

Cultures of the Middle East/ Professor Salih

Mut'a: Temporary Marriage in Islamic Law

By: Jennifer Burleyson

Mut'a is a marriage contract that has a finite end, with a negotiated amount of sexual acts and payment for the woman upon the end of the marriage. Mut'a is only practiced by the Shiite Muslims known as the 12ers, and currently is lawful in Iraq and Iran. Both Sunnis and Shiites agree that at some point during his life, the Prophet allowed Mut'a. However, Sunnis believe that he later deemed Mut'a as unjust (Murata).

A literal meaning of Mut'a is "enjoyment, pleasure and delight." (Murata) This meaning really encompasses the spirit behind the desire to contract a temporary marriage. However, just because Mut'a is a contractual agreement for money, it is meant to still be held with the same reverence as a long term management. For the time allotted, the woman and man are truly seen to be husband and wife, and thus are treated as such.

There are four pillars of Mut'a, which must be followed if the Mut'a is considered to be legitimate. The first pillar is referred to as "The Formula" (Sigha). First the woman must make what is called the declaration, using a phrase such as "'I have allowed you' (*abahtu-ka*) or 'I have considered you lawful' (*hallaltu-ka*).'" (Murata) It is important that the woman not use phrases such as "I have given myself to you" or "I have rented to you."

The man must then make the acceptance, in which he indicates that he is satisfied with the arrangements, saying as such. While it is more common for the declaration to go first, the order of the declaration and acceptance isn't too important, as long as both are declared. There are some questions as to what tense these phrases must be in, with the

perfect tense being the ideal. However, most of the *uulma* agree that it is acceptable to use the imperfect tense. Because this is a legal contract, only the two people involved or their designated representatives may make the declaration and acceptance (Murata).

There are exceptions to this rule in the case of the case of young children or if the bride is a virgin. The virgin's father (or other legal guardian) is the only one allowed to give away his daughter with or without her consent in a Mut'a marriage; the same being the rule with a young girl (whom often is a virgin anyway). (Murata) However, because virginity is important in a young girl, and as a true wife, this hardly ever happens to avoid disgracing the family.

The second Pillar of Mut'a is known as "The Persons" (Mahall). First we will discuss the man's rights and limitations in who and how he chooses a Mut'a wife. Firstly, a Muslim man may contract any woman of the Book; i.e a Muslim, Jew or Christian. The man may not temporarily marry an unbeliever or and an enemy of "The Household of the Prophet (*ah! a!-hayt*, i.e., the Imams), such as a follower of the Khawarij." (Murata)

If the man already has a real, life-long marriage, he must ask his wife's permission if he wants Mut'a with a slave girl. Without her permission, the contract will not be valid. If she does give her permission, the man must also make sure the slave's master accepts the Mut'a. The wife must also give permission before the man will be able to Mut'a marry the daughter of a sister-in-law or a brother-in-law. As for other restrictions on who the man may conduct Mut'a with, it follows the same statutes as the conventional marriage. Of course, he may not marry any woman of direct blood lineage, such as his mother or aunt. He also may not marry the mother or grandmother of his wife;

the daughter/granddaughter of one of his wives after consummation; the ex-wife of a son/grandson, or the ex-wife of his father/grandfather. (Murata)

The final rule in the pillar of the Persons is that there must be two witnesses (Shahid) to certify that the contract actually exists. This is very similar to Western practices of having a witness at marriage ceremonies, as well at the signing of important documents such as a Last Will and Testament.

The third pillar of Mut'a is the time period (Mudda) or length of the contract. The time period is pretty much set in stone, with a distinct end between the time period of one hour and 99 years (life). It must be an exact number that does not give way to interpretation. If an extension of the time period is desired, a new contract must be made (Murata).

Some hold that if a time period is not mentioned, rather than invalidating the contract, the marriage becomes a permanent one. A woman will receive the whole dowry after the time period is over even if the marriage has not been consummated, as long as she has put herself at her husband's disposal. A time period must be stated if a certain number of sexual acts are stated as well. (Murata)

Once a man has performed the allotted number of sexual acts, he may not continue. There is some controversy over whether he may continue with the woman's permission, but many cite the reason there is a set number is because the woman wants it to be so. (Murata) Therefore the contract takes precedent.

The fourth pillar is the "Dower" (mahr). Once again, because Mut'a is seen as a legitimate type of marriage equal to the classic type of marriage, the payment the woman receives for her part of the marriage is called a dowry, not a fee or some other such

crudeness. The dowry can be in any form, such as cash, whose value cannot fluctuate during the time of the marriage. There are two types of dowries. The 'specified dower' (*al-mahr al-musamma*) is where the price is agreed upon by the couple. The 'normal dower' (*al-mahr al-mathal*) is kind of the “default” amount that will be given to the woman if no concurrence on the dowry can be reached. (Murata)

Because this is seen as a marriage and not the buying of goods, misunderstandings in dowry cannot be seen as “owed.” Therefore it’s very important that the amount/quality be described in detail. A woman may ask for the dowry at the beginning of the marriage, thus ensuring the man cannot take back any of it for any circumstances, barring the invalidity of the contract from the beginning. If the man decides to back out of the contract before it begins, the woman gets half of the dowry. (Murata)

The dowry will change from the agreed amount in the contract under certain circumstances, such as if the contract is invalid due to woman already being married or a family relationship being made known. In this case it depends on whether or not the marriage was consummated. If it has been, and the woman was unaware of the invalidity of the contract at the time, she will be given the full dower. If the contract is found as invalid before consummation, no dowry will be given. If the marriage has been consummated, and the woman knew of the invalidity of the contract, no dower is given because she is seen as a fornicatoress. If the man has already given the woman the full dowry at the beginning of the marriage, and it is found she should not have received it due to invalidity, she must return part of it. However, if she no longer possesses it for whatever reason (even theft), she is liable for it and must pay her debt. If the woman

should die during Mut'a, the dowry is not affected. In this case the dowry would go to her family. (Murata)

There is a lot of controversy currently over whether Mut'a should be legal. Many people view Mut'a as legalized prostitution, as it exchanges goods for sexual services. However, because Mut'a is seen as a real marriage in Islamic law, this is a very Western viewpoint. We have no institution comparable to Mut'a, and therefore cannot fully understand that the same sacredness of normal marriage applies to Mut'a Marriage.

There is also a lot of abuse of Mut'a. Young women often jump from one Mut'a husband to another to make a living. Men will also take sexual advantage of their Mut'a wife, ignoring the contractual amounts. There are also large amounts of trafficking of girls for Mut'a by "Mut'a Pimps." These girls are often between 14 and 17, though some are as young as 8. (Islamic Thinkers Society) The vast majority of these girls are sent outside of Iraq and Iran, the only two places where Mut'a is actually legal (i.e in this case even true Mut'a will be illegal anyway). However, in most of these circumstances true Mut'a is not being performed. It seems to me that Mut'a should be legal, but strictly reinforced; otherwise we are taking what could be a beautiful institution away from those who truly respect it.

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