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## Question 18: What is meant by “temporary marriage” {mut‘ah} and why do the Shi‘ah regard it as lawful?

**Reply:** Marriage {*nikah*} is an agreement between a man and a woman. Sometimes this bond has a permanent effect and the contract {*‘aqd*} does not have time limit, and sometimes its effect is temporary and its time limit is fixed. Both kinds are recognized as legal and the only difference between them is that one is “permanent” and the other is “temporary”. In other aspects they are the same. The conditions below render valid both *mut‘ah* “temporary” marriage and “permanent” marriage:

1. There should be no such religious prohibitions like consanguineous and affinitive relationships or the like which render the contract null and void.
2. The dowry {*mahr*} agreed upon by both sides has to be stipulated in the contract.
3. The duration of marriage has to be fixed.
4. The contract must be performed.
5. The child that they will beget is considered their legitimate child. Just as a birth certificate that is granted to a child born out of permanent marriage, a child that is born due to a temporary marriage has to be granted a birth certificate. So, there is no difference between permanent and temporary contracts in this regard.
6. The expenditure on the child or children is one of the duties of the father, and the child or children are to inherit from the father and from the mother.
7. When the marriage contract expires, the woman who has not reached menopause has to observe a waiting period {*‘iddah*}. If during the waiting period she is found pregnant, she has to refrain from any type of marriage during pregnancy.

Also, the other laws of permanent marriage have to be observed in *mut'ah*. The only difference between the two is that since *mut'ah* has been ordained to fulfill man's needs, the expenses of the woman is not incumbent on man. If, during signing of the contract, the woman did not make it a condition that she can have a share from the inheritance, she shall not inherit from her husband. It is clear that these two differences have no effect on the nature of marriage.

We all know that the Islamic creed is the eternal and final law, which can satisfy all needs. Nowadays, we see the situation of the youth, who have to spend many years of study in a foreign country or city. On account of the limited resources, they cannot afford permanent marriage, and have one of these three alternatives to choose:

- a. to endure the mentioned condition;
- b. to fall in the quagmire of corruption and perdition;
- c. to marry a woman with whom it is permissible for a man to make a temporary marriage contract for a certain period.

Regarding the first alternative, in most cases, it ends in failure. Although a few individuals can abstain from any type of sex and exercise patience and fortitude, this method is not applicable to all.

The second option also ends in corruption and desperation, and according to Islam it is forbidden *{haram}* and to prescribe it under the pretext of necessity is but a kind of mental deviation and perversion.

Therefore, the third alternative is the only practical way recommended by Islam and it was practiced in the lifetime of the Prophet (S) and the dispute over this issue started after that.

At this juncture, we have to point to something and that is, those who have a sense of anxiety about *mut'ah* and regard it as illegitimate should know that all Muslim jurists *{fuqaha}* and scholars have accepted something which is similar to that of a permanent (marriage) contract. They agree on the idea that the two sides can conclude a permanent contract with the intention that they separate through divorce after one year, or more or less.

It is clear that such an agreement is apparently "permanent" but in reality it is temporary. The difference between this type of "permanent" marriage and that of *mut'ah* is that the latter is, exoterically and esoterically, limited and temporary while the former is exoterically "permanent" but esoterically temporary.

Why do those who declare as permissible this type of permanent marriage, on which all Muslim jurists agree, entertain fear and anxiety when it comes to prescribing and recommending *mut'ah*?

Now that we have understood what *mut'ah* is, let us see why *mut'ah* is regarded as religiously lawful and

why it has been decreed. It is appropriate that the discussion will be at two levels:

1. The legitimacy of *mut'ah* during the early period of Islam, and
2. The non-abrogation of this religious law in the lifetime of the Messenger of Allah (S).

The following verse is an explicit proof of the legitimacy of *mut'ah*:

"فما استمتعتم به منهم فئاتوهن أجورهن فريضة."

**"For the enjoyment you have had from them thereby, give them their dowries, by way of settlement."**<sup>1</sup>

The wording {*alfaz*} of this verse testifies that something has been revealed about *mut'ah* because:

**First:** The word "*istimta*" apparently refers to "temporary marriage". If it meant permanent marriage, there would be a need for analogy {*qarinah*}.

**Second:** The word "*ujurahunna*" which means "their dowries" is a clear proof that it is about *mut'ah* because in the case of permanent marriage, such words as "*mahr*" or "*sadaq*" is used.

**Third:** The Shi'ah and Sunni exegetes {*mufassirun*} are of the opinion that the said verse is about *mut'ah*.

Jalal ad-Din as-Suyuti, in his exegesis {*tafsir*}, *Ad-Durr al-Manthur*, narrates on the authority of Ibn Jarir and Saddi that the abovementioned verse is pertaining to *mut'ah*.<sup>2</sup>

Also, Abu Ja'far Muhammad ibn Jarir at-Tabari, in his exegesis, narrates on the authority of Saddi, Mujahid and Ibn al-'Abbas, that this verse is related to temporary marriage.<sup>3</sup>

**Fourth:** The compilers of *Sahih*, *Musnad* and *Jami'* books of *hadith* have also accepted this fact. For example, Muslim ibn al-Hajjaj in his *Sahih* narrates on the authority of Jabir ibn 'Abd Allah and Salmah ibn Aku' that they have said:

"خرج علينا منادي رسول الله رسول أن فقال الله قد أذن لكم أن تستمعوا يعني متعة النساء."

"The harbinger of the Messenger of Allah came to us and said: The Messenger of Allah has granted you permission to have "*istimta*"; that is, temporary marriage."<sup>4</sup>

The traditions in *Sahih* and *Musnad* books are too many to be mentioned in this (concise) book.

Therefore, Muslim scholars and exegetes agree on the idea that *mut'ah* was decreed in the early period of Islam and in the lifetime of the Holy Prophet (S).<sup>5</sup>

The question which is worth considering here is: Has the purport of the verse on *mut'ah* been abrogated {*mansukh*}?

Perhaps, those who have doubt about the principle of legitimacy of *mut'ah* in the lifetime of the Messenger of Allah are very few. This indicates this law has not been abrogated.

The traditions and history of Islam is replete with evidence that till the caliphate of the second caliph this law had been prevalent among Muslims but the second caliph prohibited it out of expediency.

In his *Sahih*, Muslim ibn al-Hajjaj narrates that Ibn al-'Abbas and Ibn az-Zubayr opposed the prohibition of *mut'ah* on women and *mut'ah* on *Hajj*. Jabir ibn 'Abd Allah said:

"فعلنا هما مع رسول الله ثم نهانا عنهما عمر فلم نعد لهما."

"In the lifetime of the Messenger of Allah, we used to perform both the two (*mut'ahs*). Then, 'Umar prohibited us from doing them and since then we have not practiced them."<sup>6</sup>

In his book of exegesis, Jalal ad-Din as-Suyuti narrates on the authority of 'Abd ar-Razzaq, Abu Dawud and Ibn Jarir, and they narrate the decree when he was asked, "Has the verse on *mut'ah* been abrogated?" He replied, "No," and 'Ali ('a) said:

"لولا أن عمر نهى عن المتعة ما زنى إلا شقي."

"Had 'Umar not prohibited *mut'ah*, no one would have ever committed adultery and fornication {*zina*} except a wretched person."<sup>7</sup>

Also, 'Ali ibn Muhammad Qawshchi says: "Umar ibn al-Khattab announced from the pulpit:

"أيها الناس ثلاث كنّ على عهد رسول الله أنا أنهي عنهنّ وأحرمهنّ وأعاقب عليهنّ وهى متعة النساء ومتعة الحجّ وحيّ على خير العمل."

O people! Three things were prevalent in the time of the Messenger of Allah and now I prohibit them,

and punish those who practice them. They are *mut'ah* on women, *mut'ah* on *Haji* and saying “*hayya ‘ala khayri’l-‘amal*” {come to the best of deeds} (in *adhan*).<sup>8</sup>

It is worth noticing that there are so many traditions in this regard that they cannot be covered in this (concise) book.<sup>9</sup>

It must be stated that *mut'ah* is one of the types of marriage because marriage is categorized into two kinds: permanent and temporary. A woman who concludes a temporary marriage is ruled as a man's wife and he as her husband. Naturally, such a marriage is referred to in the Qur'anic verses on marriage.

Since the Qur'an states:

"والذين هُمْ لِفُرُوجِهِمْ حَافِظُونَ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ."

**“(Certainly, the faithful have attained salvation—those) who guard their private parts except from their spouses or their slave women,”**<sup>10</sup>

a woman who has entered a temporary marriage contract with the stated conditions is considered among the individuals referred to by ﴿أَزْوَاجِهِمْ عَلَىٰ إِلَّا﴾ “**except for their spouses**” and is not excluded from it. Accordingly, the woman who is married to a man by making a *mut'ah* contract becomes his spouse and wife and she becomes one of those who are included in the term “*azwajihim*”.

And if according to the stated verse (in *Surah al-Mu'minun*) both groups of women (spouses and slave women) are allowed to have marital relations, the woman who has entered a temporary marriage contract is included in the first group (spouses).

It is surprising that some regard the stated verse in *Surah al-Mu'minun* as the abrogator {*nasikh*} of the verse on *mut'ah* in *Surah an-Nisa'*. This is while we all know that the revelation of the abrogator verse {*ayat an-nasikh*} should be after the abrogated verse {*ayat al-mansukh*}, but in the mentioned case, it is otherwise. *Surah al-Mu'minun*, which some assume to be the “abrogator”, is a *Makki surah* (that is, it was revealed in the Holy City of Mecca prior to the Holy Prophet's emigration {*hijrah*} to Medina) and *Surah an-Nisa'*, which contains the verse on *mut'ah* is a *Madani surah* (that is, it was revealed in the city of Medina after the *hijrah* of the Prophet (S)).

Now, how could a verse in a *Makki surah* abrogate another verse in a *Madani surah*?

The other vivid proof that refutes the claim of abrogation of the verse on *mut'ah* in the lifetime of the Prophet (S) are the many traditions that deny the abrogation of that verse in the time of the Messenger of Allah (S). The tradition narrated and explained by Jalal ad-Din as-Suyuti in *Ad-Durr al-Manthur* is an example.<sup>11</sup>

In conclusion, it should be noted that the Imams from the *Ahl al-Bayt* who, according to the *Hadith ath-Thaqalayn*, are the source of guidance of the *ummah* and the intimate peer of the Qur'an, emphasize the legitimacy of *mut'ah* marriage and reject the idea of abrogation.<sup>12</sup>

The fact that Islam is capable of solving the problems of mankind in every epoch confirms the legitimacy of such a marriage with the conditions stipulated earlier; for, one of the ways of saving the youth from the quagmires of corruption and perversion today is this fixed-time marriage which has to be performed within the framework of certain conditions.

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1. Surah an-Nisa' 4:24.

2. Ad-Durr al-Manthur, vol. 2, p. 140, on the commentary of the said verse.

3. Jami' al-Bayan fi Tafsir al-Qur'an, vol. 5, p. 9.

4. Sahih Muslim (Egypt), vol. 4, p. 130.

5. For instance, let us consider the following evidence:

Sahih al-Bukhari, "Bab Tamattu'"; Musnad Ahmad ibn Hanbal, vol. 3, p. 356; vol. 4, p. 436; Malik, Al-Muwatta', vol. 2, p. 30; Sunan al-Bayhaqi, vol. 7, p. 306; Tafsir at-Tabari, vol. 5, p. 9; Nihayah Ibn al-Athir, vol. 2, p. 249; Tafsir ar-Razi, vol. 3, p. 201; Tarikh Ibn Khalikan, vol. 1, p. 359; Al-Jisas, Ahkam al-Qur'an, vol. 2, p. 178; Muhadarat ar-Raghib, vol. 2, p. 94; Jalal ad-Din as-Suyuti, Al-Jami' al-Kabir, vol. 8, p. 293; Ibn Hajar, Fath al-Barri, vol. 9, p. 141.

6. Sahih Muslim, vol. 1, p. 395; Sunan al-Bayhaqi, vol. 7, p. 206.

7. Durr al-Manthur, vol. 2, p. 140, on the commentary of the verse on *mut'ah*.

8. Sharh Tajrid al-Qawshchi, "Mabath al-Imamah," p. 484.

9. For further information, see the following references:

Musnad Ahmad ibn Hanbal, vol. 3, pp. 356, 363; Al-Jahiz, Al-Bayan wa't-Tabyin, vol. 2, p. 223; Al-Jassas, Ahkam al-Qur'an, vol. 1, p. 342; Tafsir al-Qurtubi, vol. 2, p. 370; Sarkhasi al-Hanafi, Al-Mabsut, "Kitab al-Hajj," "Bab al-Qur'an;" Ibn al-Qayyim, Zad al-Ma'ad, vol. 1, p. 444; Kanz al-'Ummal, vol. 8, p. 293; Musnad Abu Dawud at-Tayalisi, p. 247; Tarikh at-Tabari, vol. 5, p. 32; Tabari, Al-Mustabir; Tafsir ar-Razi, vol. 3, p. 202; Tafsir Abu Hayyan, vol. 3, p. 218.

10. Surah al-Mu'minin 23:5-6.

11. Ad-Durr al-Manthur, vol. 2, pp. 140-141, the commentary of the verse on *mut'ah*.

12. Wasa'il ash-Shi'ah, vol. 14, "Kitab an-Nikah," the first section on *mut'ah*, p. 436.

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