argue that the practice of marrying misya>r may be carried out absolutely, because the elements of Islamic marriage have been fulfilled. **Fourth**, the kiyai whose way of thinking always combines text with context. This kind of thinking model includes the typology of demonstrative thinking. In connection with the marriage of misya>r, they argue that this marriage model cannot be done in all places, but for Middle Eastern people and their homes in the Middle East, it is permissible to choose the marriage model for misya>r, provided that they must follow the prevailing laws and regulations in his country.

Keywords-- Typology, NU, Misya>r.

I. INTRODUCTION

Times change rapidly, so human behavior also changes. The socio-economic, socio-political and social-religious systems have all undergone many changes. Good changes are becoming more positive, for example the economic system and the political system. However, not a few have experienced setbacks and are getting worse. Such as in the world of marriage, there are several marriage models that do not match the purpose of marriage. one of the names of the marriages is married Muh }ammad Yu>suf al-Qard }a>wi> - the 'ulama>' who first popularized and justified the practice of marrying *misya>r* through his fatwa>affirms that marriage is a marriage made by a man with a wealthy woman, with the intention only temporarily, and the man is not required to pay the cost and place of residence to the wife. He is only obliged to give biological satisfaction to the wife, and usually a husband

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and wife in marriage do not live in one house, the husband lives in his own house and so does the wife. However, when they need a husband-wife relationship (*jima*'), then they will make an agreement regarding the time and place.

The emergence of a marriage model of *misya*'r raises the pros and cons among the scholars. Some support and some oppose it. As for the supporters of mating r is the majority of Saudi Fiqh Scholars who are members of an organization called *Majma' 'Ulama' Fiqh* (MUF) which allows marriages r with strict conditions. The MUF scholars included Shaykh Muh }ammad Ali and Shaykh Bakr Abu > Zayd who argued that the marriage of *misya*'r was a solution for economically established widows. According to them, this marriage model is valid by law, while the problem of transferring rights and obligations from a husband to a wife is not a problem.

Although there are scholars who support the marriage of this Mass, there are not a few scholars who strongly oppose the practice of marrying Mass. The scholars who opposed the marriage said that such marriages could not fulfill the purpose of the implementation of the marriage in a *shar'*. This kind of marriage is only an outlet for lust and is limited to seeking pleasure, even though the initial purpose of marriage is to make husband and wife live together, night and day, summer or winter. In practice, marrying *misya*'r, husband and wife do not live at home. The husband lives on his own house, as well as the wife. However, when a wife needs the presence of a husband, he (husband) must fulfill it.

The religious scholars who oppose marriage are more concerned about the negative impact on domestic life and society if they have offspring, the child cannot feel the integrity of a household. The reason is that the majority of these marriages - especially for those who are married - are not followed by *isha*'r (notification to the general public), this marriage is silent and secret, of course afraid of being caught by someone especially his old wife.

Another concern for opponents of the practice of mission is that they will make this practice of marriage a land of extortion and male rape of women's rights. When a man feels that the woman he wants to marry is in dire need, while the woman has a number of wealth and valuables, the man will always press and ask the woman to surrender all the property.

In practice, marrying *misya*'r involves *kiyai* or religious leaders - at least *mudin*, namely religious leaders in the village or village level who are in charge of marriage, death, *tahlilan* and others. With their role, this practice of mating is often found in East Java.

In this case of marriage, the figure of the *kiyai* becomes very important in its role in the continuation of the marriage contract model of the *misya*'r. The role of the *kiyai* in the practice of mission is various. Some act as husbands, as Dono did. There are those who act as intermediaries, witnesses, guardian judges, and there are also those who play the role of readers. The role of being the guardian of judges and readers of this prayer is mostly done by *kiyai*.

The *kiyai* in East Java who were involved in the practice of marrying *misya*'r allowed the practice of marrying *misya*'r with various arguments. *Kiyai Fata*, for example, argued that the marriage model, for example, had fulfilled elements in marriage, so there was no reason to ban it. While *Anas* argues that women who marry *misya*'r widows who are well established in terms of their mind and economy. Therefore, when they marry they do not need the guardian's approval. There are still many arguments made by the practitioners of *misya*'r.

At first glance, researchers observed that the *kiyai* involved in the practice of marrying *misya*'r in fact included in the category of NU *kiyai*, both Structural and NU Culture. From here, researchers are interested in

checking the opinions of the East Java NU *kiyai* regarding the marriage model for example. There were a number of East Java NU scholars who were successfully met by researchers. The result is that they differ in their understanding, especially the law related to marriage tactics. Zaen, for example, said that the practice of marrying *misya>r* could be done because the terms and conditions of marriage were fulfilled. In contrast to Zaen, Faishal emphasized that the practice of *misya>r* must be prohibited, because the negative effects are extraordinary, especially for children who will be produced from this *misya>r* marriage.

Not much different from Zaen, Ali asserted that the *misya>r* marriage carried out by widowed women was legitimate, because according to the sect of H}anafii>, a widow was more entitled to marry or not. That is, when he marries without the guardian's knowledge, his marriage is considered valid.

Kiyai NU does have its own concept in terms of formulating and simultaneously addressing the problems of Muslims. They use the references of the opinions of the scholars who are in fiqh, then find out as much as possible the basis of the Qur'a>n and H}adi>th. Thus, the results of the formulation and solution of fiqh answers offered by NU *kiyai* are very distinctive, in contrast to fiqh formulations outside NU.

II. CHARACTERISTICS OF 'ULAMA>'S THOUGHT

In outlining the characteristics of 'ulama>'s thought, of course the author describes the characteristics of 'ulama>'s thought in general — not only the NU 'ulama>' community. Therefore, the author quotes many descriptions and terms conceptualized by Muhammad 'A<bid al-Ja>biri>, especially in the book of *Bunyat al-'Aql al-'Arabi>: Dira>sah Tah}li>liyah Naqdiyah Li Naz}m al-Ma'rifah fi> al-Thaqa>fah al-'Arabiyah*. In this book, al-Ja>biri> explains the criticism of the reason of the Arab scholars. He explained that the constituents of 'ulama>'s mind can be classified into three trends: *al-'aql al-baya>ni>* (rhetorical sense), *al-'aql al-'irfa>ni>* (gnostic sense), and *al-'aql al-burha>ni>* (demonstrative sense), each of which has its own cognitive field.

Muhammad 'A<bid al-Ja>biri> begins his criticism by examining the growth of the Arab 'ulama>'s sense of reason which he calls the rhetorical sense (*al-'aql al-baya>ni>*). This reason which is represented by Arabic, fiqh proposals, and kalam science is the product of the genius of the Arabs who unfortunately cannot develop anymore, because it has reached the climax of its maturity, the codification era.

After that al-Ja>biri> stepped into the entry of two other models of thought in the world of Arabic thought, namely gnostic reason and demonstrative reason. Al-Ja>biri> refers to the first as *al-'aql al-mustaqil* (reason-reasoning resigning that stabs him). Because this reason is actually used to provide rational proof of sense impotence. The gnostic mind was the result of adopting the teachings of Hermetism and neo-Platonism. In the history of Islamic philosophy, this sense reached the peak of maturity in the hands of Ibn Sina and won the crown of glory in the hands of al-Ghaza>li>. Whereas reason "the second infiltration is demonstrative reason, which originates from the texts of Aristotle's philosophy. This reason began to be popularized by al-Ma'mu>n, but it was only able to develop normally on the Andalusian Peninsula, especially in the hands of the great Arab philosopher, Abu al-Wa>lid Ibn al-Rushd.

In the codification era of the middle of the second *Hijriyah* above, there were three ideological-political-populist forces fighting each other. First, the Caliphate of the Abba>siyyah Dynasty with Baghdad as its capital. Second, the power of Shi>'ah presented politically by the Fa>t}imiyyah Dynasty in Egypt and was represented

socially by the propagandists Shi>'ah Isma>'iliyyah in Central Asia. Beginning with the Shi>'ah who adopted the teachings of Neo-Platonism Hermetism to support their political theses about the infallibility of the priest. The Abbasid powers also fought it with rhetorical sense weapons (*al-'aql al-baya'ni*), and subsequently--during the time of al-Ma'mun-- also using demonstrative reason (*al-'aql al-burha'ni*) as a 'strategic reserve force' to support the rhetorical sense that is starting to be overwhelmed. That is the most appropriate recitation of the "political dream" of al-Ma'mun's encounter with the First Grand Master, Aristotle.

III. RHETORICAL THOUGHT MODEL

The rhetorical model of thinking has long been used by the *fuqaha'*, *mutakallimu'n* and *us}u}liyyu'n*. Rhetorical reasoning is aimed at understanding or analyzing the text to find or get the meaning contained in *lafz}*, in other words this sense is used to extract the meaning *z}a}hir* from *lafz}* and *'iba}rah* which also *z}a}hir* and *istinba}t}* the laws of *al-nus}u}s}* *al-di}niyyah* and al-Qur'a'n in particular.

In the simplified language of philosophy, the use of rhetorical reason can be interpreted as a model of thinking based on text. In this case the sacred text that has full authority determines the direction of the truth of a *kita}b}*. The function of reason is only as guardian of the meaning contained in it. The meaning contained in, desired by, and expressed through the text can be known by looking at the relationship between meaning and *lafz}*.

Because the domination of the text is so strong, in the rhetorical approach, the role of reason is only limited to a means of justification or justification for texts that are understood or interpreted. In its application, the rhetorical approach will enrich the science of Jurisprudence and the proposal of Jurisprudence, especially the *Qawa'id al-lughah*.

However, that means not without weakness. A striking weakness in rhetorical reason is when it comes to dealing with different texts, belonging to the community, nation, or other society. Because authority is in the text, and the ratio only serves as the guardian of the text, while a text is not necessarily accepted by other groups, then when dealing, rhetorical reasoning produces a dogmatic, defensive and apologetic mental attitude

IV. GNOSIS THOUGHT MODEL

Gnosis (*'irfa}n}*) contains several meanings, including: knowledge or *ma'rifah*; the inspiration and *kashf* method which was known long before Islam; and *al-gha}nus* or gnosis. When gnosis was adopted into Islam, gnosis experts made it easy to talk about; attempt to expose the discourse of *qur'ani* and expand its *'iba}rah* to increase meaning. So the gnosis approach is an approach used in the study of Islamic thought by *mutas}awwifu'n* and *'arifu}n* to issue the meaning *ba}t}in* from *ba}t}in lafz}* and *'iba}rah* it is also *istinba}t}* *al-ma'rifah al-qalbiyyah* from the Qur'a'n.

Gnosis reasoning is an understanding that relies on the instrument of inner experience, *dhawq*, *qalb*, *wijda}n}*, *bashi}rah* and intuition. While the method used includes *manhaj kashfi}* and *manhaj iktisha}fi}*. *Manhaj Kashfi}* is also called *manhaj ma'rifah* which does not use senses or reason, but *kashf* with *riya}d}ah* and *mujah}adah*. *Manhaj iktisha}fi}* is also called *al-muma}thilah* (analogy), which is a method for revealing and discovering the secrets of knowledge through analogies. The *'irfaniyyun* do not deal with mythology, and even cleanse it from religious issues, and with the gnosis reasoning model they also seek to capture *h}aqi}qah* which

lies behind the *shari>'ah*, and what is in (*dala>lat al-isha>rah wa al-ramziyah*) behind the *z}a>hir (dalalat al-lughawiyyah)*. By paying attention to the two methods above, the source of knowledge in gnosis includes intuition and the text which is searched for inner meaning through *ta'wi>l*.

A concrete example of other gnosis thinking models is the *ishraqi* philosophy which views discursive knowledge (*al-h}ikmah al-ba>tiniyyah*) to be combined creatively in harmony with intuitive knowledge (*al-h}ikmah al-dhawqiyah*). With this integration the knowledge gained becomes enlightening knowledge, even reaching *al-h}ikmah al-h}aqi>qah*.

The implication of gnosis knowledge in the context of Islamic thought is to approach religions at the substantive level and the essence of their spirituality, and develop them with full awareness of the religious experience of others who have different accidents and expressions, but have more or less the same substance and essence. Trans historical, trans cultural, and trans religious closeness to God is balanced with an empathy and sympathy for others elegantly and equally. This includes sensitivity to humanitarian problems, the development of culture and civilization illuminated by the beam of *fit}rah ila>hiyah*.

V. DEMONSTRATIVE THOUGHT MODEL

Demonstration is knowledge gained from the senses, experiments and the laws of logic. Van Peursen says that reason cannot absorb something, and the five senses cannot think of something. However, if both of them join in arises knowledge, because absorbing something without being accompanied by reason is the same as blindness, and the mind without the same content as nothingness. The argumentative rational approach is an approach that bases itself on the power of ratio through logical instruments, namely induction, deduction, abduction, symbolic, process, and discursive method (*ba>t}iniyyah*). This approach makes reality and text and the relationship between the two as a source of study.

Therefore, to understand the reality of socio-religious and social-Islamic life becomes more adequate, if used sociological approaches (*sosiulujiiyyah*), anthropology (*antrufulujiyyah*), culture (*thaqafiiyyah*) and history (*tarikhiyyah*).

This sociological approach is used in Islamic legal thought to understand socio-religious reality from the point of view of interaction between community members. With this method, the social context of a diversity behavior can be approached more precisely, and with this method we can also do the creation of the main community. An anthropological approach is useful to approach humanitarian problems in order to carry out Islamic cultural inventions. Of course, to carry out Islamic cultural inventions, a cultural approach (*thaqa>fiyyah*) is also needed which is closely related to the dimensions of thought, teachings, and concepts, values and worldview of Islam that live and develop in Muslim societies. In order for the creative effort of the Muslim community to approach the ideal of society, this strategy also requires historical continuity. For this reason, a historical approach (*ta>rikhiyyah*) is needed, so that the context of past, present and certainly future history will be in a strong connection and complete unity (continuity and change). This is useful so that the development of Islamic thought does not lose its historical footprint. There is a historical continuity between the building of good old thinking and the birth of new Islamic thought that is more adequate and *up to date*.

Constraints that are often encountered in the application of this approach are often not in sync with text and reality. The *ijtihad* product will be different if in mainstreaming text or context. The community wins the text more than the context, even though those who are more inclined to the context are not small.

VI. CHARACTERISTICS OF NU KIYAI

There are several NU *kiyai* typologies that researchers have found. They produced several findings of the *kiyai's* typology, depending on which aspect they saw. If the *kiyai* is seen from their function, especially for the Javanese people in the Dutch colonial era, Isma'il divided the *kiyai* into two typologies: first, the free *kiyai* or *kiyai* who positioned themselves on the *da'wah* and education lines. Their job is to teach and lecture. They are Islamic boarding school *kiyai* and live in the countryside. Secondly, the *kiyai* of the headman or *kiyai* of officials appointed by the Dutch government. Their task is to carry out the field of justice which concerns *shariat* Islam. Same with Isma'il, Irsyamt typed the *kiyai* into two categories: first, idealistic typologies, namely the *kiyai* who chose perceptions about the way they constructed networks of interests and power to be developed into strengths and ways to regulate relations with outside forces. Second, realist typology, namely the *kiyai* who sees the arrangement of the network of interests and power according to what they are and pays attention to the possibilities that will occur.

Suprayogo made four typologies related to the attitude of the *kiyai* to political, social, economic and educational problems. First, the spiritual *kiyai*, namely the *kiyai* who only take care and teach at the *pesantren* and concentrate on worship. Second, the *kiyai* of advocacy, namely the *kiyai* who are actively teaching at the *pesantren* but he is very concerned about the issue of community empowerment. Third, adaptive political *kiyai*, namely *kiyai* who care about political organizations and power and are close to the government and generally affiliated with Golkar. Fourth, political *kiyai* are critical partners, namely *kiyai* who care about political organizations, but they are critical of the government. In general they are affiliated with the United Development Party.

The style of the NU Kiyai's thinking by Mujamil Qamar was categorized into five typologies, namely: first, anticipatory, namely a pattern of thinking that tends to respond to something that is and will happen. This pattern of thinking recognizes linear development, both predictable and unexpected. The advantage of this pattern of thinking is the ability to interpret phenomena with logical-theoretical acuity, while its ethical acumen hopes for future development.

Second, electric, that is a pattern of thinking that seeks to choose all who are considered the best regardless of whichever flow, any philosophy, and any theory, as long as it is better than the others. Thinking that is electrically patterned can be tangible by stating a view that is less commonly measured than the culture of the person who expressed the opinion itself. This thought is sometimes considered to be awkward revealed by someone, it can even carry quite a heavy risk.

Third, divergence, which is a mindset that explores out of conventional ways of thinking. In this mind there are many leaps of thought that accentuate the innovative nature. This characteristic of thinking is more prominent in its level of liberalism than in other characteristics.

Fourth, integralistic, namely a pattern of thinking that seeks to express various things; maybe two or more as if opposite. This thought tries to look at two things that people might contradict. A distinctive feature of this thought is to compromise two things that are in conflict. For this thought, the conflict may be united.

Fifth, responsive, namely a mindset that tends to provide answers to the problems faced by the people. This type of thinking is responsive, likes to respond, has a high sensitivity to social phenomena, and tries to offer solutions.

Warsono conducted a study of the function of the *kiyai* in dealing with the domination of the state in the era of Abdurrahman Wahid's administration by classifying it into three typologies. First, the organic intellectual *kiyai*, namely the *kiyai* who are related to the productive and political structure of the ruling group. They function to universalize the views of the ruling group in order to organize the agreement of subordinate groups, so that the authorities get legitimacy. They appear as campaigners from rulers or groups who struggle to gain power in order to spread and instill organized ideology.

Second, traditional intellectual *kiyai*, namely *kiyai* who have autonomy and are not co-opted by the ruling group. They carry out functions to uphold the truths that they believe and are not bound by any autonomy except their own autonomy. They are *kiyai* who keep their distance from power and generally they only concentrate on teaching in *pesantren* and carrying out community transformation. Third, simultaneous intellectual *kiyai*, namely *kiyai* who function as organic intellectuals, but in other situations they can change their functions as traditional intellectuals.

VII. TYPOLOGY OF THE NU KIYAI THOUGHT IN EAST JAVA

In this dissertation research, researchers found a variety of ways of thinking of the Surabaya NU *kiyai*. There are those who think very textually, so that what is not in accordance with the text is considered inappropriate. There are ways to think always prioritize the context, even though it will collide with the sacred texts that exist (*nus}u>s the Qur'a>n wa al-h}adi>th*). There are also those whose ways of thinking always combine text with context. This means that what is in the text cannot automatically be applied in the midst of the community, but also must pay attention to the condition of the community.

Therefore, researchers certainly need an appropriate theory to be used as an analytical knife in this dissertation research, which concentrates on studies of Islamic law. Amin Abdullah emphasized that the philosophy of science developed in the Western world such as rationalism, empiricism and pragmatism, is not very suitable to be used as a theoretical framework and analysis of the ups and downs and the development of Islamic studies. The debates, struggles and epistemological attention of scholarship in the West are more in the realm of natural sciences, whereas Islamic studies and 'ulu>m al-di> n, especially *shari>'ah*, *'aqi>dah*, *tas}awwuf*, 'ulu>m al-*Qur'a>n* and 'ulu>m al-*hadi>th* is more located in the area of classical humanities. For this reason, we need a set of epistemological analytical frameworks that are typical for Islamic thought, namely what is called by Muhammad 'A<bid al-Ja>biri> with rhetorical thinking, gnosis, demonstratif. In addition, to sharpen the analysis, the researcher considers it necessary to address expert opinions, such as Abu Hamid Muhammad bin Muhammad al-Ghazali who is more inclined to gnostic thinking; and Ibra Imamhim bin Ishaq al-Shatibi there is a tendency to positivistic thinking.

Of the ten *kiyai* of research subjects, researchers found four kinds of their views about married mater, namely: three *kiyai* who forbade the practice of marrying *misyar* absolutely; two *kiyai* who obliterate the practice of marrying *misyar* absolutely; three *kiyai* that justify the practice of marrying *misyar* in the Middle East and forbid it in Indonesia; and two *kiyai* who forbid this *misyar* in Indonesia, while in the Middle East may be carried out with tightened.

1. Thought of KH. Imam Syuhada', KH. Azhari Sofwan, and KH. Abd. Malik About Misyar Marriage.

Misyar marriage law according to KH. Imam Syuhada', KH. Azhari, and KH. Abd. Malik is an illegitimate (not permissible) absolute, because in practice this marriage is misused. Although in *fiqh* texts the mating model of marriage has fulfilled the elements of Islamic marriage, but because the purpose of the perpetrators is only to satisfy the desires of sexuality and the marriage is only for a short time, according to them it should not be done. According to them, marriage is a worship or a sacred practice and should not be made playful. That is, when a particular marriage model has deviated from its original purpose, it is shared and in practice it is usually misused, the marriage model must not be done or the law is *h}ara>m*.

The conclusions of the *kiyai* above, who affirm that *misyar* marriage is *h}ara>m*, are experiences of previous empirical facts or even produced from instincts and inner eyes that can lead them to argue differently from what they know in *fiqh* texts. That is, his inner knowledge says something different from what is in the *fiqh* text or in other words, his inner knowledge takes precedence over the experience of *z}a>hir*. The above understanding of the *kiyai* can be categorized as gnosis thinking. This gnosis thought pattern, was once developed by *H}ujjat al-Isla>m Abu> H}a>mid Muh}ammad bin Muh}ammad al-Gha>zali> al-T}u>si al-Sha>fi'i>*, which was later known as Imam al-Ghaza>li>. In his book *al-Mustas}afa> (the book us}u>l al-fiqh and Ih}ya>' Ulu>m al-Di>n* (the book of Sufism), al-Ghaza>li> asserts that the true truth is the truth sourced from conscience, not the truth that results from the eyes.

الحقيقة في الأذهان لا في الأعيان

"True truth is truth that comes from conscience, not from what is not in the eyes."

The thought of gnosis al-Ghaza>li>, is the result of an analysis of an event that he experienced. Al-Ghaza>li> saw a stick inserted into a puddle of water. A stick that has entered the water, looks like a bent object even though in reality it is a straight and not bent stick. From this experience, al-Ghaza>li> draws conclusions that the source of truth is not from what he sees, but comes from conscience. This is because what humans see is often different from reality, as a straight stick, when it is inserted into the water looks crooked. Or when someone sees the asphalt road from a faraway place, when daylight is in the hot sun, it will appear on the asphalt that the water is shiny, even though in reality there is no water at all but just a mirage.

Muhammad 'A<bid al-Ja>biri> explains that gnosis is *ma'rifah* which is a method of inspiration and *kashf* which was known long before Islam. When gnosis was adopted into Islam, gnosis experts made it easy to talk about; attempt to expose the discourse of *Qur'a>ni* and expand its editorial to increase meaning. So the gnosis approach is an approach used in the study of Islamic thought by *mutas}a>wwifu>n* and '*a>rifu>n* to issue the meaning *ba>t}in* from *ba>t}in lafz}* and '*iba>rah*; it is also *istinba>t} al-ma'rifah al-qalbiyyah* from the *Qur'a>n*.

Gnosis is an understanding that relies on the instruments of inner experience, *dhawq*, *qalb*, *wijda>n*, *bas}i>rah* and intuition. While the method used includes *manhaj kashfi>* and *manhaj iktisha>fi>*. *Manhaj kashfi>*

is also called *manhaj ma'rifah 'irfa>ni>* who does not use senses or reason, but *kashf* with *riya>d}ah* and *mujah>hadah*. *Manhaj iktisha>fi>* is also called *al-muma>thilah* (analogy), which is a method for revealing and discovering the secrets of knowledge through analogies. The *'irfa>niyyu>n* do not deal with mythology, and even cleanse it from religious issues and with *irfa>ni>* they seek more to catch *h}aqi>qah* which lies behind the *shari>'ah*, and which is *ba>t}in* (*al-dala>lah al-isha>rah wa al-ramziyah*) behind that which is *z}a>hir* (*al-dala>lah al-lughawiyyah*). By paying attention to the two methods above, we know that the source of knowledge in *'irfa>ni>* includes inspiration or intuition and the text which is sought by its inner meaning through *ta'wi>l*.

Gnosis is widely used in *ta'wi>l*. *Ta'wi>l 'irfa>ni>* against al-Qur'a>n is not an *istinba>t}*, not inspiration, not *kashf*, but it is an attempt to approach the Qur'a>nic verses through thoughts originating from and related to the legacy of gnosis that existed before Islam, with the aim of capturing its inner meaning.

The implication of knowledge *'irfa>ni>* in the context of Islamic thought, is to approach religions at the substantive level and the essence of their spirituality, and develop them with full awareness of the religious experience of others (the otherness) that are different in accidents and expressions, but have substance and more or less the same essence. Trans historical, trans cultural, and trans religious closeness to God is balanced with an empathy and sympathy for others elegantly and equally. This includes sensitivity to humanitarian problems, the development of culture and civilization illuminated by the beam of *fit}rah ila>hiyah*.

Both according to al-Ghaza>li> and al-Ja>biri> who both agreed that the thought of gnosis put forward the inner eye more than the eyes of *z}a>hir*. Therefore, the opinion of Imam, Azhari, and Abdu who always put forward their hunches and inner eyes and argued that the practice of marrying *misya>r* should not be done, according to the researchers entered the thought of gnosis and they were categorized as Gnostic *kiyai*.

2. Thought of KH. Sa'dullah, KH. Makruf Khozin, and KH. Ali Maghfur Syadzili About Misya>r Marriage.

In relation to this research, there are several scholars who have different models of thinking, namely: KH. Sa'dullah, KH. Makruf Khozin, and KH. Ali Maghfur Syadzili. The *kiyai* are of the opinion that this *misya>r* marriage is *h}ala>l* (permissible) done in the Middle East –especially for Middle Eastern communities— and should not be done in Indonesia, both for Indonesian Citizens (WNI) and Foreign Citizens (WNA). This opinion is based on the fact that the culture of Middle Eastern society is different from the culture of Indonesian society.

Communities in Middle Eastern countries follow a patriarchal system. All public affairs, controlled by men. Even in domestic matters, men dominate. It can be seen what happens in markets in Saudi Arabia, Yemen, Egypt and other Middle Eastern countries. Starting from sellers to buyers, on average men. The women are very closed and cannot leave the house. They just keep quiet in the house while getting ready to serve if one day her husband needs her.

In addition, the Middle East community is known as a very closed society, especially in terms of sexuality. Marriage marriages that are too expensive have made many men unable to pay. Thus, people who do not have the ability to pay dowry will find it difficult to find a mate in their lives. As a result, many men do deviant sexual behavior, while many women give themselves up to be combined because of this dowry problem.

In Saudi Arabia, marriage can cost hundreds of thousands of riyals. Generally a bride asks for dowry of 50.000 riyals to 250.000 riyals, equivalent to Rp. 125 million to Rp. 600 million. In addition to dowry, prospective

husbands must have provided a house or apartment and vehicle, plus deposits for prospective wives. This is all done so that in the event of a divorce, the wife has "modal" to survive until she is applied for another marriage.

In total, the cost for one event *h}af}lah is zafa>f* (wedding party), the prospective husband at least prepares 400.000 riyals – 500.000 riyals. Especially for Saudis who are economically disadvantaged, there is one social institution that specifically collects funds to help people who intend to marry, but cannot afford it financially.

The facts above are far different from the conditions of Indonesian society. In Indonesia, the cost of marriage dowry is not too expensive; everyone carries out marriage. From this condition, Dulla, Makruf, and Ali agreed that *misya>r* marriage should only be practiced in the Middle East and should not be done in Indonesia, both by Indonesians and foreigners.

The style of *fiqh* understanding as above can be included in the category of positivistic thinking. Positivistic thinking has the principle that the existence of Islamic law will always be dynamic, not static, in accordance with the times;

تغيير الاحكام بتغيير الأزمنة والأمكنة

"The change in law is in accordance with the changing times and places."

They asserted that the *misya>r* marriage which is *h}ala>l* by al-Qard}a>wi is reserved for Middle Eastern people who have different customs and cultures with Indonesian society. These different cultures also have implications for differences in the application of *misya>r* marriage law. Therefore, according to the positivistic *kiyai*, Indonesians may not practice *misya>r* marriage.

Indeed, that positivism school of thought is a school that emphasizes reality. In the history of Islamic thought, one of the figures who adhered to Positivism Ideology was Abu> Ish}a>q Ibra>hi>m Ibn Mu>sa> Ibn Muh}ammad al-Lakhmi> al-Gharnat}i> al-Ma>liki> al-Sha>t}ibi>, who was later better known as Imam al-Sha>t}ibi>. Al-Sha>t}ibi> asserted that the truth comes from what is seen or what is not in the eyes;

الحقيقة في الأعيان لا في الأذهان

"True truth is what appears in the eyes, not in the conscience."

According to al-Sha>t}ibi>, in fact the *shari>'at* of Islam aims to realize the benefit of humans in the world and the hereafter (*litahqi>q maqa>s}id al-sha>ri' fi' qiya>m mas}a>li>him fi> al-di>n wa al-dunya> ma'an*). Or in other words, the laws are shared for the benefit of the servant (*al-ah}ka>m al-mashru>'ah limasalih} al-iba>d*).

The *maqa>s}id al-shari>'ah* issue received great attention from al-Sha>t}ibi>, especially in his book *al-Muwaffaqa>t* which consisted of four volumes. In his view that all obligations (*takli>f*) were created in order to realize the benefit of servants. In his view, none of God's laws has no purpose. A law that has no purpose, is the same as imposing an obligation that is impossible to carry out (*takli>f ma> la> yut}a>q*), this is impossible for the law that is prescribed by Allah. Or in other words, the law is made not for the law itself, but for other purposes, namely benefit. According to al-Sha>t}ibi>, benefit can be realized if the five basic elements can be realized and maintained, among them; religion, soul, descent, reason, and wealth. Especially in marriage, if Islam is to regulate marital problems, then it is certain that the marriage contains a benefit for Muslims.

That was the pattern of positivistic thought developed by al-Sha>t}ibi> which was then followed by the next generation of scholars, including the judges in the court. A judge decides the case according to the facts or evidence revealed in the trial. The stronger the evidence presented by the Public Prosecutor (PP) or the defendant, the greater

the chance of winning the trial. That is, an average judge only decides the case according to strong evidence, even though the judge has different beliefs. In other words, a judge prioritizes material and formal truths rather than self-confidence in the judge's conscience

3. Thought of KH. Zaenal Fata and KH. Abd. Wafi Soleh About *Misyar* Marriage.

Unlike the two *kiyai* groups above, KH. Zaenal Fata and KH. Abd. Wafi Soleh, in fact said that the practice of marrying *misyar* was legal and did not conflict with the teachings of Islam, because in practice, marrying *misyar* had fulfilled elements in Islamic marriage. Whereas if there are irregularities and misuse of the married mating function, this is related to each individual, not directly related to the marriage model of the mission itself. According to them, if there are people who argue that married mater only wants to get biological satisfaction, then the argument can be broken by various opinions of *fiqh* scholars, such as Wahbah al-Zuhayli; he said that one of the goals of marriage is to seek satisfaction with biological desires.

The model of thought of the *kiyai* above, only focuses on what is in the text, does not see the impact that will occur due to the application of the text. In other words, they cannot read the context and cannot integrate text with context. They only concentrate on the classic texts that are in the works of the *fuqaha*' golden century of Islam. The *kiyai* only had the mind of fixation of belief or considered the final all the beliefs and thoughts that were initiated by the *salaf* scholars.

The pattern of understanding the *kiyai's fiqh* above, including rhetorical thinking. In other words, the *kiyai* are categorized as rhetorical *kiyai (bayan)*, the rhetorical term etymologically means the process of appearing and revealing and activities understanding and understanding The rhetorical term expresses a world view and a typical Arab epistemological pattern. Whereas terminologically from the rhetorical word in Arabic is taken from the word *al-bayan* is the set of rules and rules for interpreting discourse (*khithab*).

Thus, the researcher concludes that the source of knowledge in the epistemology is *bayani* text (revelation). According to Nasir Haidari Abu Zayd that the Arab-Islam civilization was a text civilization. That means that the foundations of law, science and culture of Arab-Islam grow and stand upright on the basis of the text as its point of reference.

The rhetorical mindset has long been used by the *fuqaha*', *mutakallimu* and *usulliyu*. The middle mindset or approach aims to: (a) Understand or analyze the text to find or get the meaning contained in *lafz*, in other words this approach is used to extract the meaning *zahir* from *lafz* and *ibarah* which *zahir* too; and (b) *Istinbat* the laws of *al-nusus al-diniyah* and al-Qur'an in particular. In other words, this rhetorical style of thinking asserts that the truth is what is contained in the texts (*nusus*),

الحقيقة في نصوص القرآن لا في أذهان الإنسنان

"The truth is what is contained in al-Qur'an texts, not what is in the human heart."

In simplified philosophical language, the rhetorical approach can be interpreted as a thinking methodology model based on text. In this case the sacred text which has full authority determines the direction of the truth of a *kitab*. The function of reason, in this rhetorical approach, is only as a guardian of the meaning contained in it. The meaning contained in the text can be known by looking at the relationship between meaning and *lafz*.

For that rhetorical reasoning uses tools such as linguistic sciences and *asbab al-nuzu*, and *istinbat* or *istidla* as the method. Because the dominance of the text is so strong, in rhetorical reasoning the role of reason

is limited to justification or justification of texts that are understood or interpreted. In its application, rhetorical reasoning will enrich the science of Jurisprudence and the proposal of Jurisprudence, especially the *Qawa'id al-lughah*. However, that does not mean without weakness. A striking weakness in rhetorical reason is when it comes to dealing with different texts, belonging to the community, nation, or other society. Because authority is in the text, and the ratio only functions as the bodyguard of the text, while a text is not necessarily accepted by other groups, when dealing, reason generates a dogmatic, defensive and apologetic mental attitude.

4. Thought of KH. A. Faishal Haq and KH. Nasir Abdillah About *Misyar* Marriage.

Whereas according to Faishal and Nasir that this model of marriage *misyar* should not be done by the Indonesian people, including in Surabaya. There are a number of reasons they put forward regarding the prohibition on marrying *misyar*, but the most important thing to be revealed in this description is; the practice of marrying *misyar* is greater and will have a negative impact on people's lives; for the perpetrators of *misyar*, offspring, the younger generation, the future of the nation, or the general public who have a strong voice against the existence of marriage *misyar* itself.

However, for Middle Eastern society, Faishal and Nasir asserted that they may practice *misyar* marriage with strict conditions, including: (1) must fulfill the elements of marriage in Islam; (2) perpetrators are genuine Middle Eastern communities and not travelers; (3) the perpetrator is unable to perform a normal marriage or *shari* 'marriage; (4) the perpetrator is believed not to misuse this marriage; (5) the husband has full authority in managing his household; and (6) this marriage is only for once in his life

These two *kiyai* can be categorized as demonstrative *kiyai*. Namely *kiyai* who can integrate their textual understanding with other elements that may be caused by it. This demonstrative way of thinking makes reality and text and the relationship between the two as a source of study. This typology of demonstrative *kiyai* seeks to understand the text and integrate it with the real conditions of society (context). They always understand the text and do not forget to pay attention to the opinions of other groups, which are not listed in the text, such as the opinion of sociologists, philosophers, psychologists, and others.

Demonstrative scholars have the principle that the existence of Islamic law will always be dynamic, not static, in accordance with the situation and conditions;

تغير الأحكام بتغير الأزمنة والأمكنة والأح

"Changes to the law are in accordance with changes in times, places, and situations and conditions."

The demonstrative *Kiyai* emphasized that the marriage of the mission was indeed at the beginning to provide a solution for career women who were busy and did not have time to think about marital problems, so that with the marriage model, they could carry out marriage. However, in practice many are misused, even used as a legalization of prostitution and extortion of men against women.

Demonstrative thinking is thought that can combine text with context. This model of thinking was developed by Najm al-Din al-Tufi and Muhammad 'A bid al-Ja biri with criticism of the reason of Arabic reason. Whereas according to al-Tufi, knowledge is said to be true when there is connectivity between what appears in the eyes and what is in human belief,

الحقيقة في الأعيان والأدما

"True truth is the truth that results from what appears in the eyes and according to the conviction of the human heart." Al-T}u>fi> describes the understanding of good and bad deeds into three categories, and he asserts that goodness exists when there is a return to humanity. Al-T}u>fi> divide to three, *d}aru>ri>*, *h}a>ji>*, and *tah}si>ni>*, and that is *maqas}id al-shari>'ah*. Meanwhile, maintenance of the meaning of the Shari is divided into five, namely maintaining religion, guarding the soul, descent, reason, and wealth. Maintenance of these five things is meant by *muna>sabah* in *qiya>s*. He stated that all was obtained through *istiqra>* ".The idea of *mas}lah}ah al-T}u>fi>* is not static, but experiences development in line with the intellectual development of *al-T}u>fi>*. Abdullah Saeed even mentioned al-T}u>fi> as "H}anbali> jurists who surpassed all jurists and stated that *mas}lah}ah* should determine what is acceptable to Islam and what is not acceptable."

Al-T}u>fi> explained that *nas}* and *ijma>'* there are times when it corresponds to the maintenance of *mas}lah}ah ri'a>yat mas}lah}ah* and there are times when it is contradictory. If both correspond to *mas}lah}ah*, then that is the best thing. But if it is contradictory, then *ri'a>ya>t mas}lah}ah* precedence over *nas*, by way of *takhs}i>s}* and *baya>n*, as *hadi>th takhs}i>s}* and explains al-Qur'a>n;

(وان خلفاها وجب تقديم رعاية المصلحة عليهما بطريق التخصيص والبيان لهما)

In other words, al-T}u>fi> in addition to paying attention to the existing passages, but he also paid attention to the benefits returned to humans. That is, both must go hand in hand, but if there is no similarity between the two, then the benefit is put forward.

Same thing with al-T}u>fi>, al-Ja>biri> explains that a knowledge must pay attention to text and context. This type of thinking, he called the term demonstrative reasoning. Demonstrative reasoning or in Arabic is taken from the word *al-burha>n* means "*al-hujjah al-fa>s}ilah al-bayyinah*" (definitive and clear argument). In the terminological level, *al-burha>n* means mental activity that establishes the truth of a proposition by deduction method, or which associates a proposition with another proposition, which is axiomatic and proven true.

The authoritative source of knowledge in this demonstrative frame of mind is experimentation and reasoning with the theoretical framework of logical arguments which in the demonstrative frame of mind refer to syllogism or *al-qiya>s al-ja>mi'* in *al-Ja>biri>*. Reason and experimentation are two things that are mutually reinforcing. When experimentation is unable to penetrate reality because of the limitations of the human senses, reason makes sense. This validity of truth in *al-burha>ni>* is not only the valid use of logic, but also the compatibility between reason and reality and the laws of nature. This is in accordance with the principle put forward by Hegel, as quoted by al-Ja>biri>, that everything that is *al-wa>qi'i>* (empirical) is rational. Furthermore, Hegel emphasized that only seeing the fit between reason and reality is a static view. According to him, a dynamic view requires not only reason to be relevant to reality, but also historical aspects.

Reasoning roles, among others, in seeing reality are producing knowledge by uncovering cause (*idra>k al-sabab*) or finding the law of causality behind something, because basically the meaning of "existence of something" is its presence which is respected by causes, both because *fa>'il* (active) or cause *gha>yi>* (final destination)

This demonstrative thinking style can also be interpreted as a way of seeking knowledge through the senses, experiments and the laws of logic. Van Peursen said that reason cannot absorb something, and the five senses cannot think of something. However, if both of them join in arises knowledge, because absorbing something without being accompanied by reason is the same as blindness, and the mind without the same content as

nothingness. This pattern of thinking makes reality and text and the relationship between the two as a source of study.

The release of understanding of the text from reality (context) that surrounds it, according to Nasr Abu> Zayd, will lead to ideological and tendentious readings. This ideological and tendentious reading will eventually lead to what Kha>lid Abu> Fadl called the Authoritarian Hermeneutic. Authoritarian Hermeneutics occurs when the reading of the text is subdued by subjective and selective readings and forced to ignore the reality of the context. The reality in question includes natural reality (*kawniyyah*), historical reality (*ta>ri>khiyyah*), social reality (*ijtima>'iyyah*) and cultural reality (*thaqa>fiyyah*). In this approach the text and reality (context) are in one area that influences each other. The text does not stand alone, it is always bound to the context that surrounds and holds it at the same time from where the text is read and interpreted.

Because demonstrative makes reality and text as sources of study, then in this approach there are two important sciences, namely science *al-lisa>n* and science *al-mantiq*. The first is talking about *lafz, kayfiyyah*, the composition, and the series in the things that can be used to convey meaning, as well as how to assemble it in humans. The aim is to keep the *lafz} al-dala>lah* that is understood and set the rules regarding the *lafz}*. Whereas the latter discusses the problem of *mufrada>t* and the arrangement that can convey all sensory things and a fixed relationship between those things, or what is possible to bring out the images and laws of them. The aim is to establish the rules used to determine the way the mind works, or how to achieve the truth that may be obtained from it.

VIII. CONCLUSION

In the conclusion of this researcher, the researchers found four different typology of *kiyai* in understanding the practice of marriage.

First, three *kiyai* who argued that marriage *misya>r* should not be carried out absolutely, because this marriage had deviated from the original purpose of being informed and also in practice found irregularities, such as extortion and legalization of prostitution. This model of understanding the *fiqh* of the *kiyai*, including the model of Gnostic thinking, is a way of thinking that is based on the instinct or intuition of the inner eye. They are KH. Imam Syuhada ', KH. Azhari Sofwan, and KH. Abd. Malik.

Second, there are three who say that marriage is only permitted in the Middle East and cannot be done in Indonesia. This is because the condition of the Middle East community is different from the people of Surabaya, Indonesia. This model of understanding of *kiyai fiqh*, including the model of positivistic thinking, is a way of thinking that always puts forward the facts seen. They are KH. Sa'dullah, KH. Makruf Khozin, and KH. Ali Maghfur Syadzili.

Third, there are two clerics who assert that the practice of marrying *misya>r* can be carried out absolutely, because the elements of Islamic marriage have been fulfilled. This model of *fiqh* understanding, including a model of rhetorical thinking, is a way of thinking that only pays attention to the sacred texts without regard to the condition of the community. They are KH. Zaenal Fata and KH. Abd. Wafi Soleh.

Fourth, there are two *kiyai* who assert that marrying *misya>r* - even though they have fulfilled the elements of marriage - cannot be done in all places, but for Middle Eastern people and their homes in the Middle East, it is

permissible to choose a marriage model, for example strict conditions include: only once in his life, committed not to abuse this marriage, and must follow the laws and regulations. This kind of *fiqh* understanding model, including the category of demonstrative thinking, is a way of thinking that always combines text with context. They are KH. A. Faishal Haq and KH. Nasir Abdilah.

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