

# TEMPORARY MARRIAGE

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Temporary or *Mut'a* marriage is one of the most fiercely contested moral issues in Islam. When taking on the subject of *Mut'a* marriage, Muslims enter a battle in which lines are drawn between the "Shiite" and the "Sunni". The debate between these two fronts is endless, *i.e.*, the *Shiite* consider this marriage to be legitimate, whereas according to the *Sunni* it is forbidden.

Both parties agree that *Mut'a* existed during the days of the Prophet and that he encouraged his followers and soldiers to practice it. "*Mut'a* was permitted to prevent chaos and social disorder by soothing individual discomfort" (Haeri 1989, pp.49-51). The *Sunnis* attribute its permissibility at one point in history to unusual circumstances, namely when long separations in times of war negatively affected individuals and society. The *Shiites*, however, hold that, although the Prophet recommended it to his soldiers, *Mut'a* should not be interpreted as being restricted to specific historical circumstances. The *Sunnis* affirm that only one reference, and that a rather controversial one, to *Mut'a* exists, namely, in the *sura* of women, verse 24: "Beyond all that, is that you seek, using your wealth in wedlock and not in license. Such wives as you enjoy thereby, given their wages apportionate. God is All-knowing, All-wise" (*Quran* 4:24). They go on to claim that nothing is mentioned in the *Quran* relating to its form, its procedure, the reciprocal rights of the temporary wife, *etc.* (Haeri 1989, p.61). The *Shiite Ulama* disagree and maintain that *Umar Bin El Khattab* equated *mut'a* marriage with fornication and called for its abolition. But to them his prohibition of this form of marriage is invalid because "that which has been made lawful, '*halal*', by Muhammad is '*halal*' till the Day of Resurrection and that which has been forbidden, '*haram*', is '*haram*' till the Day of Resurrection" (Haeri 1989, p.63).

Islam and Christianity look at the function of instincts from different angles. While the Christians consider the individual to be torn between instinct and reason, *i.e.*, between bad and good, Islam views the raw instincts as energy which is pure and which lacks any implications of bad or good. The connotations of good and bad arise, however, when the social destiny of men is taken into account:

The individual cannot survive except within a social order. Any social order has a set of laws. The set of laws decides which uses of the instincts are good or

bad. It is the use made of the instincts, not the instincts themselves, that is beneficial or harmful to the social order. Therefore, in the Muslim order it is not necessary for the individual to eradicate his instincts or to control them for the sake of control itself, but he must use them according to the demands of religious law (Mernissi 1985, p. 27).

According to Islam, sexual desire should not be suppressed, because a sexually frustrated member of the community is considered dangerous, defective and inferior. It should be used to serve the purpose of the Muslim order which is the perpetuity of the human race: "used according to God's will, the desire of the flesh serves God and the individual's interests in both worlds, enhances life on earth and in heaven" (Mernissi 1985, pp. 58-60). Sexual desires should be harnessed and channeled in the right direction, namely marriage. The prophet Muhammad is said to have stated that "marriage is my tradition ... He who rejects my tradition is not my follower" (Mernissi 1985, pp. 58-60). It is a protective device against *zina* whereby one's sexual desires are satisfied. *Zina* may be defined as "any sexual intercourse between two people who are not in a state of legal matrimony or concubinage." Both adultery, which involves at least one married person, and fornication, which involves unmarried individuals, are considered acts of *zina*. Therefore, in order to prevent individuals from committing *zina*, sexual desires should be gratified through marriage, for only within the married couples is sexual intercourse legitimate.

The *Shiite* claim that, throughout the ages, marriage has always been accompanied with adulterous relationships. Moreover, permanent marriage failed to solve the problems of sexual gratification due to many obstacles that impede its realization, such as financial problems or the need to further one's education. Because permanent marriage may be out of the question under certain circumstances and because it is important to fight moral corruption and decadence, temporary marriage is seen as a solution for regulating sexual relationships within the confines of religious law. "*Mut'a* is for the people who can't marry permanently and who are in need, or are afraid that if they do not do it they will commit a sinful act ..." (Haeri 1989, pp.49-51).

*Mut'a* is an Arabic word that can be translated as "enjoyment" or "pleasure". *Mut'a* marriage or temporary marriage is a contract in which a man and an unmarried woman (virgin, widow, divorcee) decide upon the

length of the marriage and the amount of money to be paid beforehand. This contract takes place between the two parties involved, does not require the presence of a religious figure or of witnesses, and does not need to be registered. The term may be as long as ninety nine years or as short as one hour, depending on the couple's desire. No divorce is required as the marriage is terminated upon the expiry of the contract. After that, a woman is expected to serve her *iddah* or waiting period, which is defined as the length of time by the completion of which a new marriage, if contracted, would be lawful. The children born as a result of *mut'a* marriage are legitimate and enjoy the same rights as their siblings born from a permanent marriage. A *Shiite* man is allowed four wives in permanent marriage: "Marry of the women who seem good to you two, three, or four, and if ye cannot do justice (to so many) then one (only)" but he can contract as many temporary marriages as he desires (Mernissi 1985, p.46).

The objectives of the two types of marriage differ. *Mut'a* marriage which is considered a form of marriage with a built-in time limit is contracted for sexual enjoyment whereas a permanent marriage is contracted for procreation. The structural elements of *mut'a* marriage are very similar to that of a permanent one. It requires a legal form of contract (*sighah*) where the woman says "I, (name), marry (or *mut'a*) thee, for the amount of (money) and for such and such a period" and the man says, "I accept". In a permanent contract, the duration and payment are not specified, and the ceremony is usually not a private affair. In both marriage types, the limitations of interfaith marriage (*mahal*) must be observed. A Muslim woman cannot marry anyone but a Muslim, and a Muslim man can choose from among the chaste Muslim women, Christians, Jews, and sometimes Zoroastrians (Haeri 1989, pp. 50-51).

A consideration of payment (*ajr*) should be specified upon contracting a marriage or else it is considered void. In this aspect permanent and temporary marriage differ, for in the latter the *mahr* can be left unstated whereas the validity of the former requires specifying the sum. A further difference concerns the payment of consideration: a permanently married wife receives her payment if intercourse takes place, whereas in the temporary marriage upon the end of the contract the husband is obliged to give his wife half the amount specified if intercourse did not take place. If the marriage is consummated and the husband decides to dismiss his wife before the term is up, she gets the full amount. Besides, a husband is required to pay his wife the full sum if he chooses not to have intercourse with her yet does not release her from her obligations. The duration of temporary marriage (*ajal*) ought to be made "quantifiably clear" in a *mut'a* contract where the two parties specify a time limit, unlike a in permanent marriage where the

duration is one's lifetime (Haeri 1989, pp. 52-53).

For women, *mut'a* marriage entails no privileges or rights; her condition is worse than that of a permanent wife. In return for her sexual favors she receives her consideration (*ajr*) but her husband is not required to pay for her upkeep (*nafaka*) - not even when she is carrying his child (unless that had been agreed upon in the *mut'a* contract). Moreover, a *mut'a* wife is not entitled to inherit from her husband. A permanent wife has the right to inherit from her husband, and the husband is required to pay for his wife's upkeep (*nafaka*) provided that she "submits to his every desire and is at his disposition for the satisfaction of every one of his wishes ... she is not allowed to refuse his advances except on grounds of religious impediments"(Haeri 1989, pp. 65-69).

The degree of obedience being limited in a *mut'a* marriage, a temporary wife enjoys greater freedom and autonomy and her activities do not fall completely under her husband's control. However, if her leaving the house interferes with her husband's right to sexual intercourse her activities are forbidden. There are legal devices that ensure a permanent wife's right to intercourse and sexual satisfaction by her husband, but these do not apply to a *mut'a* marriage. In a permanent marriage "it is just for the husband to have sexual intercourse with his wife every four nights if he has four wives." However, if he has one wife he can spend as many nights with her as he pleases. Moreover, a husband is obliged to sexually satisfy his wife not less than once every fourth month. Some *Ulama* hold that "this command is not limited to permanent marriage" (Haeri, 1989, pp. 70-72).

In an interview, Ayatollah Al-Sayyed Muhammad Hussein Fadlallah explained that the issues related to *mut'a* marriage should be dealt with in-depth in order to fully grasp the significance of such a marriage. He holds that temporary marriage used to be considered similar to the quick marriages in emergency situations. He disagrees with some *Ulama* who assert that men are entitled to marry up to four temporary wives as they are in permanent marriage, and he maintains that there is actually no limit to the number of temporary wives as long as one keeps in mind that this marriage should take place in emergency situations and special cases.

Al-Sayeed Fadlallah affirms that the difference between *zina* and permanent marriage, on the personal level, lies in the latter being a contractual obligation where the partners agree upon the rights and obligations required of each of them. He defines *zina* as an illegitimate relationship without contractual links and restrictions other than one's personal moods and desires. According to him *zina* takes place when people live together in concubinage or have intercourse without any

of the restrictions that give one partner rights and obligations over the other. From the legal and religious point of view, the law protects permanent marriage and states its legitimacy whereas *zina* is punished by the law and religion.

Al-Sayyed Fadlallah holds that men need to satisfy their instinctive and natural sexual urges and desires. He explains that permanent marriage is not always the solution to the sexual problem for it is usually accompanied with *zina*. Given that the sexual relationship stems from a human need, Al-Sayyed Fadlallah maintains that we should find a solution for this sexual problem within the confines of religion alongside the need to marry permanently and that this solution is *mut'a* marriage. He explains that men and women differ in their sex drives. The former require copulation with more than one partner to relieve their body from sexual tension whereas women are by nature used to abstinence. Instead of committing *zina*, a man who is unable to afford marrying permanently, can enter into a legitimate contract whereby he is able to satisfy his desires in a lawful and religiously acceptable manner.

According to Al-Sayyed Fadlallah, a husband's sexual rights over his wife do not differ whether he is married to her permanently or temporarily. Islam made women and men free; what binds them together are the vows they take towards each other. He holds that a woman who agrees to marry, either permanently or temporarily, is willingly giving up her freedom. He offers an analogy between marriage and employment to explain his point: "a female employee has to succumb to the orders of her boss and in this case we cannot say that we are oppressing her or robbing her of her freedom for she is the one who willingly chose to place her freedom in the hands of someone else by subjecting it to the will of someone else in the workplace. The same applies to marriage, marriage is not based purely on sex, yet sex or sexual activity is an important factor for married couples. So when a woman agrees to get married she knows exactly what is expected of her, namely obeying her husband's wishes and desires. The element of choice is present and she was the one who chose to link her life to the wishes of someone else. So she is in no way exploited, for she willingly entered into the contract."

Al-Sayyed Fadlallah says that, normally, society and the *Shiite* community itself look down upon *mut'a* marriage as shameful and condemn it, for this form of marriage opposes traditions and customary practices; society fails to tolerate the temporary marriage of a widow, a divorced woman, and, especially, a virgin. Moreover, he adds that it is considered socially unacceptable for a man to propose temporarily to a woman or to her parents. Al-Sayyed Fadlallah explains that some *Ulama* believe that virgin women should not be allowed to contract this type of marriage for it brings upon them social shame even though

it is religiously legitimate and acceptable; these *Ulama* maintain that a virgin should obtain the approval of her father or paternal grandfather before getting married. However, Al-Sayyed disagrees with this position, arguing that, if a virgin is an adult and capable of managing her own money, she need not have the permission of her father.

When asked how he would react if his own daughter were to contract a temporary marriage, he answered, "I would not like to see my daughter married temporarily due to the instability of *mut'a* marriage. I want for my daughter a stable life and *mut'a* marriage, though legitimate, is not a permanent marriage. Yet, if this is to ever occur I would not treat her as a delinquent or as an adulteress or even take a negative standpoint." Al-Sayyed Fadlallah contends that the negative aspects of a *mut'a* marriage fall mostly on the woman's head, because society is patriarchal. Temporary marriage stigmatizes the woman and causes her to be looked down upon by society - especially if that society is primitive. For example, he believes that in tribal communities such a marriage might endanger her life and render it unstable. He holds that a woman's need for emotional stability in life is innate and more prominent than that of a man; hence, a woman who gets addicted to *mut'a* marriage will lose all sense of stability, with all the social and psychological consequences. Besides, she might run the risk of remaining alone always, for men will refuse to marry her permanently.

Al-Sayyed Fadlallah says that the Eastern way of thinking and the high price and value attached to virginity may render *mut'a* marriage a problem that affects the woman's life negatively. However, he maintains that in a liberal society where relationships between men and women are permissible and which acknowledges a woman's need for sexual pleasure, *mut'a* marriage should not be problematic for a woman. Still, a woman is required in such a liberal society to preserve and protect herself by abstaining from committing *zina*, delinquency, and immorality. Given that our society is still very conservative, Al-Sayyed affirms that Eastern women should protect themselves from its wrath. They should not be contented with what religion proclaims as legitimate or illegitimate, for many things acceptable to religious law are unacceptable to society. "A woman should protect herself from the injustices of society."

### References

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