

Mut'ah; a comprehensive guide

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What is Mut'ah?

Nawawai in his commentary of Sahih Muslim, defined Mut'ah as follows: Nikah Mut'ah is marriage for a fixed time on Mehr agreed with the woman, when the time expires the marriage comes to an end. [Nawawai. Sharh Sahih Muslim. Volume 4, p. 13]

Qur'anic Evidences for the Legitimacy of Mut'ah

The Verse of Mut'ah (4:24)

[Forbidden to you] are married woman, except what your right hand possesses. This Allah has written for you, and all other women besides these are permitted to you, so that you may seek them out with your wealth, seeking chastity and not fornication. So when you have contracted temporary marriage [istimt'atum] with them, then give them their words. There is no sin on you for whatever you agree to after this. Indeed, Allah is Knowing, Wise. [Al-Qur'an, Surah An-Nisa, Ayah 24]

Allah (swt) has used the word istimta'tum, which is the verbal form of the word Mut'ah. Many of the Sunni Tafsir writers agree that this verse explicitly deals with Mut'ah for example "Istimatum' here refers to Nikah Mut'ah and this is a form of Nikah where a couple for a specified time have ownership of one another, and when the time expires they separate without Talaq" [Tafseer Mazhari Volume 3 p. 18...]

We also read in Tafseer Dur al-Manthur Vol 2, P. 140 & 141 that Ibn Abbas(r) said: "Mut'ah was practised from the outset of Islam and the Companions would read the verse of Mut'ah with the words 'for a prescribed period'.

Was Mut'ah Abrogated by the Qur'an?

The first argument is that the verse of Mut'ah came down, but this was abrogated when the verses dealing with marriage came down, such as the opening verses of Surat al-Mu'minun: "Successful are the believers, who are filled with awe in their salat, who turn away from vein talk, who give in charity, and who protect their chastity, except with their wives or those whom their right hands possess." Qur'an, Surah 23, Ayah 1-6

As anybody with even the most basic knowledge of Islam knows that the Prophet (s) migrated from Makka to Madinah, meaning he was in Makkah first. Allamah Shabbir Ahmad Uthmani in Fath al Mulhim, Sharh Muslim Volume 3 page 221 in his discussion of the verse, 'And those who

preserve their private parts except with their spouses or what their right hands posses' - states:

"The verse being referred to descended in Makka"

Whilst these verses descended in Makka, Sunni traditions confirm that Mut'ah was practised much later, during the battle of Khayber. This means that, according Nasibis, the abrogating verse (nasikh) was revealed before the abrogated verse (mansukh). This is, of course, a logical impossibility: how can the verse of Mut'ah be abrogated by the verses from Surat al-Mu'minun when the verse of Mut'ah was revealed after those verses?

Allamah Baghdadi in his discussion of the verse 'And those who preserve their private parts except with their spouses or what their right hands posses' also acknowledges this fact in his Tafseer Ruh al Ma'ani Volume 9 page 10: "This verse is Makkan and descended before the Hijrah [migration], since Mut'ah was halaal after the Hijrah, it is difficult to advance this as evidence of the illegality of Mut'ah".

Was Mut'ah Abrogated by the Sunnah?

Analyzing the claim that Mut'ah was made haraam on the day of Khayber

It is often said by the critics of Mut'ah that Prophet(s) forbade it at Khyber.

But we see that the Sunni scholars have rejected the narration of Bukhari and Muslim wherein Mut'ah was banned on the Day of Khayber. We shall rely on the following authentic Sunni sources as proof:

In Fathul Bari vol.9 pg. 145 and Neel al Authar vol.6 p. 146, Sunan Baihaqi vol.7 pg.201 and Zaad al Maad Volume 1 pg. 443 Abu Awaanah is quoted as writing in his Sahih:

"I have heard scholars saying that the tradition related of Ali only talked of the prohibition of the eating of the meat of domestic asses and there was no mention of Mut'ah, and the tradition is silent on that matter".

Above all, Ibn Qayyim says in Zaad al Maad Volume 2 page 142: that "If we accept that Mut'ah was cancelled on the Day of Khayber then what we are saying is that cancellation occurred twice and this has never happened in religion for sure and will not happen."

Analyzing the claim that Mut'ah was made haraam at the time of the conquest of Makka

Ibn al Qayyim states in Zaad al Maad: "Most argue that if this hadith were correct Ibn Masud would know about it. It is even narrated that they (himself and other companions) were practising it and that he proved the legitimacy of Mut'ah by quoting verse 24 of Surah Nisa. He further adds: "If the tradition

was correct Omar would not say: 'It (Mut'ah) was permissible during the time of Allah's Messenger (S) but from now henceforth I declare it forbidden and will punish those who practice it', he (Omar) would rather have said "The Messenger of Allah (S) prohibited it and forbade it.

This argument is irrefutable. As will be discussed below, there is no doubt that it was 'Umar who forbade Mut'ah, and did so in complete contradiction to the hukm of the Prophet (s) and Allah (swt).

The Truth: That 'Umar banned Mut'ah

We cite the fatwa of Ibn Abbas(r), where he stated: "Mut'ah was blessing of Allah upon the Ummah of Muhammad and had Umar not prohibited it the only person to fornicate would be a wretched person." [Tafsir Durre Manthur Vol 2 p. 41 Ayat Mut'ah]

It has been established that the Qur'an bore witness to the legitimacy of Mut'ah, and that it was originally halaal. All arguments about other verses abrogating the verse of Mut'ah have proven invalid. The only argument after this was the belief that the Prophet (s) had abrogated it in his Sunnah, but this was proven to be impossible: all of the hadeeths dramatically contradict each other on this issue. It is also well known that a large number of companions, if not the majority of them, continued to practice Mut'ah after the death of the Prophet (s). The only claim for the abrogation of Mut'ah which remains, then, is the only claim which is true: that it was "abrogated" by 'Umar, who of course had no authority to do such a thing. This acknowledgement is made in Ahl'ul Sunnah's esteemed work al Awail, wherein we read: "The first to make Mut'ah haraam was 'Umar"

Indeed, the Sahaba deemed Umar to be a liar when it came to this issue. We read in Tafseer Kabeer p. 41: "Imam Ali(as) said "Had Umar not banned Mut'ah then the only person to fornicate would be a wretched person."

Admission by Umar

We read in Musnad Ahmad Ibn Hanbal Volume 1 p. 12 hadith 369 that: "When Umar become Khalifa he issued a sermon to the people of the Qur'an is the same Qur'an and Rasulullah(s) is the same Rasulullah(s). During the time of Rasulullah there were two types of Mut'ah, Mut'ah of Hajj and Mut'ah of Nisa."

It is stated in Kanz al Ummal Volume 8 p. 93 Bab Mut'ah. "Ibn Qalaba narrates Umar said, 'During the lifetime of Rasulullah(s) there were two types of Mut'ah, I now prohibit them and shall inflict the punishment of the Zina on its perpetrators."

Imam Malik issued a Fatwa that Mut'ah is halaal

We read in Fatwa Qadhi khan Volume 1 p 151 al Nikah Fayl: "Mut'ah cannot be Nikah, Mut'ah is false,

it should not be practised, Ibn Abbas and Imam Malik had differing views, in their views this was practicable".

Imam of Ahl as-Sunnah Ahmad Ibn Hanbal deemed Mut'ah to be Halal

We read in Tafseer Ibn Katheer Volume 1 p. 14, Surah Nisa verse 24: "Ibn Abbas and other party amongst the Sahaba narrated traditions that Mut'ah is halaal, and Ibn Hanbal also said that it was practicable"

The Argument that Mut'ah is Immoral

Critics of Mut'ah deem it immoral while an un-Islamic and worst form of marriage is permissible among Wahabis namely 'Zawaj al Missyar' or 'Marriage with the intention of Divorce'. See the fatwa of Shiekh Bin Baz at

http://www.binbaz.org.sa/last resault.asp?hID=323 where he states: "...Response: Yes, this fatwa has come from Permanent Council (of Muftis), and I am its leader, and we have ruled that it is permissible to marry with the intention of getting divorced, if this intention is between the servant and his Lord. If someone marries in a Western country, and his intention is that when he finishes his studies or finds a job or something like this that he will get divorced, then there is absolutely no problem with this in the opinion of all 'ulama..."

This is absolutely bizarre. Bin Baz has permitted something that is in no way different from a temporary marriage. If a marriage with the intention to divorce is not temporary marriage, what is it? The only reason Bin Baz says Mut'ah is invalid is because the man actually tells the woman this beforehand, and that they agree on it, and that this condition is binding. Basically this amounts to saying that since Mut'ah is honest, it is haram. So if a man lies to a woman and promises her a permanent marriage, and then divorces her one-hour later, this is fine. But if a man and woman actually agree together that the marriage is only to last a month or what have you, then it is haram. For the Bin Baz camp its perfectly legitimate for a man to marry a woman [with the 'hidden' intention of divorcing her afterwards] if this is not deception then what on earth is?

Few Facts About Mut'ah

Just like in permanent marriage, there is 'waiting period' or 'iddah' for woman in Mut'ah [Tafseer-e-Kabir", v 3, page 286; Wasai'l, vol. 21, p. 44, hadeeth #26489...]

About the inheritance of child out of Mut'ah, it is well known amongst the Shi'a that the child of Mut'ah is considered legitimate and has all rights of inheritance.[See: http://www.mutah.com/muta2.html]

The child born out of such marriage is no doubt legitimate. We can read that two beloved Sahaba of Sunnis Urwa and Abdullah were indeed the products of this union when their mother Asma bint Abu Bakr contracted Mut'ah with Zubayr. Musnad Abu Dawud Vol 1, Page 309 Published Bairut; Al-Maudhoorath Volume 2 page 96 by Imam of Ahl as-Sunnah al-Raghib al-Isfahani.