

Temporary Marriage in Islam Part 1

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Introduction

Fixed-Term/Temporary/Pleasure Marriage are different names for the Arabic word of "Mut'a" which is a contract between a man and woman, much in the same way the Long-Term/Permanent/Conventional Marriage is. The main difference is that the temporary marriage lasts only for a specified period of time, and man and woman will become stranger to each other after the expiration date without divorce.

One misconception regarding temporary marriage is that some people think that the woman engaged in temporary marriage can have contract every other hour. This is completely misrepresentation of temporary marriage. After such contract has been expired, the woman has to wait for two months (Iddah) before which she can not marry any one else. This issue, among others, will be discussed later in detail.

The first one who legislated Mut'a with all the rules pertaining to it, was the Messenger of Allah (S), after it was revealed in Qur'an. All Muslims agree that the Messenger of Allah legislated Mut'a and made it legal after his migration to Medina, and the Muslims practiced it during his lifetime. (see al-Mughni, by Ibn Qudamah, v6, p644, 3rd Edition).

However there is a disagreement between the Shi'a and most of the Sunnis concerning whether the Prophet later banned it or not. Most Sunnis assert that although the Prophet legislated it, he later forbade it. This is while the Shi'a believe that temporary marriage was never abandoned by the Prophet (S). Allah revealed it in Qur'an, and it was being widely practiced to the end of his lifetime and during the period of Abu Bakr and the early days of Umar's rule, until Umar forbade it.

In Parts I through IV, we study the verse of Mut'a marriage in Qur'an and look into the Sunni

commentary (Tafsir) of this verse, and review the traditions reported in the six authentic Sunni collections about Mut'a. In Part V we discuss the purposes of marriage as well as the chronological orders of the prohibition of illegal sex and the permission of Mut'a in the history of Islam. In Part VI the similarities and differences which exist between the two types of marriage are presented in detail. In Part VII we discuss the necessities and the advantages of the temporary marriage, and finally in Part VIII we answer some frequently asked questions regarding to the Mut'a.

Evidences From Qur'an And The Sunni Commentaries

Allah, to whom belong Might and Majesty, said:

(...Except the forbidden women) the rest are lawful unto you to seek them with gifts from your property (i.e., dowry), provided that you desire protection (from sin), not fornication. So for whatever you have had of pleasure (Istamta'tum) with them by the contract, give unto them their appointed wages as a duty. And there is no sin for you in what you both agree (in extending the contract) after fulfilling the (first) duty. Lo! Allah is ever Knower, Wise. (Qur'an 4:24)

.. فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً ..

In the above verse, the Arabic equivalent of the word "marriage" or any of its derivatives has NOT been used. Rather the derivative of word "Mut'a" (pleasure/temporary marriage) has been used, i.e., "Istamta'tum". The word Istamta'a is the tenth verbal form of the root m-t-a. As we will show shortly, the word Istamta'a has also been widely used in the authentic Sunni collections for Temporary Marriage. Of course, Mut'a is one type of marriage, but some of its regulations are different than the permanent marriage, including the fact that the couple can extend this contract by mutual agreement as the end of verse specifies.

Moreover, if we look at the Sunni commentaries of Qur'an, many Sunni scholars such as Fakhr al-Razi confirm that the above verse (4:24) was revealed about the Temporary Marriage (Mut'a). They straightforwardly mentioned that temporary marriage became Halaal (permitted) DUE TO the above verse, but they assert that it was later prohibited. It is astonishing that many Sunni commentators mentioned under the above verse that:

'Ali (ra) said: The Mut'a is a mercy from Allah to his servants. If it were not for Umar forbidding it, no one would commit (the sin) of fornication except the wretched (Shaqi; an utmost wrong-doer)."

إِنَّ الْمَتْعَةَ رَحْمَةٌ رَحِمَ اللَّهُ بِهَا عِبَادَهُ. لَوْلَا أَنَّ عُمَرَ نَهَى عَنِ الْمَتْعَةِ مَا زَنَى إِلَّا

شقي.

Sunni references:

- Tafsir al-Kabir, by al-Tha'labi, under commentary of verse 4:24 of Qur'an;
- Tafsir al-Kabir, by Fakhr al-Razi, v3, p200, commentary of verse 4:24;
- Tafsir al-Kabir, by Ibn Jarir al-Tabari, under commentary of verse 4:24 with authentic chain of narrators, v8, p178, Tradition #9042;
- Tafsir al-Durr al-Manthoor, by al-Suyuti, v2, p140, from several chain of transmitters;
- Tafsir al-Qurtubi, v5, p130, under commentary of verse 4:24 of Qur'an;
- Tafsir Ibn Hayyan, v3, p218, under commentary of verse 4:24 of Qur'an;
- Tafsir Nisaboori, by al-Nisaboori (8th century);
- Ahkam al-Qur'an, by Jassas, v2, p179, under commentary of verse 4:24.

A very similar tradition has also been narrated by Ibn Abbas (ra), and was mentioned by al-Tabari and al-Tha'labi in their Tafsir of Qur'an.

It is interesting to note that Umar did not attribute the prohibition of Mut'a to the Prophet (S). They were others who did that after Umar mainly to justify what he did. Umar clearly mentioned that: "Mut'a WAS permitted at the time of the Prophet and I PROHIBIT it!" The great Sunni scholar, Fakhr al-Razi, who has been given the title of "Imam al-Mushakkikeen" (the leader of ever-questioners/ever-doubtful) by the Sunnis, in his voluminous commentary of Qur'an mentioned under the verse of Temporary Marriage that:

Umar said: Two types of Mut'a were (legal) during the time of the Prophet and I forbid them both, and I punish those who commit it.

They are: Mut'a of pilgrimage and Mut'a of women.

Sunni references:

- Tafsir al-Kabir, by al-Fakhr al-Razi, v3, p201 under verse 4:24
- Musnad Ahmad Ibn Hanbal, v1, p52

Here is the Arabic text of the above masterpiece of Umar:

متعتان كانتا على عهد الرسول و أنا انهي عنهما و أعاقب عليهما: متعة الحج و متعة النساء.

Notice that Mut'a can be of two kinds: Mut'a of women (pleasure/temporary marriage) and Mut'a of Pilgrimage (Hajj al-Tamattu'). The latter is a way of performing Pilgrimage and has no relation with the former which is one way of performing marriage. Both types of Mut'a were practiced at the time of the Prophet and Abu Bakr and the early days of Umar's rule. But they were prohibited by Umar. There is another verse in Qur'an which gives evidence to the permissibility of the Mut'a of Pilgrimage. However this type of Pilgrimage is not the subject of our discussion here.

As we see from the above quote, Umar did NOT say that Mut'a was canceled by the Prophet. If it was really the Prophet who canceled Mut'a, Umar would have say: The two Mut'a were Halaal and then became Haraam at the time of the Prophet, and I am informing you about the second law set by the Prophet which canceled the first. But it is evident that Umar is straightforwardly saying that he is the one who is making it Haraam!

Al-Zamakhshari, another Sunni commentator of Qur'an Under the commentary of 4:24, reported that this verse is from the "Muhkamat" of Qur'an, relating that from Ibn Abbas (ra). (Tafsir al-Kashshaf, by al-Zamakhshari, v1, p519).

Also Both Ibn Jarir al-Tabari and al-Zamakhshari narrated that:

"al-Hakam Ibn Ayniyah was asked if the verse of Mut'a of women is abrogated. He answered: 'No'."

Sunni references:

- Tafsir al-Tabari, under commentary of verse 4:24 of Qur'an, v8, p178
- Tafsir al-Kashshaf, by al-Zamakhshari, under the verse 4:24, v1, p519

Also Ibn Kathir mentioned his commentary:

"al-Bukhari declared that Umar used to forbid people on Mut'a."

Sunni reference: Tafsir Ibn Kathir, v1, p233

Also in another Sunni commentary it is reported that:

Umar said, while on the pulpit: "O folk! Three were (allowed) during the time of the Messenger of Allah (S), and I forbid them, and make them Haraam, and punish on them. They were: Mut'a of women, Mut'a of Hajj (pilgrimage), and saying 'Hayya Ala Khair al-Amal'."

Sunni references:

- Sharh Al-Tajreed, by al-Fadhil al-Qoshaji, (Imama Section)
- al-Mustaniran, by al-Tabari
- al-Mustabeen, by al-Tabari

Remark: The third item mentioned above which was prohibited by Umar, is what is said in the Call for Prayer and Iqaamah after the phrase "Hayya Ala al-Falah", and it is practiced by the Shi'a to this date. It means "Hasten for the best deed". This part of call for prayer was abolished by Umar as well. Instead, he replaced it by the sentence: "Prayer is better than sleep"!

Interesting to know that there are some Sunni scholars who accepted that the Mut'a marriage is legal (Halaal) forever exactly based on the above verse of Qur'an. Among those scholars are the Tunisian scholar, Shaikh al-Tahir Ibn 'Aashoor, under his Tafsir of the verse 4:24 of Qur'an. (See al-Tahrir wa al-Tanwir", by al-Tahir Ibn 'Aashoor, v3, p5). And there has been such open-minded scholars who did not allow the love of their leaders affect their judgment.

Some tried to cast doubt about the meaning of "Mut'a", by saying that it literally means pleasure and not necessarily a special type of marriage. These people, instead of searching for the practical definition of Mut'a in the History, Hadith, and Jurisprudence, they look it up Arabic dictionary!

Even the Arabic dictionary gives the practical meaning of Mut'a, that is temporary marriage. All Shi'a and Sunni scholars agree to this very fact. al-Qurtubi, who is one of the great Sunni commentators of Qur'an, wrote: "There is no dispute among the scholars, either early (salaf) and late (khalaf) scholars, that Mut'a is a marriage for a fixed period of time and that it does not involve inheritance."

Replacing the practical meaning and the linguistic meaning is very dangerous and is prohibited in the religious rules, because one may also say, "Salat"(prayer) means praise/supplication and is not necessarily the acts that Muslims do every day. Or "Zakat"(alms) means "to cleans"and is not necessarily paying money, and so on...

Perhaps such people did not even read the traditions related to "Mut'a of women"which gives its practical meaning used at the time of the Prophet and the early Caliphs and how the companions used to contract by a handful of date as dower.

Even the English version of Sahih al-Bukhari and Sahih Muslim have translated the word "Mut'a al-Nisa"to "Temporary Marriage,"and they also translated "Istimta'a"to "marrying temporarily", and the traditions in that section which is a section in the chapter of marriage, gives the total picture of its meaning. (Please see Part II for the details of these traditions from Sahih al-Bukhari and Sahih Muslim). Have these people ever heard of any other type of "Mut'a of women" in the history of Islam?

Some also tried to cast doubt about the meaning of the verse of Mut'a in Qur'an (4:24) by saying that the word "Istamta'a" refers to the consummation of the permanent marriage, after which dowry should be paid.

The above assertion is not correct. The best way to understand the meaning of the verse, is first to learn Arabic (since the exact translation of Qur'an to any other language is quite impossible), and second, to look at various commentaries (not just a filtered one), and third, to look at the traditions related to temporary marriage to see if they have used the word "Istamta'a". If we do all the three and search completely for different and controversial opinions, then we can say that we are close to the target.

In this part, we already provided references to many Sunni commentaries of Qur'an, in which the commentators confirmed that the verse was revealed for the temporary marriage, and they mentioned many traditions about the temporary marriage under the commentary of this verse. Then how can this verse be related to permanent marriage?! or perhaps you think these Sunni scholars had some loose screws upstairs. Few lines later, more interesting traditions from the Sunni commentaries under this verse are provided. Yet there many more available.

Moreover, who could we find better than Jabir Ibn Abdillah al-Ansari (ra), the great companion of the Prophet, who according to Sahih Muslim said: "Istamta'a means contracting temporary marriage" (Sahih Muslim, English version, v2, chapter DXLI titled: Temporary Marriage, Tradition #3246. Please see part II for the full Arabic text of the tradition). Jabir did not relate "Istamta'a" to consuming the marriage in general.

Furthermore, in the verse 4:24 Allah states, "...And there is no sin for you in what you both agree after fulfilling the duty (i.e., dowry of the first contract)". The mutual agreement after the duty refers to extending the period of temporary marriage after full payment of the previous dower, so that the woman can freely decide on the continuation of the marriage with no pressure or temptation. In this way, Allah encourages that people who are engaged in Mut'a will get more reward if they extend it to a bigger period (or perhaps convert it to a permanent marriage) by assigning a new dower after fulfilling the previous dower. Ibn Jarir al-Tabari wrote in his commentary of Qur'an:

Some traditions mention that the meaning of "And there is no sin for you in what you both agree after fulfilling the duty" means: O people! There is no sin for you to have an agreement between you and the women who you have had pleasure with them in a fixed-term contract, to extend the period at the time when the first period expires, and thus to prolong the temporary marriage by increasing the reward (of the Hereafter) as well as the duty (dowry) before you leave them. It is narrated on the authority of al-Suddy (ra) who said:

"And there is no sin for you in what you both agree after fulfilling the requirement. If the husband wishes he could convince her (to accept the renewal) after paying her the first dowry and just before the expiration date of marriage. In that case he would say to his wife: I contract Mut'a with you for such and

such again. Thus he extends it before he leaves her due to the expiration of the first contract, and this is what the verse means.”(Tradition #9046)

Sunni reference: Tafsir al-Tabari, by Ibn Jarir al-Tabari, under the verse 4:24, v8, p180.

Another reason for the fact that the dowry mentioned in the above verse does not refer to permanent marriage, is that Qur’an has already talked about the dowry for permanent marriage at the early part of the very same chapter by saying:

“...Marry women of your choice two or three or four; but if you fear that you shall not be able to deal justly (with them) then only one...”(Qur’an 4:3)

“And give the women (of permanent marriage) their dower as a free gift”(Qur’an 4:4)

It is clear that the above verses are about permanent marriage and the dowry associated with it. So there would be no need that Allah repeats it along with its associated dowry again in the very same chapter. However if Allah intended to discuss about Mut’a, then it is some thing new. And this can be inferred from the choice of words which Allah used in the verse of Mut’a (4:24) by using the derivative of Mut’a in contrast with the other verses around it.

(...Except the forbidden women) the rest are lawful unto you to seek them with gifts from your property, provided that you desire protection (from sin), not fornication. So for whatever you enjoyed (Istamta’tum) them by the contract, give unto them their wages as a duty. And there is no sin for you in what you both agree (in extending the contract) after fulfilling the duty (i.e., dowry of the first contract). Lo! Allah is ever Knower, Wise. (Qur’an 4:24)

Thus, in fact, Allah is discussing different types of marriages: first, permanent marriage in the verses before Verse 24, then temporary marriage in Verse 24, and then marriage with the slave girls in Verse 25:

If any of you have not the means wherewith to wed free believing women they may wed believing bondwomen from among those whom you rightfully possess, and Allah has full knowledge about your faith. You are one from another; wed them with the leave of their owners and give them their wages according to what is reasonable; they should be chaste not lustful nor taking paramours; when they are taken in wedlock if they fall into shame their punishment is half that for free women. This (permission) is for those among you who fear sin; And if you be patient, it is better for you; and Allah is forgiving and Merciful. (Qur’an 4:25)

Here Allah mentions the dower related to slave girls. Thus Allah repeated the issue of dowry three times, one for permanent marriage, one for temporary marriage and one for the bondwomen.

Again, to stress that Verse 4:24 was revealed about temporary marriage, we present more traditions from the Sunni commentators. Al-Tabari mentioned that:

Mujahid (ra) said: "The phrase 'So for whatever you have had of pleasure (Istamta'tum) with them by the contract (4:24)' **means** the Temporary Marriage (Nikah al-Mut'a)."

Sunni reference: Tafsir al-Tabari, by Ibn Jarir al-Tabari, under the verse 4:24, v8, p176, Tradition #9034.

Also many Sunni commentary books mentioned similar to the tradition of Sahih al-Bukhari (see part II) with more details and put it under the verse 4:24 of Qur'an:

Imran Ibn Husayn narrated: "The verse of Mut'a (4:24) was revealed in Allah's Book, and there did NOT come any other verse after that to abrogate it; and the Prophet ORDERED US to do it, so we did it at the time of Allah's Apostle, and he did not forbade us from it till he died. But a man (who regarded it illegal) expressed what his own mind suggested."

Sunni reference:

- Tafsir al-Kabir, by al-Tha'labi, under commentary of verse 4:24 of Qur'an
- Tafsir al-Kabir, by Fakhr al-Razi, v3, pp 200,202, under the verse 4:24
- Tafsir Ibn Hayyan, v3, p218, under commentary of verse 4:24 of Qur'an
- Tafsir Nisaboori, by al-Nisaboori (8th century)

So it is clear that 'Imran Ibn Husayn is talking about Mut'a of women here, otherwise the above Sunni commentators would not put it under this verse, or else such scholars are just stupid (may Allah protect us from such words). The positioning of such traditions is another proof for the fact that the verse 4:24 is about Mut'a of women.

In many traditions in the Sunni commentaries of Qur'an, the phrase "to an appointed time" has been added to Verse 4:24 after the word Istamta'tum. In other words, it reads "So for whatever you have enjoyed (Istamta'tum) them by the contract to an appointed time":

فما استمتعتم به منهن إلى أجلٍ مسمى.

This however should be considered as commentary of the verse which was revealed along with Qur'an, but NOT as a part of the Qur'an. In fact, many verses were revealed by Allah which are not embodied in the present Qur'an because they were commentaries of the verses of Qur'an, but not a part of Qur'an itself. It is well-known that Hadith Qudsi is also revelation, but it is not a part of Qur'an. In fact Qur'an testifies that anything that the Prophet said was revelation. Allah Almighty said in Qur'an about Prophet Muhammad (S) that:

***"Nor does he (Muhammad) speak out of his desire. Whatever he says is nothing but a revelation that is revealed."*(Qur'an 53:3-4).**

Thus all the speeches of the Prophet were revelation, and surely the speeches of the Prophet were not limited to Qur'an. It also includes interpretation of Qur'an as well as his Sunnah. Now let's go back to the traditions which I wanted to present. It is narrated that:

Abu Nadhra said: Ibn Abbas (ra) recited the verse 4:24 with the addition of "to an appointed time". I said to him: "I did not read it this way." Ibn Abbas replied: "I swear by Allah, this is how Allah revealed it," and Ibn Abbas repeated this statement three times."

Sunni references:

- Tafsir al-Kabir, by Ibn Jarir al-Tabari, under the verse 4:24, v8, p177, Tradition #9038
- Tafsir al-Kabir, by al-Tha'labi, under commentary of verse 4:24 of Qur'an narrating similar tradition from Jubair.

also:

Abu Nadhra said: I asked Ibn Abbas about temporary marriage (Mut'a of women). Ibn Abbas (ra) said: "Do you not read 'For whatever you enjoyed (Istamta'tum) them by the contract to an appointed time'?" I said: "If I would have read it this way, I wouldn't ask you (about temporary marriage)!" He replied: "Certainly the verse is about it."

Sunni reference: Tafsir al-Kabir, by Ibn Jarir al-Tabari, under the commentary of verse 4:24, v8, p177, Traditions #9036-9037

It is also narrated that:

al-Suddy (ra) said: "The verse 'So for those of whom you have had pleasure with them by the contract **to an appointed time**' is about Mut'a, that is, a man marries a woman with a provision (i.e., dowry) for a fixed period of time and makes two witnesses, and (if virgin,) he asks the permission of her guardian, and when the time period is expired, they should separate and they will not inherit each other."

Sunni reference: Tafsir al-Kabir, by Ibn Jarir al-Tabari, under the commentary of verse 4:24, v8, p176, Tradition #9033

Moreover:

Abu Karib said Yahya said: "I saw a book with Nasir in which it was: 'So for whatever you have had of pleasure with them by the contract to an appointed time.'"

Sunni references:

- Tafsir al-Kabir, by Ibn Jarir al-Tabari, under the verse 4:24, pp 176–177, Tradition #9035
- Tafsir al-Kabir, by al-Tha'labi, under commentary of verse 4:24 of Qur'an narrating similar tradition from Ibn Abi Thabit.

Another companion, Ubay Ibn Ka'ab (who based on authentic Sunni sources the Prophet ordered the companions to trust him in the matter of Qur'an as one of the three trustee persons in this regard. See Sahih al-Bukhari, English, vol. 6, Tradition #521) also mentioned that additional phrase:

Qatadah (ra) said: "The way that Ubay Ibn Ka'ab recited the verse was: 'So for those of whom you enjoyed by the contract to an appointed time.'"

Sunni reference: Tafsir al-Kabir, by Ibn Jarir al-Tabari, under the commentary of verse 4:24, v8, p178, Tradition #9041

Beside the above mentioned authorities, there were others such as Sa'id Ibn Jubair, Abi Is'haq, and Umay who have also mentioned this extra phrase when reading this verse. Well, as I said, this extra phrase, though revealed, was only commentary and not a part of Qur'an.

If one wants to write it, he should put it inside curly brackets showing that it is not a part of Qur'an. There are many of such extra phrases which can be found in both Shi'a and Sunni sources, but they are only the divine interpretation of the verses.

This concludes the discussion on the Qur'anic verse of Mut'a and what Sunni commentators had to say about the verse. In the next part, we Insha Allah study the authentic Sunni collections of traditions with regard to temporary marriage.

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