A Series of Ideological Researches

Prohibition of Two Lawful Pleasurable Acts

A Critical Assessment of Prohibition of Mut'ah of Hajj and Mut'ah of Women

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Islamic Truths center

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In the Name of God, the Compassionate, the Merciful

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Foreword

With the prophetic mission of Prophet Muhammad (s), the seal of the prophets, the last and the most perfect divine religion was conveyed to humanity and prophethood came to an end.

The religion of Islam emerged in Mecca but after twenty three years of arduous efforts made by the Messenger of Allah (s) and a handful of his loyal companions it spread all over the Arabian Peninsula.

The continuation of this divine mission was a task that was publicly entrusted on Dhul Hijja, the eighteenth, by Allah, the Glorious, to Ali (a.s), the commander of the faithful and the first personality after the Holy Prophet (s) in the world of Islam.

With the proclamation of Hazrat Ali's guardianship and succession on this day, divine blessings were completed and the religion of Islam was perfected, being announced as the only religion chosen by Allah. That was how unbelievers and pagans got disappointed from destroying Islam.

Soon after [the demise of the Messenger of Allah (s)], some of the companions of the Holy Prophet (s) based on their pre-hatched conspiracies, brought about deviation in the course of guidance and leadership. They closed the gate of the city of knowledge putting Muslims in perplexity. From the very beginning of their rule, they placed the truths of

Islam – that were like the shining sun – behind the dark clouds of doubt and skepticism by putting a ban on recording [true] prophetic traditions, spreading fabricated [prophetic] sayings and using the methodology of hypocrisy and deception.

Obviously, in spite of all conspiracies hatched by the enemies of Islam, the truths of Islam and noble sayings of the Messenger of Allah (s) were promulgated by the commander of the faithful, Ali (a.s), his successors and a few of his devout companions and those truths kept flowing and manifesting themselves in one way or the other in the course of history. By explaining the truths, they did away with the doubts, hesitations, illusions, and unfounded beliefs inculcated by the enemies of Islam, making truths clear to all.

In this respect, great scholars and men of knowledge such as Sheikh Mufid, Sayyid Murtadha, Khawaja Nasir, Allamah Hilli, Qadhi Nurullah, Mir Hamid Husain, Sayyid Sharaf al-Din, Allamah Amini etc. are like shining stars for they are the ones who defended Islamic truths, explained the realities of the school of Ahl al-Bayt (a.s) and dealt with spurious arguments using their tongues and pens.

In our era, one of the scholars and researchers who has, with his eloquent pen and expressive writing, explained the truths of the religion of Islam and astutely defended the leadership and wilayah (guardianship) of the Commander of the Faithful, Ali (a.s) is Ayatollah Sayyid Ali al-Husaini al-Milani.

The Islamic Truths Center is proud to embark on reviving the fruitful and precious works of that great researcher by reviewing, translating and publishing them in a bid to make them available to students, scholars and those who are in search of Islamic truths.

The book in your hand is a translation of one of his works, intended to acquaint the English audience with Islamic

truths. It is expected that this humble effort will be approved of by the Imam of Time [the twelfth Shiite Imam] may Allah hasten his reappearance.

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Prohibition of Two lawful Pleasurable Acts

Umar b. Khattab:
Two mut'ahs (pleasurable acts) were lawful during the time of the Holy Prophet (s) but I prohibit them and shall punish those who perform them. They are the mut'ah of hajj [hajj tammattu'] and the mut'ah of women [temporary marriage].[1]

[1] - For the details, see the upcoming discussions.

In the Name of Allah, the Compassionate the Merciful

All praise is due to Allah, the Lord of the worlds and may prayer and peace be upon our master and Prophet, Muhammad, and his pure progeny, and may Allah's curse be upon all their enemies from the first to the last one.

In Islamic rulings, we have two mut'ahs, the mut'ah of hajj and the mut'ah of women. Muslim scholars have from long time ago seriously discussed these two issues from different angles. They have always paid attention to them. Scholars of past and present have written many books in this regard, with each one looking at them from a particular angle.

Some scholars of tradition have narrated a tradition from the Holy Prophet (s) which prohibits temporary marriage. The present work studies and analyses these issues in a critical manner. Most of these traditions are narrated by Bukhari and Muslim from Imam Ali (a.s), commander of the faithful. As an instance, in his *Sahih*, Muslim Nayshaburi narrates: When Imam Ali (a.s) learns that Ibn Abbas is of the view that Mut'ah is permissible, he, addressing him, says: You are a forgetful person. The Holy Prophet (s) prohibited us from doing temporary marriage in the battle of Khaibar.

These traditions are forged and fabricated. Anyone who studies impartially the chains and significations of them agrees that they are so (forged and fabricated).

The present work studies the chains of these traditions on the basis of the opinions expressed by great and reliable

Sunni scholars. It also evaluates the main parts of these traditions comparing their texts with each other with the aim to make the truth plain in regard with these traditions. These assessments are made within two sections. The first section is on the mut'ah of hajj and the second on the mut'ah of women.

We ask Allah the Exalted to make this discussion a useful one for scholars and researchers; for it is Allah in whose hand lies success.

Al-Sayyid ʿAlī al-Ḥusaynī al-Mīlānī

Preface

There is consensus among Muslims that there are verses in the Holy Quran on the mut'ah of hajj and temporary marriage. In regard with the mut'ah of hajj Allah says:

... فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيامُ ثَلاثَةِ أَيَّامٍ فِي الْحَجِّ وَ سَبْعَةٍ إِذا رَجَعْتُمْ تِلْكَ عَشَرَةٌ كامِلَةٌ ذلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حاضِرِي الْمَسْجِدِ الْحَرامِ وَ اتَّقُوا اللَّهَ وَ اعْلَمُوا أَنَّ اللَّهَ شَدِيدُ الْعِقابِ[1]

... But when the pilgrim is secure [from the enemy or illness] then whoever performs Hajj following 'Umrah, he must make an offering easily available, but he who is not able to find any offering he should fast three days during the hajj and seven days after his return to his home, making ten days complete. This is for him whose household does not live near the Sacred Mosque. Fear from the disobedience of Allah's commands and know that Allah is severe in punishment.

...فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً وَ لا جُناحَ عَلَيْكُمْ فِيما تَراضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ إِنَّ اللَّهَ كانَ عَلِيماً حَكِيما[2]

If you marry them for the appointed time you must pay their dowries. There is no harm if you reach an understanding among yourselves about the dowry. God is All-knowing and All-wise.

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[1] - *Quran*, 2/196.

[2] - Ibid, 4/24.

Obviously, Muslims acted in accordance with these verses until Umar b. Khattab, after assuming caliphate, declared, "Two pleasurable acts (mut'ahs) were lawful during the time of the Holy Prophet (s) but I prohibit them both and punish those who perform them. They are the mut'ah of hajj and the mut'ah of women [temporary marriage]".

Thus there emerged difference among Muslims. The followers of Umar, who considered his words as a part of their principles were perplexed as how to justify his words which were as he himself admitted in contradiction with Allah's commandment. Umar himself said that two acts were lawful but he prohibited them.

Section One

Mut'ah of Hajj

What is the mut'ah of hajj?

In mut'ah of hajj, a pilgrim wears ihram garment in hajj months at Miqat and then leaves it for the house of Allah in order to perform Tamattu' Hajj. [After arriving at the house of Allah], he circumambulates, walks between Safa and Marwa, does taqsir[1] and then gets out of the state of ihram. Thereupon he once again enters the state of ihram in the same journey in Mecca or preferably at the Sacred Mosque. Thereupon he goes towards 'Arafat and Mash'ar al-Haram performing hajj rituals to the end.

By doing this, he is able to perform Tamattu' Hajj and Umrah [in the same journey]. The term 'mut'ah' means pleasure and enjoyment. In this kind of hajj, things that are prohibited during ihram are allowed in the interval between ihrams. That is why it is called the mut'ah of hajj.

Prohibition of two mut'ahs and Imam Ali's opinion

When Umar prohibited those two lawful pleasures [the mut'ah of hajj and the mut'ah of marriage], Imam Ali (a.s), the guardian of Shari'a laws and the supporter of the Holy Prophet (s) stood against it.

Ahmad b. Hanbal and Muslim Nayshaburi have narrated certain traditions in this respect. Ahmad quotes Abdullah b. Shafiq as saying, "Uthman used to prohibit the mut'ah [probably the mut'ah of women] and Ali (a.s) used to allow

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[1] - Taqsir means shortening one's hair, beard or nail.

it. Addressing Uthman, Ali (a.s) said, 'You are so and so!'[1] Thereupon Ali (a.s) said, 'You know very well that we used to practice mut'ah at the time of the Holy Prophet (s)'. Uthman said, 'Yes, but we entertained fear.'"[2]

In another tradition, Sa'id b. Musayyib says, "One day Ali and 'Uthman happened to meet each other at Asfan. When Ali saw Uthman forbidding (people) from performing temporary marriage and the mut'ah of hajj, Ali said, 'Why do you forbid something the Holy Prophet used to do?' Uthman said, 'Leave us alone.'"[3]

In another tradition, Marwan b. Hakam says, "I saw Uthman and Ali together [at Asfan]. Uthman used to forbid people from performing Tamattu' Hajj and Qiran Hajj (Hajj and 'Umrah performed together). When Ali saw Uthman (doing this), he assumed Ihram for Hajj and Umrah together saying, "Labbaik for Umrah and Hajj', and said, 'I will not leave the tradition of the Prophet on the saying of anyone.'"[4]

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[1] - In this tradition, the narrators have omitted the words exchanged between Uthman, the third caliph and Imam Ali (a.s) or mentioned them vaguely. They have not mentioned Imam Ali's answer to Uthman's words. According to some traditions, Uthman said something to Imam Ali (a.s).

[2] - *Musnad Ahmad*, vol. 1, p. 156 and *Musnad Ali b. Abi Talib*, tradition no. 758.

[3] - *Sahih Bukhari*, vol. 2, p. 569. [Muslim has also narrated a similar tradition. He quoting Musayyib says: Sa'id b. al-Musayyib reported that 'Ali and 'Uthman met at 'Usfan; and Uthman used to forbid (people) from performing Tamattu' and 'Umrah (during the period of Hajj), whereupon 'Ali said: What is your opinion about a matter which the Messenger of Allah (s) did but you forbid it? Thereupon Uthman said: You leave us alone, whereupon he ('Ali) said: I cannot leave you alone. When 'Ali saw this, he put on Ihram for both of them together (both for Hajj and 'Umrah). (*Sahih Muslim*, tradition, no. 1223, and Musnad Ahmad, vol. 1, p. 220)].

[4] - *Sahih Bukhari*, vol. 2, p. 567, tradition, no. 1488 and Musnad Ahmad, vol. 1, p. 153. [Muslim has also reported it: 'Abdullah b. Shaqiq reported that 'Uthman used to forbid Tamattu', whereas 'Ali (Allah be pleased with

Great companions on prohibition of two mut'ahs

The great companions of the Holy Prophet (s) have also confirmed the stance Imam Ali (a.s) took in regard with the prohibition of the two mut'ahs. Here are the views of some of them:

Ibn Abbas

One of the companions who has rejected Umar's opinion is Ibn Abbas. In his *Musnad*, Ahmad b. Hanbal narrates, "Once Ibn Abbas said, 'The Holy Prophet used to perform the mut'ah of hajj. Urwah b. Zubair said, 'Abu Bakr and Umar prohibited the mut'ah of hajj. Belittling him, Ibn Abbas said, 'What does this little Urwah say?' Urwah said, 'I said that Abu Bakr and Umar prohibited the mut'ah of hajj.' In response Ibn Abbas said, 'I think they are gone! I say that the Holy Prophet says so and so and he says that Abu Bakr and Umar forbade people from doing it!'"[1]

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him) ordered [people] to do it. 'Uthman said a word to 'Ali, but 'Ali said: You know that we used to perform Tamattu' with the Messenger of Allah (s) , whereupon he said: It is right, but we entertained fear. This hadith has been narrated by Shu'ba with the same chain of transmitters. (Muslim, *Book 7, Number 2815*)].

[1] - *Musnad Ahmad*, vol. 1, p. 554, tradition, no. 3111. [Bukhari has also narrated something pertaining to the issue under discussion. See:
a) Abu Jamra narrates: I asked Ibn Abbas about Hajj-at-Tamattu'. He ordered me to perform it. I asked him about the Hadi (sacrifice). He said, "You have to slaughter a camel, a cow or a sheep, or you may share the Hadi with the others." It seemed that some people disliked it (Hajj-at-Tamattu). I slept and dreamt as if a person was announcing: "Hajj Mabrur and accepted Mut'ah (Hajj-At-Tamattu')" I went to Ibn Abbas and narrated it to him. He said, "Allah is Greater. (That was) the tradition of Abu Al-Qasim (i.e. Prophet). Shu'ba narrated that the call in the dream was: "An accepted 'Umrah and Hajj-Mabrur." *(Sahih Bukhari*, Volume 2, Book 26, Number 747).
b) Abu Shu'ba: Abu Jamra Nasr b. 'Imran Ad-Duba'i said, "I intended to perform Hajj-at-Tamattu' and the people advised me not to do so. I asked

Sa'd b. Abi Waqqas

Sa'd b. Abi Waqqas did not accept Umar's opinion either. In his *Sunan*, Tirmidhi quotes Muhammad b. Abdullah b. Harith b. Nufil as saying, "Sa'd b. Waqqas and Dahhak b. Qays were talking on the issue of the mut'ah of hajj. Dahhak b. Qays said, 'No one except he who does not know about Shari'a laws does it (namely the mut'ah of hajj).' Sa'd said, 'My nephew! How bad your idea is!' Dahhak said, 'Umar b. Khattab has prohibited it (the mut'ah of hajj).' Sa'd said, 'The Messenger of Allah did it and so did we following him."

After quoting this tradition, Tirmidhi says that the chain of this tradition is authentic.[1]

Abu Musa Ash'ari

Another companion who has refused to accept Umar's opinion is Abu Musa Ash'ari. In his *Musnad*, Ahmad says, "Abu Musa always decreed that the mut'ah of hajj was permissible. One day a man addressing him, said, 'Review some of your decrees, as you do not know that Umar, commander of the faithful has given a new decree concerning hajj rituals!' Thereupon, Abu Musa met Umar and asked him about it. In response, Umar said, 'I know that

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Ibn Abbas regarding it and he ordered me to perform Hajj-at-Tamattu'. Later I saw in a dream someone saying to me, 'Hajj-Mabrur (Hajj performed in accordance with the Prophet's tradition without committing sins and accepted by Allah) and an accepted 'Umrah.' So I told that dream to Ibn Abbas. He said, 'This is the tradition of Abu-l-Qasim.' Then he said to me, 'Stay with me and I shall give you a portion of my property.' " I (Shu'ba) asked, "Why?" He (Abu Jamra) said, "Because of the dream which I had seen." (Ibid, Volume 2, Book 26, Number 638)].

[1] - *Sunan Tirmidhi*, vol. 2, p. 224, tradition, no. 824. Muslim has also narrated some variations of this tradition: Ghunaim b. Qais said, "I asked Sa'd b. Abu Waqqas about Mut'ah, whereupon he said, 'We did that, and it was the day when he was an unbeliever living in (one of the) houses of Mecca'." (*Sahih Muslim Book 7 ,Number 2821*).

the Holy Prophet (s) did it and so did his companions following him, but I did not like Muslims to (leave hajj rituals and) make sex with their wives under these arak[1] trees and then come back to hajj rituals while their heads and hairs are still wet.'"[2]

Jabir b. Abdullah Ansari

Jabir b. Abdullah Ansari was also among the companions who were opposed to Umar's opinion concerning the mut'ah of hajj. Muslim in his *Sahih* and also others have reported the following:

Abu Nadhrah reported, "Ibn Abbas continued to decree that the mut'ah of hajj was permissible, but Ibn Zubair forbade doing it. I made a mention of it to Jabir b. Abdullah and he said, "It is through me that this hadith is on circulation. We used to perform the mut'ah of hajj following the Messenger of Allah (s). When 'Umar was, however, installed as caliph, he said, 'Verily Allah made permissible for His Messenger (s) whatever He liked. The Quran is revealed for a particular time. Now, however, separate hajj from umrah (the mut'ah of hajj) and leave aside temporary marriage. If I come to know that a person has performed a marriage of an appointed duration (mut'ah), I will stone him (to death)'."[3]

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[1] - 'Arak' is a kind of tree that grows in deserts. Similar to a pomegranate tree, it is ever green. In the past, Arabs used to make toothbrush from its branches.

[2] - *Musnad Ahmad*, vol. 1, p. 81 & Musnad Umar b. Khattab, tradition, no. 353.

[3] - *Sahih Muslim*, vol. 3, p. 56, tradition no. 1217. [You can also see: Abd Nadra reported: While I was in the company of Jabir, a person came and said: There is difference of opinion among Ibn Abbas and Ibn Zubair about two Mut'ahs (Tamattu' Hajj and temporary marriage with women), whereupon Jabir said: We have been doing this during the lifetime of

Abdullah b. Umar

Abdullah b. Umar was also opposed to his father's decree concerning the mut'ah of hajj. When he was asked about the mut'ah of hajj, he said, "The mut'ah of hajj is permissible". When the questioner said that his father [Umar] had forbidden it, he said, "If my father forbade and the Holy Prophet permitted it, whom should we follow, my father or the Holy Prophet (s)?" When the questioner said, "indeed the Messenger of Allah's command", Abdullah b. Umar said, "The Messenger of Allah (s) did it himself".[1]

Imran b. Husain

According to Ibn Abd al-Barr in his *al-Isti'ab* and Ibn Hajar Asqalani in his *al-Isaba*, Imran b. Husain was one of

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Allah's Messenger (s), and then 'Umar forbade us from doing it, and we never resorted to them (*Sahih Muslim Book 7 , Number 2874*).

See also: Shihab reported: I left for Mecca for Hajj-at-Tamattu' assuming Ihram for 'Umrah. I reached Mecca three days before the day of Tarwiya (8th Dhul-Hijja). Some people of Mecca said to me, "Your Hajj will be like the Hajj performed by the people of Mecca (i.e. you will lose the superiority of assuming Ihram from the Miqat). So I went to 'Ata' asking him his view about it. He said, "Jabir b. 'Abdullah narrated to me, 'I performed Hajj with Allah's Apostle on the day when he drove camels with him. The people had assumed Ihram for Hajj-al-Ifrad. The Prophet ordered them to finish their Ihram after Tawwaf round the Ka'ba, and between Safa and Marwah and to cut short their hair and then to stay there (in Mecca) as non-Muhrims till the day of Tarwiya (i.e. 8th of Dhul-Hijja) when they would assume Ihram for Hajj and they were ordered to make the Ihram with which they had come as for 'Umrah only. They asked, 'How can we make it 'Umrah (Tamattu') as we have intended to perform Hajj?' The Prophet said, 'Do what I have ordered you. Had I not brought the Hadi with me, I would have done the same, but I cannot finish my Ihram till the Hadi reaches its destination (i.e. is slaughtered).' So, they did (what he ordered them to do)." (Volume 2, Book 26, Number 639)].

[1] - *Sunan Tirmidhi*, vol. 2, p. 224, tradition, 825.

the great companions and jurists.[1] During the last days of his life, he was extremely critical of Umar's opinion. Muslim narrates a tradition as under:

Mutrif reported, "Imran b. Husain sent for me during his illness of which he died, and said, 'I am narrating to you some traditions which may benefit you after me. If I live you conceal (the fact that these have been transmitted by me), and if I die, then you narrate them if you like. I am blessed, and bear in mind that the Messenger of Allah (s) combined Hajj and Umrah. Then no verse was revealed in regard to it in the Book of Allah (which abrogated it) and the Apostle of Allah (s) did not forbid (from doing it). And whatever a person (namely Umar) said was out of his personal opinion'."[2]

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[1] - *Al-Isti'ab*, vol. 3, p. 284 and *al-Isabah*, vol. 4, p. 584. In his *Dad al-Ma'd fi Huda Khair al-Ibad*, Ibn Qayyim says, "Imran b. Hasan is better than Uthman. According to some, he saw angels and was greeted by them as he himself points out when he says that he was greeted. He died in 52 AH in Basrah".

[2] - *Sahih Muslim*, vol. 3, p. 70, tradition, 1236. [See also:

a) 'Imran b. al-Husain (Allah be pleased with him) said: Know well that Allah's Messenger (s) combined 'Hajj and 'Umrah, and nothing was revealed in the Book (to abrogate it), and the Messenger of Allah (s) too did not forbid us from (combining) them. And whatever a person (Umar) said was out of his personal opinion. (*Sahih Muslim Book 7, Number 2829*).

b) 'Imran b. Husain (Allah be pleased with him) reported: We performed Tamattu' (Hajj and 'Umrah combining together) in the company of Allah's Messenger (s), and nothing was revealed in the Qur'an (concerning the abrogation of this practice), and whatever a person (Umar) said was his personal opinion. 'Imran b. Husain narrated this hadith (in these words also): "Allah's Apostle (s) performed Hajj Tamattu' and we also performed it along with him."(*Sahih Muslim Book 7 ,Number 2830*).

c) 'Imran b. Husain said: There was revealed the verse of Tamattu' in Hajj in the Book of Allah and the Messenger of Allah (s) commanded us to perform it and then no verse was revealed abrogating the Tamattu' (form of Hajj), and the Messenger of Allah (s) did not forbid [us] to do it till he passed away. So whatever a person (Umar) said was his personal opinion.

Commenting on traditions that indicate that Imran b. Husain was denying it, Nawawi says, "All these traditions unanimously agree that Imran intended to say that the mut'ah of hajj and qiran hajj[1] were both permissible. This tradition, likewise, clearly indicates that Imran is critical of Umar's decree concerning the mut'ah of hajj".[2]

Ibn Taymiyya defends Umar but admits his mistake

Ibn Taymiyya, a great Sunni scholar has also commented in this regard. Defending Umar's opinion concerning women, he says that Umar wanted to order [his followers] to do a better thing. To substantiate his point of view, he resorts to Ibn Umar's words, saying that Abdullah b. Umar used to allow the mut'ah [of any kind]. When he was told that his father had prohibited it, he said that his father meant something else [from prohibiting the mut'ah].

In short, Ibn Taymiyya wants to say that the prohibition verdict issued by Umar was something acting on which was optional not compulsory, implying that Umar did not really prohibit the said two mut'ahs.[3]

In my point of view, the justification on the basis of which Umar wanted to order his people to do a better thing is not acceptable at all. This is utterly false and ridiculous. On the other hand, he has attributed something to Ibn Umar, which

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A hadith like this is transmitted on the authority of Imran b. Husain, but with this variation that he ('Imran) said: We did that (Tamattu') in the company of Allah's Messenger (s) and he did not say anything but he (the Holy Prophet) commanded us to do it.(*Sahih Muslim Book 7 ,Number 2831*)].

[1] - Qiran hajj is a kind of hajj that is performed by those whose habitation is not more than 16 farsakhs (Farsakh (Arabic:الفرسخ) is an old measure of length which is equal to about 5 to 5.5 kilometers.) away from The Sacred Mosque.

[2] - *Al-Minhaj*, a commentary on *Sahih Muslim*, vol. 8, p. 168.

[3] - *Minhaj al-Sunna*, vol. 4, pp. 182 and 183.

is in contradiction with what is narrated from Ibn Umar in Sunni books. According to Ibn Kathir, Abdullah used to oppose his father to the extent that when he was told that his father used to prohibit mut'ah [of any kind], he said, "I am afraid lest Allah descends stones from the sky on you! The Messenger of Allah (s) used to do it. Whose tradition should we now follow, the Holy Prophet's tradition or Umar's?!"[1]

The main point in Ibn Taymiyya's words is his denial of Umar's opinion according to which the said two mut'ahs are forbidden.[2] A group of scholars have, however, as we will mention, narrated this opinion.

Nevertheless, it seems that Ibn Taymiyya has sensed that his struggles for the justification of Umar's stand are in vain, leading nowhere. That is why he helplessly mentions that Sunni scholars are unanimous that it is only the Messenger of Allah whose deeds are authoritative and that we are supposed to follow them. According to him, Sunni scholars are of the view that all human beings except the Holy Prophet (s) are prone to error and Umar is no exception to this rule.[3]

The stand taken by Umar is considered to be an 'innovation', being an instance of the tradition reported by Abu Musa Ash'ari, who quotes the Holy Prophet as saying:

أَنَا فَرَطُكُمْ عَلَى الْحَوْضِ وَلَيُرْفَعَنَّ مَعِي رِجَالٌ مِنْكُمْ ثُمَّ لَيُخْتَلَجُنَّ دُونِي فَأَقُولُ يَا رَبِّ أَصْحَابِي فَيُقَالُ إِنَّكَ لَا تَدْرِي مَا أَحْدَثُوا بَعْدَكَ[4]

I am your predecessor at the Lake-Fount, and some of you will be brought in front of me till I will see them and then they will be taken away from me and I will say, 'O Lord, my companions!' It will be said, 'You do not know what they did after you had left.'

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1 - *Tarikh Ibn Kathir*, vol. 5, p. 159.

2 - *Minhaj al-Sunna*, vol. 4, pp. 182 and 183.

3 - Ibid.

4 - *Sahih Bukhari*, Book on Riqaq, Chapter on Lake-Fount, pp. 787-788.

It can be said that the main aim behind forbidding the mut'ah of hajj was to revive a tradition that was current at the time of ignorance. This is because it was considered a major sin on earth at the time of ignorance to do mut'ah of hajj during the hajj months.[1]

In his *al-Sunan al-Kubra*, Bayhaqi quotes Ibn Abbas as saying, "By Allah, the Messenger of Allah did not take Aisha with himself during the hajj months but to declare the tradition practiced at the time of ignorance as null and void. That is why there are many authentic traditions that quote the Holy Prophet (s) as saying:

لو استقبلت من امری ما استدبرت ما اهديت و لو لا ان معی الهدی لاحللت

If I had formerly known what I came to know lately, I would not have brought the Hadi (sacrificial animal) with me. [Had there been no Hadi with me, I would have finished the state of lhram]…. Suraqa b. Malik b. Ju'shum said: O Messenger of Allah, is it (this concession of putting off Ihram of Hajj or Umra) meant for this year or is it forever? He said: It is forever.[2]

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[1] - The people (of the Pre-lslamic Period) used to think that to perform 'Umrah during the months of Hajj was one of the major sins on earth. And also used to consider the month of Safar as a forbidden (i.e. sacred) month and they used to say, "When the wounds of the camel's back heal up (after they return from Hajj) and the signs of those wounds vanish and the month of Safar passes away then (at that time) 'Umrah is permissible for the one who wishes to perform it." In the morning of the 4th of Dhul-Hijja, the Prophet and his companions reached Mecca, assuming Ihram for Hajj and he ordered his companions to make their intentions of the Ihram for 'Umrah only (instead of Hajj) so they considered his order as something great and were puzzled, and said, "O Allah's Apostle! What kind (of finishing) of Ihram is allowed?" The Prophet replied, "Finish the Ihram completely like a non-Muhrim (you are allowed everything)." (Bukhari, Volume 2, Book 26, Number 635)

[2] - The full text of this tradition is under:

'Ata' reported: I, along with some people, heard Jabir b. 'Abdullah saying: We the Companions of Muhammad (s) put on Ihram for Hajj only. Ata'

further said that Jabir stated: Allah's Apostle (s) came on the 4th of Dhu'l-Hijja and he commanded us to take off Ihram. 'Ata' said that he (Allah's Apostle) commanded them to took off Ihram and to go to their wives (for intercourse). 'Ata' said: It was not obligatory for them, but (intercourse) with them had become permissible. We said: When only five days had been left to reach 'Arafa, he (the Holy Prophet) commanded us to have intercourse with our wives. And we reached 'Arafa in a state as if we had just made intercourse (with them). He ('Ata') said: Jabir pointed with his hand and I (perceive) as if I am seeing his hand as it moved. In the (meantime) the Apostle of Allah (s) stood amongst us and said: You are well aware that I am the most God-fearing, most truthful and most pious amongst you. If I had formerly known what I came to know lately, I would not have brought the Hadi with me. Had there been no Hadi with me, I would have finished the state of lhram. So they (the Companions) took off Ihrim and so did we and listened to (the Holy Prophet) and obeyed (his command). Jabir said: 'All came with the revenue of the taxes (from Yemen). He (the Holy Prophet) said: For what (purpose) have you entered into the state of Ihram (whether you entered into the state purely for Hajj and, Umrah jointly or Hajj and Umrah separately)? He said: For the purpose for which the Apostle of Allah (s) had entered. (The Holy Prophet had entered as a Qiran, i.e. Ihram covering both Umrah and Hajj simultaneously.) Thereupon Allah's Messenger (s) said: Offer a sacrifice of animal, and retain Ihram. And Ali brought a sacrificial animal for him (for the Holy Prophet). Suraqa b. Malik b. Ju'shum said: Messenger of Allah, is it (this concession putting off Ihram of Hajj or Umrah) meant for this year or is it forever? He said: It is forever. (*Sahih Muslim, Book 7, Number 2797*).

Elsewhere Muslim narrates:

a) Jabir (Allah be pleased with him) said.: We went with Allah's Messenger (s) in 'a state of Ihram for the Hajj. There were women and children with us. When we reached Mecca we circumambulated the House and (ran) between al-Safa and al-Marwah. The Messenger of Allah (s) said: He who has no sacrificial animal with him should take off lhram. We said: What kind of putting off? He said: Getting out of lhram completely. So we came to our wives, and put on our clothes and applied perfume. When it was the day of Tarwiya, we put on Ihram for Hajj and the first circumambulation and (running) between al-Safa and al-Marwah sufficed us. Allah's Messenger (s) commanded us to become seven partners (in the sacrifice) of a camel and a cow. (Muslim, *Book 7, Number 2794).*

b) 'A'isha reported that the Messenger of Allah (s) came out on the 4th or 5th of Dhul'I-Hijja (for Pilgrimage to Mecca) and came to me, and he was very angry. I said: Messenger of Allah, who has annoyed you? May Allah cast him in fire I He said: Don't you know that I commanded the people to do an act, but they are hesitant. (Hakam said: I think that he said: They seem to be hesitant.) And if I were to know my affair before what I had to do subsequently, I would not have brought with me the sacrificial animals, and would have bought them (at Mecca) and would have taken off lhram as others have done. (Sahih, Muslim, *Book 7, Number 2785).*

c) Ja'far b. Muhammad reported on the authority of his father: We went to Jabir b. Abdullah and he began inquiring about the people (who had gone to see him) till it was my turn. I said: I am Muhammad b. 'Ali b. Husain. He placed his hand upon my head and opened my upper button and then the lower one and then placed his palm on my chest (in order to bless me), and I was, during those days, a young boy, and he said: You are welcome, my nephew. Ask whatever you want to ask. And I asked him but as he was blind (he could not respond to me immediately), and the time for prayer came. He stood up covering himself in his mantle. And whenever he placed its ends upon his shoulders they slipped down on account of being short (in size). Another mantle was, however, lying on the clothes rack nearby. And he led us in the prayer. I said to him: Tell me about the Hajj of Allah's Messenger (s). And he pointed with his hand nine, and then stated: The Messenger of Allah (s) stayed in (Medina) for nine years but did not perform Hajj, then he made a public announcement in the tenth year to the effect that Allah's Messenger (s) was about to perform the Hajj. A large number of people came to Medina and all of them were anxious to follow the Messenger of Allah (s) and do according to his doing. We set out with him till we reached Dhu'l-Hulaifa. Asma' daughter of Umais gave birth to Muhammad b. Abu Bakr. She sent message to the Messenger of Allah (s) asking him: What should 1 do? He (the Holy Prophet) said: Take a bath, bandage your private parts and put on Ihram. The Messenger of Allah (s) then prayed in the mosque and then mounted al-Qaswa (his she-camel) and it stood erect with him on its back at al-Baida'. And I saw as far as I could see in front of me but riders and pedestrians, and also on my right and on my left and behind me like this. And the Messenger of Allah (s) was prominent among us and the (revelation) of the Holy Qur'an was descending upon him. And it is he who knows (its true) significance. And whatever he did, we also did that. He pronounced the Oneness of Allah (saying): "Labbaik, 0 Allah,

Labbaik, Labbaik. Thou hast no partner, praise and grace is Thine and the Sovereignty too; Thou hast no partner." And the people also pronounced this Talbiya which they pronounce (today). The Messenger of Allah (s) did not reject anything out of it. But the Messenger of Allah (May peace.be upon him) adhered to his own Talbiya. Jabir (Allah be pleased with him) said: We did not have any other intention but that of Hajj only, being unaware of the Umrah (at that season), but when we came with him to the House, he touched the pillar and (made seven circuits) running three of them and walking four. And then going to the Station of Ibrahim, he recited: "And adopt the Station of Ibrahim as a place of prayer." And this Station was between him and the House. My father said (and I do not know whether he had made a mention of it but that was from Allah's Apostle [May peace be upon him] that he recited in two rak'ahs: "say: He is Allah One," and say: "Say: 0 unbelievers." He then returned to the pillar (Hajar Aswad) and kissed it. He then went out of the gate to al-Safa' and as he reached near it he recited: "Al-Safa' and al-Marwah are among the signs appointed by Allah," (adding:) I begin with what Allah (has commanded me) to begin. He first mounted al-Safa' till he saw the House, and facing Qibla he declared the Oneness of Allah and glorified Him, and said: "There is no god but Allah, One, there is no partner with Him. His is the Sovereignty. to Him praise is due. and He is Powerful over everything. There is no god but Allah alone, Who fulfilled His promise, helped His servant and routed the confederates alone." He then made supplication in the course of that saying such words three times. He then descended and walked towards al-Marwah, and when his feet came down in the bottom of the valley, he ran, and when he began to ascend he walked till he reached al-Marwah. There he did as he had done at al-Safa'. And when it was his last running at al-Marwah he said: If I had known beforehand what I have come to know afterwards, I would not have brought sacrificial animals and would have performed an 'Umrah. So, he who among you has not the sacrificial animals with him should take off Ihram and treat it as an Umrah. Suraqa b. Malik b. Ju'sham got up and said: Messenger of Allah, does it apply to the present year, or does it apply forever? Thereupon the Messenger of Allah (s) intertwined the fingers (of one hand) into another and said twice: The 'Umrah has become incorporated in the Hajj (adding): "No, but for ever and ever." 'All came from the Yemen with the sacrificial animals for the Prophet (s) and found Fatimah (Allah be pleased with her) to be one among those who had taken off Ihram and had put on dyed clothes and had applied antimony. He (Hadrat Ali) showed disapproval to it,

whereupon she said: My father has commanded me to do this. He (the narrator) said that 'Ali used to say in Iraq: I went to the Messenger of Allah (s) showing annoyance at Fatimah for what she had done, and asked the (verdict) of Allah's Messenger (s) regarding what she had narrated from him, and told him that I was angry with her, whereupon he said: She has told the truth, she has told the truth. (The Holy Prophet then asked 'Ali): What did you say when you undertook to go for Hajj? I ('Ali) said: 0 Allah, I am putting on Ihram for the same purpose as Thy Messenger has put it on. He said: I have with me sacrificial animals, so do not take off the Ihram. He (Jabir) said: The total number of those sacrificial animals brought by 'Ali from the Yemen and of those brought by the Apostle (s) was one hundred. Then all the people except the Apostle (s) and those who had with them sacrificial animals, took off Ihram , and got their hair clipped; when it was the day of Tarwiya (8th of Dhu'l-Hijja) they went to Mina and put on the Ihram for Hajj and the Messenger of Allah (s) rode and led the noon, afternoon, sunset 'Isha' and dawn prayers. He then waited a little till the sun rose, and commanded that a tent of hair should be pitched at Namira. The Messenger of Allah (s) then set out and the Quraish did not doubt that he would halt at al-Mash'ar al-Haram (the sacred site) as the Quraish used to do in the pre-Islamic period. The Messenger of Allah (s), however, passed on till he came to 'Arafa and he found that the tent had been pitched for him at Namira. There he got down till the sun had passed the meridian; he commanded that al-Qaswa should be brought and saddled for him. Then he came to the bottom of the valley, and addressed the people saying: Verily your blood and your property are as sacred and inviolable as the sacredness of this day of yours, in this month of yours, in this town of yours. Behold! Everything pertaining to the Days of Ignorance is under my feet completely abolished. Abolished are also the blood-revenges of the Days of Ignorance. The first claim of ours on blood-revenge which I abolish is that of the son of Rabi'a b. al-Harith, who was nursed among the tribe of Sa'd and killed by Hudhail. And the usury of she pre-Islamic period is abolished, and the first of our usury I abolish is that of 'Abbas b. 'Abd al-Muttalib, for it is all abolished. Fear Allah concerning women! Verily you have taken them on the security of Allah, and intercourse with them has been made lawful unto you by words of Allah. You too have right over them, and that they should not allow anyone to sit on your bed whom you do not like. But if they do that, you can chastise them but not severely. Their rights upon you are that you should provide them with food and clothing in a fitting manner. I have left among you the Book of

Allah, and if you hold fast to it, you would never go astray. And you would be asked about me (on the Day of Resurrection), (now tell me) what would you say? They (the audience) said: We will bear witness that you have conveyed (the message), discharged (the ministry of Prophethood) and given wise (sincere) counsel. He (the narrator) said: He (the Holy Prophet) then raised his forefinger towards the sky and pointing it at the people (said): "O Allah, be witness. 0 Allah, be witness," saying it thrice. (Bilal then) pronounced Adhan and later on Iqama and he (the Holy Prophet) led the noon prayer. He (Bilal) then uttered Iqama and he (the Holy Prophet) led the afternoon prayer and he observed no other prayer in between the two. The Messenger of Allah (s) then mounted his camel and came to the place of stay, making his she-camel al-Qaswa, turn towards the side where there were rocks, having the path taken by those who went on foot in front of him, and faced the Qibla. He kept standing there till the sun set, and the yellow light had somewhat gone, and the disc of the sun had disappeared. He made Usama sit behind him, and he pulled the nose-string of Qaswa so forcefully that its head touched the saddle (in order to keep her under perfect control), and he pointed out to the people with his right hand to be moderate (in speed), and whenever he happened to pass over an elevated tract of sand, he slightly loosened it (the nose-string of his camel) till she climbed up and this is how he reached al-Muzdalifa. There he led the evening and 'Isha prayers with one Adhan and two Iqamas and did not glorify (Allah) in between them (i.e. he did not observe supererogatory rak'ahs between Maghrib and 'Isha' prayers). The Messenger of Allah (s) then lay down till dawn and offered the dawn prayer with an Adhan and Iqama when the morning light was clear. He again mounted al-Qaswa, and when he came to al-Mash'ar al-Haram, he faced towards Qibla, supplicated Him, Glorified Him, and pronounced His Uniqueness (La ilaha illa Allah) and Oneness, and kept standing till the daylight was very clear. He then went quickly before the sun rose, and seated behind him was al-Fadl b. 'Abbas and he was a man having beautiful hair and fair complexion and handsome face. As the Messenger of Allah (s) was moving on, there was also going a group of women (side by side with them). Al-Fadl began to look at them. The Messenger of Allah (s) placed his hand on the face of Fadl who then turned his face to the other side, and began to see, and the Messenger of Allah (s) turned his hand to the other side and placed it on the face of al-Fadl. He again turned his face to the other side till he came to the bottom of Muhassir. He urged her (al-Qaswa) a little, and, following the middle road, which comes out at the greatest jamra, he

According to this tradition, it is not necessary to make sacrifice in order to get out of the state of ihram. It indicates

came to the jamra which is near the tree. At this be threw seven small pebbles, saying Allah-o-Akbar while throwing every one of them in a manner in which the small pebbles are thrown (with the help of fingers) and this he did in the bottom of the valley. He then went to the place of sacrifice, and sacrificed sixty-three (camels) with his own hand. Then he gave the remaining number to 'All who sacrificed them, and he shared him in his sacrifice. He then commanded that a piece of flesh from each animal sacrificed should be put in a pot, and when it was cooked, both of them (the Holy Prophet and Hadrat 'All) took some meat out of it and drank its soup. The Messenger of Allah (s) again rode and came to the House, and offered the Zuhr prayer at Mecca. He came to the tribe of Abd al-Muttalib, who were supplying water at Zamzam, and said: Draw water 0 Bani 'Abd al-Muttalib; were it not that people would usurp this right of supplying water from you, I would have drawn it along with you. So they handed him a basket and he drank from it. (Ibid, *Book 7 ,Number 2803*).

Bukhari has also narrated similar traditions:

The Prophet and his companions assumed Ihram for Hajj and none except the Prophet (s) and Talha had the Hadi (sacrifice) with them. 'Ali arrived from Yemen and had a Hadi with him. 'Ali said, "I have assumed Ihram for what the Prophet has done." The Prophet ordered his companions to perform the 'Umrah with the lhram which they had assumed, and after finishing Tawaf (of Ka'ba, Safa and Marwah) to cut short their hair, and to finish their lhram except those who had Hadi with them. They (the people) said, "How can we proceed to Mina (for Hajj) after having sexual relations with our wives?" When that news reached the Prophet he said, "If I had formerly known what I came to know lately, I would not have brought the Hadi with me. Had there been no Hadi with me, I would have finished the state of lhram." 'Aisha got her menses, so she performed all the ceremonies of Hajj except Tawaf of the Ka'ba, and when she got clean (from her menses), she performed Tawaf of the Ka'ba. She said, "O Allah's Apostle! (All of you) are returning with the Hajj and 'Umrah, but I am returning after performing Hajj only." So the Prophet ordered 'Abdur-Rahman b. Abu Bakr to accompany her to Tan'im and thus she performed the 'Umrah after the Hajj. (Sahih Bukahri, Volume 2, Book 26, Number 713).

that it is permissible to get out of the state of ihram after completing the rituals of umrah of tamattu'. The said tradition is reported by all sahih hadith collections and Bukhari has allocated a particular chapter to it.

Section Two

Temporary Marriage

What is temporary marriage?

In a temporary marriage a free and wise woman concludes a marriage contract with a Muslim man on a specified dowry and time and the man accepts the contract. This is called temporary or mut'ah marriage. The conditions necessary for this kind of marriage are the same as those needed for permanent marriage. Among these is the condition that there should not be any obstacle (on the way of this marriage) whether by blood or by marriage.

In this kind of marriage like the permanent marriage, it is permissible to give power of attorney to a concluder of marriage. The child they will have will be legitimate, belonging to his/her father. All the consequences of permanent marriage including mahramiyat (intimacy) and iddah (a period during which a divorced or widowed woman many not be married to another man) can be followed through temporal marriage.

The difference between these two kinds of marriage is that in temporary marriage separation can take place with the expiration of the time fixed or the exemption of the remaining time without applying divorce.

The idda period in this kind of marriage is two menstrual periods for women who have reached menopause. This is to say if the woman in question has got her period. Otherwise idda period will be 45 days.

Among other conditions of this kind of marriage is that man and woman do not inherit from each other and man is not supposed to sponsor her. The fact that temporary

marriage has its specific rules and regulations not available in permanent marriage does mean that there are two kinds of marriages in Islam. It does not imply either that temporary marriage is like marriage of bond women, different from permanent marriage. The difference between the two is limited to a few legal words.

Arguments for temporary marriage

The Holy Quran, prophetic tradition and the consensus among Shia and Sunni scholars signify that this kind of marriage was legitimate and current in Islam. Here are the arguments for this kind of marriage.

Temporary marriage and Quranic Argument for it

Allah says:

فَمَا اسْتَمْتَعْتُم بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَة [1]

For the enjoyment you have had from them thereby, give them their dowries, by way of settlement…

A tradition tells us that according to a group of companions and their followers who were a reference source in reciting the Holy Quran and comprehending its verses, the said verse is about temporary marriage. It is said that they used to recite it as under:

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[1] -The entire verse is as under:

وَالْمُحْصَنَاتُ مِنَ النِّسَاء إِلاَّ مَا مَلَكَتْ أَيْمَانُكُمْ كِتَابَ اللّهِ عَلَيْكُمْ وَأُحِلَّ لَكُم مَّا وَرَاء ذَلِكُمْ أَن تَبْتَغُواْ بِأَمْوَالِكُم مُّحْصِنِينَ غَيْرَ مُسَافِحِينَ فَمَا اسْتَمْتَعْتُم بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً وَلاَ جُنَاحَ عَلَيْكُمْ فِيمَا تَرَاضَيْتُم بِهِ مِن بَعْدِ الْفَرِيضَةِ إِنَّ اللّهَ كَانَ عَلِيمًا حَكِيمًا.

And all married women except those whom your right hands possess (this is) Allah's ordinance to you, and lawful for you are (all women) besides those, provided that you seek (them) with your property, taking (them) in marriage not committing fornication. Then as to those whom you profit by, give them their dowries as appointed; and there is no blame on you about what you mutually agree after what is appointed; surely Allah is Knowing, Wise. (Quran, 4/24).

فما استمتعتم به منهن إلى أجل

For the enjoyment you have had from them until an appointed time ….

They used to record this verse as mentioned above in their copies of the Holy Quran. According to this reading, the Holy Quran is very clear about temporary marriage. Among those who considered this verse as endorsing temporary marriage are Abdullah b. Abbas, Ubai b. Ka'b, Abdullah b. Mas'ud, Jabir b. Abdullah, Abu Sa'id Khudri, Sa'id b. Jabir, Mujahid, Suddi and Qutadah.[1]

Moreover, traditionists have quoted Ibn Abbas as saying three times, "By Allah, Allah has revealed this verse in that way".

Above all, Qurtubi mentions that according to all scholars this verse is about temporary marriage. According to him, all have said that this verse is about temporary marriage that was current at the early period of Islam.[2]

Temporary marriage in tradition

There are several traditions concerning temporary marriage but we will suffice to narrating only one tradition that is reported from Abdullah b. Mas'ud by Bukhari, Muslim, Ahmad b. Hanbal and others:

We used to participate in the holy wars carried on by the Prophet and we had no women (wives) with us. So we said (to the Prophet). "Shall we castrate ourselves?" But the Prophet forbade us to do that and thenceforth he allowed us

[1] - For further information see, the commentaries by Tabari, Qurtubi, Ibn Kathir, Zamakhshari and Suyuti. See also Ahkam al-Quran by Jassas, vol. 2, p. 208, al-Sunan al-Kubra by Bayhaqi, vol. 7, p. 335, al-Mihhaj by Nawawi, vol. 9, p. 153 and al-Mughni by Ibn Qudama, vol. 7, p. 571.

[2] - *Tafsir Qurtubi*, vol. 5, p. 130. Here he says: according to scholars in general the target is the mut'ah marriage that was current during the early Islam.

to marry a woman (temporarily) by giving her even a garment, and then he recited:

يا ايها الذين آمنوا لا تحرموا طيبات ما احل الله لكم و لا تعتدوا ان الله لا يحب المعتدين[1]

O you who believe! Do not make unlawful the good things which Allah has made lawful for you. [2]

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[1] - *Quran*, 5/87.

[2] - *Sahih Bukhari*, vol. 5, p. 1953, tradition, 4787, Musnad Ahmad, vol. 1, p. 692 and *Musnad* Abdullah b. Mas'ud, tradition 3976.
See also:
Narrated by Jabir b. 'Abdullah and Salama b. Al-Akwa': While we were in an army, Allah's Apostle came to us and said, "You have been allowed to do the Mut'ah (marriage), so do it." Salama b. Al-Akwa' said: Allah's Apostle's said, "If a man and a woman agree (to marry temporarily), their marriage should last for three nights, and if they like to continue, they can do so; and if they want to separate, they can do so. (*Sahih Bukhari*, Volume 7, Book 62, Number 52)
We used to participate in the holy battles led by Allah's Apostle and we had nothing (no wives) with us. So we said, "Shall we get ourselves castrated?" He forbade us that and then allowed us to marry women with a temporary contract and recited to us: 'O you who believe! Make not unlawful the good things which Allah has made lawful for you, but commit no transgression.' (Ibid,
Abdullah (b. Mas'ud) reported: We were on an expedition with Allah's Messenger (s) and we had no women with us. We said: Should we not have ourselves castrated? He (the Holy Prophet) forbade us to do so He then granted us permission that we should contract temporary marriage for a stipulated period giving her a garment, and 'Abdullah then recited this verse: 'Those who believe do not make unlawful the good things which Allah has made lawful for you, and do not transgress. Allah does not like transgressors" (al-Qur'an, v. 87). (*Sahih Muslim, Book 8, Number 3243*)
Jabir b. 'Abdullah reported: We contracted temporary marriage giving a handful of (dates or flour as a dower during the lifetime of Allah's Messenger (s) and during the time of Abu Bakr until 'Umar forbade it in the case of 'Amr b. Huraith. (Ibid, *Book 8, Number 3249*).
Ibn Uraij reported: 'Ati' reported that Jabir b. Abdullah came to perform 'Umrah, and we came to his abode, and the people asked him about different things, and then they made a mention of temporary marriage, whereupon he said: Yes, we had been benefiting ourselves by this

It is however obvious why Ibn Mas'ud has recited this verse after narrating the said tradition. He did so because he was critical of the man (Umar) who forbade it.

Temporary marriage and consensus

Muslims unanimously agree that temporary marriage is a kind of marriage. After mentioning some specifications of temporary marriage Qurtubi mentions, "Previous scholars did not differ on the fact that temporary marriage is a kind of marriage in which there is no inheritance and in which separation takes place after the expiration of the duration of contract needing thus no divorce".

Qurtubi then quotes Ibn Atiyya on the specifications of this contract and its rulings.[1]

Tabari also quotes Suddi as saying, "In this kind of marriage, man marries a woman on a pre-specified dowry and time…"[2]

In his *al-Tamhid*, Ibn Abd al-Barr, says, "Scholars are unanimous that in temporary marriage there is no need for witness or the permission of the guardian of the woman. Similarly all agree that this kind of marriage is temporary in which there is no exchange of inheritance and in which separation takes place with the termination of the duration of contract – not with divorce."[3]

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temporary marriage during the lifetime of the Holy Prophet (s) and during the time of Abi! Bakr and 'Umar. (Ibid, *Book 8, Number 3248)*
Abu Nadra reported: While I was in the company of Jabir b. Abdullah, a person came to him and said that Ibn 'Abbas and Ibn Zubair differed on the two types of Mut'ahs (Tamattu' of Hajj and Tamattu' with women), whereupon Jabir said: We used to do these two during the lifetime of Allah's Messenger (s).Umar then forbade us to do them, and so we did not revert to them. (Ibid, *Book 8, Number 3250).*

[1] - *Tafsir Qurtubi*, vol. 5, p. 132.
[2] - *Tafsir Tabari*, vol. 5, p. 18.
[3] - *Al-Tamhid*, vol. 11, p. 102.

Umar forbids temporary marriage

(Like the mut'ah of hajj), temporary marriage was lawful and current during the time of the Holy Prophet (s), Abu Bakr and even for a while at the time of Umar, until Umar forbade it saying, "Two mut'ahs (pleasurable acts) were lawful during the time of the Holy Prophet (s) but I prohibit them and shall punish those who perform them. They are the mut'ah of hajj [tammattu' hajj] and the mut'ah of women [temporary marriage]."

This word of Umar has been mentioned in tradition sources as well as in commentary and theological books. Among the books that contain it, are: *Tafsir Razi, Sharh Ma'ni al-Athar,* Bayhaqi's *al-Sunan al-Kubra, Bidaya al-Mujtaheed, al-Muhallah,* Jassas's *Ahkam al-Quran,* Ash'arite Qushji's *Sharh al-Tajrid, Tafsir Qurtubi, al-Mughni, Zad al-Ma'd fi Huda Khair al-Ibad, al-Durr al-Mansur, Kanz al-Ummal* and *Wafayat al-A'yan.*[1]

Some historians and traditionists such as Sarakhsi have mentioned that this tradition is authentic. Others, like Ibn Qayyim Jawzi have testified to the authenticity of this tradition.

In his *al-Muhadarat,* Raghib Isfahani says, "Addressing a sheikh in Basra, Yahya b. Aktham said, 'Whom do you follow in permitting mut'ah?', 'I follow Umar', he replied. 'How do you follow him while he was among the strictest opponents of mut'ah?', he asked. 'This is because according to an authentic tradition, he mounted pulpit and said, 'Allah and His Messenger (s) made two mut'ahs lawful to you, but

[1] - *Tasir Razi,* vol. 3, p. 167. Sharh Ma'ni al-Athar, p. 374, *Bayhaqi's al-Sunan al-Kubra,* vol. 7, p. 206, *Bidayat al-Mujtahid,* vol. 1, p. 346, *al-Muhalla,* vol. 7, p. 107, *Jassas's ahkam al-Qur'an,* vol. 1, p. 279, *Asha'rite Qushji's Sharh Tajrid* (sarcastic remarks on Umar), *Tafsir Qurtubi,* vol. 3, p. 307, *al-Mughni,* vol. 7, p. 27, *Zad al-Ma'd fi Huda Khair al-ibad,* vol. 2, p. 305. *Al-Durr al-Mansur,* vol. 2, p. 141, *Kanz al-Ummal,* vol. 8, p. 293 and *Wafayat al-Ayan,* vol. 5, p. 197.

I forbade them and shall punish those who do them.', 'I accept his testimony that this practice was lawful but I do not accept his verdict', he answered."[1]

According to some traditions, Umar forbade the said two mut'ahs plus with 'Hayya ala khair al-'Amal' phrase in the azan and iqama of daily prayers.

In accordance with a tradition, 'Ata quotes Jabir b. Abdullah Ansari as saying:

We used to practice temporary marriage during the time of the Holy Prophet until Amr b. Huraith temporarily married a woman (whose name Jabir mentioned but I forgot) towards the end of Umar's caliphate. She became pregnant. When Umar learnt about it he summoned her and asked, "Is it true that you have temporarily married?" "Yes", she replied. "Who is your witness?" Asked Umar. According to Ata she introduced her mother or guardian as her witness. "Is there anyone else who stands witness?", Umar asked.

It was after this happening that Umar forbade temporary marriage.[2] There are other similar traditions in accordance

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[1] - Qushji's Sharh Tajrid, p. 484.

[2] - *Sahih Muslim*, vol. 3, p. 194, tradition, no. 1405, *Musnad Ahmad*, vo. 4, p. 237, *Musnad Jabir b. Abdullah*, tradition, 13856, Bayhaqi's *al-Sunan al-Kubra, Kitab al-Sidaq*, tradition, no. 14368, *al-Musannaf* by Abd al-Razzaq, vol. 7, p. 487 tradition no. 14021.

See also:

a) Jabir b. 'Abdullah reported: We contracted temporary marriage giving a handful of (tales or flour as a dower during the lifetime of Allah's Messenger (s) and during the time of Abu Bakr until 'Umar forbade it in the case of 'Amr b. Huraith. (*Muslim, Book 8, Number 3249)*

b) Jabir b. 'Abdullah and Salama b. al-Akwa' said: There came to us the proclaimer of Allah's Messenger (s) and said: Allah's Messenger (s) has granted you permission to benefit yourselves, i.e. to contract temporary marriage with women. (Ibid, *Book 8, Number 3246)*

c) Ibn Uraij reported: 'Ati' reported that Jabir b. Abdullah came to perform 'Umrah, and we came to his abode, and the people asked him about different things, and then they made a mention of temporary

with some of which Umar threatens her that he would stone her to death.[1]

According to another tradition, a Syrian man came to Medina and married a woman there temporarily. He stayed with her for some time until the period ended. When Umar learnt about it, he summoned him and asked, "Why did you marry her temporarily?" "We did so during the lifetime of the Holy Prophet (s) but he did not prohibit us from doing it until he died. Same was the case with Abu Bakr. He did not prevent us from doing it until he died and you came to power. We have not heard that you have forbidden temporary marriage", he answered. "I swear by the One in whose hand is my life, if I had forbidden temporary marriage before I would have stoned you to death", Umar said.[2]

As it is plain, all traditions attribute the prohibition of temporary marriage to Umar, using these wordings: "When Umar came to power he prohibited two mut'ahs", "Umar

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marriage, whereupon he said: Yes, we had been benefiting ourselves by this temporary marriage during the lifetime of the Holy Prophet (s) and during the time of Abu Bakr and 'Umar. (*Book 8, Number 3248*).

d) Sabra Juhanni reported: Allah's Messenger (s) permitted temporary marriage for us. So I and another person went out and saw a woman of Bana 'Amir, who was like a young long-necked she-camel. We presented ourselves to her (for contracting temporary marriage), whereupon she said: What dower would you give me? I said: My cloak. And my companion also said: My cloak. And the cloak of-my companion was superior to my cloak, but I was younger than he. So when she looked at the cloak of my companion she liked it, and when she cast a glance at me I looked more attractive to her. She then said: Well, you and your cloak are sufficient for me. I remained with her for three nights, and then Allah's Messenger (s) said: He who has any such woman with whom he had contracted temporary marriage, he should let her off. (Ibid, *Book 8, Number 3252)*.

[1] - Umar is also quoted as having said, "I will stone to death anyone who is brought to me because of practicing temporary marriage. If he is dead and buried I will stone his grave". *Sarakhsi's al-Mabsut*, vol. 5, p. 153.

[2] - *Kanz al-Ummal*, vol. 16, p. 218, tradition no. 845718.

forbade it", "A man (Umar) issued a self-fabricated verdict" etc.

Thus if it were the Holy Prophet (s) who prohibited it no one would attribute the prohibition or its ill consequences to Umar.

Imam Ali (s) is quoted as having said:

لولا ان عمر نهى عن المتعه ما زنى الا شقى[1]

If Umar did not prohibit temporary marriage no one would commit adultery except a vicious person.

Ibn Abbas is also quoted as having said, "Temporary marriage was nothing but Allah's blessing to His servants. If Umar did not prohibit temporary marriage no one would commit adultery except a vicious person."[2]

Therefore the first one who prohibited temporary marriage was Umar b. Khattab.[3] It is Umar himself who says that two mut'ahs (the mut'ah of hajj and temporary marriage), were legal during the time of the Holy Prophet (s) but he forbids them.

He does not talk about the Holy Prophet's prohibition. Instead, he attributes it to himself. He considers punishment for outlaws. When the Syrian man said that until then he had received no verdict from him forbidding temporary marriage, he did not refute his words. He instead admitted that until then temporary marriage was legal.

The tradition also contains the term 'فلم تحدث' which means 'you did not invent'. The application of the term 'invent' implies that Umar's verdict was an innovation in religious matters.

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[1] - Abd al-Razzaq's *al-Musannaf*, vol. 7, p. 500, tradition, no. 1402, *Tafsir Tabari*, vol. 5, p. 19, al-*Durr al-Mansur*, vol. 2, p. 251, *Tafsir Razi*, vol. 10, p. 52.

[2] - *Tafsir Qurtubi*, vol. 5, p. 130. Some have used the term 'trivial' in place of the term of 'vicious'. See *al-Nihaya*, vol. 2, p. 437, *Taj al-Arus*, vol. 19, p. 578 and other Arabic glossaries.

[3] - Ta'rikh al-Khulafa, p. 137.

Great companions and prohibition of temporary marriage

Albeit some companions such as Abdullah b. Zubair have followed Umar in prohibiting temporary marriage great companions, following the Holy Quran and the Holy Prophet's tradition, believed that it was lawful. Forerunners among great companions were Imam Ali (s) and other infallibles.

Expressing his point of view in this regard, Ibn Hazm says, "Some great companions continued to consider temporary marriage as lawful after the demise of the Holy Prophet (s). Included among them were Asma, daughter of Abu Bakr, Jabir b. Abdullah Ansari, Ibn Mas'ud, Ibn Abbas, Mu'awiya b. Abi Sufyan, Amr b. Huraith, Abu Sa'id Khudri, Salma and Ma'bad, children of Khalf".

Jabir b. Abdullah Ansari has quoted all companions as saying that temporary marriage was lawful at the time of the Holy Prophet (s), Abu Bakr and the early period of Umar's caliphate. From among the followers of companions (Tabi'een), it was Tawoos, 'Ata, Sa'id b. Jubair and other jurists of Mecca who considered temporary marriage as lawful.[1] Ibn Hazm, however does not mention names such as Imran b. Husain and other companions. Qurtubi has also mentioned these names. Quoting Ibn Abd al-Barr, he says, "All the followers of Ibn Abbas from the people of Mecca and Yemen have followed him in considering temporary marriage as lawful".[2]

Abd al-Malik b. Abd Aziz (d. 149 AH), known as Ibn Juraih, a prominent jurist in Mecca, has considered temporary marriage as lawful. He is a great jurist, a well-known follower of companions, a reliable traditionist and one of the narrators from whom Bukhari and Muslim have

[1] - *Al-Muhalla*, vol. 9, p. 129.
[2] - *Tafsir Qurtubi*, vol. 3, p. 133.

narrated. It is said that he contracted temporary marriage with about 90 women.

Ibn Khallakan says that during his caliphate, Ma'moon proclaimed temporary marriage as legal. Muhammad b. Mansur and Abu al-Aina (from among the jurists of his court) paid him a visit and tried to change his view, but Ma'moon who was brushing his teeth, got angry, mentioning the word of Umar, "Two pleasures were lawful at the time of the Messenger of Allah and Abu Bakr but I forbid them" [and saying,] "O cross-eyed! How can you prohibit what the Messenger of Allah (s) and Abu Bakr have done?"

Muhammad b. Mansur wanted to say something to Ma'moon, but Abu al-'Aina told him quietly, "What would you like to say to a person who says such things so explicitly about Umar?"

At this moment, Yahya b. Aktam entered. He met Ma'moon behind closed doors. He talked to him about the dangers of sedition (that his theory may cause) and thus was able to change his view.[1]

A defense of Umar

We will now deal with the words of those who trouble themselves in vain in order to defend Umar and justify this action of his. This is because the legality of temporary marriages is indisputable and is among the self-evident truths of Islam from the perspective of Quran and Prophet's tradition. Despite all these the second caliph tries to resist it.

Three distinctive opinions

Those who tried to justify Umar's verdict are, roughly speaking, of three categories:

One: The Messenger of Allah (s) abrogated the legality of temporary marriage, but no one other than Umar was aware of it.

[1] - *Wafayat al-A'yan*, vol. 6, pp. 149 & 150 (life of Yahya b. Aktham).

After relating some justifications for Umar's action and denying them, Fakhar Razi relates the above-mentioned opinion, saying, "… The only option left is to say, when Umar said that temporary marriage was lawful at the time of the Holy Prophet (s) but he prohibited it, he meant that it was proven to him that the Holy Prophet had forbidden it".[1]

After mentioning this word of Umar, Nawawi says that those who contracted temporary marriage at the time of Abu Bakr and Umar were not aware of its abrogation.[2]

Two: The Holy Prophet (s) himself prohibited temporary marriage.

Three: Umar prohibited temporary marriage.

Ibn Qayyim Jawzi has related the second and third opinions.[3] Those who accept the second view and say that it was the Prophet himself who prohibited temporary marriage are highly divided on when the Holy Prophet (s) prohibited it. They fall into seven divisions[4] which say that abrogation happened:

1. at the battle of Khaibar. This view is supported by Shafi'i.
2. at the time of performing umrah hajj after the conquest of Mecca.
3. in the year of the conquest of Mecca. Ibn 'Aiyna and others followed it.
4. at the battle of Awtas.
5. at the battle of Hunayn.

Commenting on this view, Ibn Qayyim says that since the battle of Hunain is connected to conquest of Mecca,

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[1] - *Tafsir Kabir*, vol. 10, p. 56.

[2] - Al-Minhaj, Sharh Sahih Muslim, vol. 9, p. 157.

[3] - Zad al-Ma'd fi Huda Khair al-Ibad, vol. 2, pp. 184-185.

[4] - Ibn Qayyim has mentioned only four instances: Battle of Khaybar, Conquest of Mecca, Battle of Hunain and Farewell Hajj. (*Zad al-Ma'd fi Huda Khair al-Ibad*, vol. 2, p. 183. The other three instances are taken from *Fath al-Bari*, vol. 9. P. 210.

therefore this view can be reduced to the second view.[1] We will deal with this opinion later.

6. in the year in which the battle of Tabuk occurred. We will talk about it later.

7. in the year in which Farewell Hajj happened. Ibn Qayyim is of the view that this opinion is the illusion of some reporters. In their imaginary journey, they covered the distance between the conquest of Mecca and the Farewell Hajj. This is because imaginary journeys from one point to another, from one time to another or from one event to another is something that frequently happens for narrators![2]

In short, the supporters of the third opinion, are of the view that Umar prohibited temporary marriage but the Holy Prophet ordered his community to follow his tradition and what his guided caliphs order.[3]

We have taken these views from what they have said here and there without any specific order and arrangement. It is however good to evaluate these opinions.

A critique of the first opinion

It would be far better for Fakhr Razi, the imam of the Sunnis if he did not touch on the question of abrogation at the hand of the Holy Prophet (s) and Umar's exclusive knowledge about it. This is because one cannot accept that Umar was aware of abrogation and Imam Ali (a.s) and other great companions did not know about it. Why did the Holy Prophet (s) tell him about it? Why didn't he mention this when Imran, an illiterate man was advising him? Addressing him, Imran said, "Your community is critical of you because of four things, including forbidding temporary marriage. Allah had made it legal and we were able to contract temporary marriage through a handful of dates [but you

[1] - Zad al-Ma'd fi Huda Khair al-Ibad, vol. 2, p. 183.
[2] -Ibid, p. 183.
[3] -Ibid, p. 184.

forbade it]. Let's skip the other three issues". "The Holy Prophet (s) permitted it at an emergency time. When people are not in an emergency situation there is no need for the legality of temporary marriage…",[1] Umar replied.

Why didn't Muslims accept this answer from Umar and the difference among them remained until now?

A critique of the third opinion

According to this opinion, it was Umar who forbade temporary marriage and it is a must on this view to follow his order.

Commenting on this issue, Ibn Qayyim says, "It is said that in his *Sahih*, Muslim Nayshaburi, quotes Jabir b. 'Abdullah as saying: We contracted temporary marriage giving a handful of dates or flour as a dower during the lifetime of Allah's Messenger (s) and during the time of Abu Bakr until Umar forbade it in the case of 'Amr b. Huraith. What do you say in response to this tradition which says that temporary marriage was forbidden at the time of Umar? Likewise it is proven that Umar has said, "Two acts were lawful during the time of the Holy Prophet (s) but [I prohibit them both and punish those who commit them.] They are mut'ah of hajj and mut'ah of women". How do you justify these words?

In response, it is said that scholars are divided into two groups on this issue: Some say that Umar prohibited temporary marriage and forbade people from doing it. The Messenger of Allah had ordered people to follow his traditions and the verdicts of his caliphs. Thus it is an obligation to follow Umar's verdict. They do not believe in the authenticity of the tradition narrated by Abd al-Malik b. Rabi'a b. Sira from his father, from his father, according to which temporary marriage was forbidden in the year of the conquest of Mecca. Ibn Mu'een has criticized this tradition

[1] - *Tarikh Tabari*, vol. 3, p. 290.

which is not related by Bukhari in his *Sahih*, though it was necessary to deal with it as an Islamic principle. It can thus be said that Bukhari did not mention it because it was not authentic from his point of view. If he did not entertain doubt in regard with its authenticity, he would have mentioned it and dealt with its chains. Narrators of traditions are of the view that if Sabra's tradition is authentic then there is no fault with Ibn Mas'ud narrating their practice of temporary marriage and invoking a Quranic verse.

Similarly, if this tradition is right Umar must not say that this practice was current at the time of the Holy Prophet (s) but he forbade it, threatening to punish those who do it. Instead, he must say that the Holy Prophet forbade it and prohibited us from contracting temporary marriage.

Some scholars are of the view that if this tradition were right temporary marriage should not have been in use at the time of Abu Bakr.

The second group of scholars considers Sabra's tradition as authentic. According to them, even if this tradition is not authentic there is another authentic tradition narrated by Ali (a.s), according to which the Holy Prophet (s) prohibits contracting temporary marriage with women.

Thus we must interpret Jabir's tradition, saying that those who are said to have contracted temporary marriage were in fact unaware of its prohibition. The prohibition was not known until the time of Umar, when there emerged a dispute concerning the issue of temporary marriage. It was at this time that the prohibition of temporary marriage was known. In this way, there will be reconciliation between conflicting traditions.[1]

The proponents of this opinion, according to this view, believe that it was Umar who forbade temporary marriage, not Allah and His Messenger. They however justify the

[1] - Zad al-Ma'd fi Huda Khair al-Ibad, vol. 2, pp. 184 and 185.

prohibition made by Umar, attributing thus the prohibition to Allah and His Apostle by saying that the Holy prophet has ordered us to follow the verdicts issued by the guided caliphs.

That is the most important justification for what Umar did, but we should remember that it is based on a tradition that deems following guided caliphs as obligatory. If it is proved that this tradition is not authentic then it has to be admitted that Umar has introduced something 'heretical' in religion. Most of the companions of the Holy Prophet (s) have also said the same thing.

According to Ibn Qayyim, the Messenger of Allah (s) has ordered [us] to follow the verdicts issued by caliphs. His word refers to what the Holy Prophet (s) has reportedly said, "Follow my tradition and the tradition of the guided caliphs after me, hold fast to them and keep abiding by them".

It is worth mentioning that studies show that this tradition is false and fabricated with all its chains.[1] Some great Sunni scholars such as Hafiz b. Qattan (d. 628 AH) have rejected it. Commenting on Abd al-Rahman Salmi, Ibn Hajar says, "He has reported only one tradition on admonishing which is regarded as authentic by Tirmidhi".

I would like to add that Ibn Hayyan and Hakim Nayshaburi have narrated this tradition *in al-Mustadrak 'ala al-Sahihayn*. According to Ibn Qattan, this tradition is not authentic, for its narrator is not known.[2] It should be noted that great scholars have given an account of the life of Ibn Qattan and admired him.[3]

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[1] -For further information see, *Conduct of Prophet or Conduct of Caliphs* by Husaini Milani.

[2] - *Tahdib al-Tahdib*, vol. 6, p. 215.

[3] - See *Tadkira al-Huffaz*, vol. 4, p. 1407 and *Tabaqat al-Huffaz*, p. 498.

A critique of the second view

As to the time of prohibition of temporary marriage by the Holy Prophet (s), there are more than one opinion about it. Some are of the view that temporary marriage was forbidden in the year of Farewell Hajj. Commenting on this view, Ibn Qayyim says that the origin of this view is to be traced back in the words of some narrators.

According to others, temporary marriage was forbidden in the year in which the battle of Hunain was fought. Rejecting this opinion, Ibn Qayyim says, "Since there is no [considerable] temporal distance between the battle of Hunain and the conquest of Mecca, this opinion can be considered the same as the second opinion".[1] As to the opinion that the prohibition occurred in the battle of Awtas, Suhaili says, "The opinion of those who say that prohibition occurred in the battle of Awtas is in line with the tradition that says that prohibition happened in the year of the conquest of Mecca".[2]

As to the prohibition of temporary marriage in compensatory umrah, Suhaili says, "Strangely enough, some traditions deem prohibition to have occurred in the battle of Tabuk or in compensatory umrah".[3] According to Ibn Hajar 'Asqalani, it is not correct to say that temporary marriage was forbidden in compensatory umrah. This is because the tradition that supports it is mursal (broken) narrated from Hasan. His mursal traditions are weak, for he used to narrate from anyone he came across. If his tradition is presumably right, then it has to be said that he meant it was forbidden in the battle of Khaibar. This is because these two battles happened in the same year, just as the battles of Mecca and

[1] - We will treat it in future.
[2] - *Fath al-Bari*, vol. 9, p. 210.
[3] - Ibid.

Awtas happened in one year.[1] According to Ibn Qayyim the truth is to say that temporary marriage was forbidden in the year of the conquest of Mecca.[2]

From the viewpoint of Ibn Hajar, the tradition that is narrated by Muslim stating that prohibition occurred in the year of the conquest of Mecca is more acceptable. The year of the conquest of Mecca is thus the year in which temporary marriage is forbidden. He firstly relates all traditions and opinions and then evaluates them. Commenting on this view, he finally says, "From among the different suggestions about the time of prohibition, the opinions that suggest the year of the battles of Khaibar and Mecca as the time when prohibition was made, is more correct. We talked before about the opinion that says prohibition occurred in the battle of Khaibar. According to Suhaili, most scholars hold this view.[3]

Prohibition happens in year of conquest of Mecca

Here is the text of the tradition (as reported by Muslim) that suggests that temporary marriage was prohibited in the year of the conquest of Mecca. Ishaq b. Ibrahim narrated from Yahya b. Adam from Ibrahim b. Sa'eed from Abd al-Malik b. Rabi'a b. Sabra Juhanni from his father, from his grandfather who said, "In the year of the conquest of Mecca, the Messenger of Allah ordered us to contract temporary marriage but before leaving Mecca he prohibited us from doing it.[4]

Prohibition happens in battle of Tabuk

There is a tradition that says that temporary marriage was prohibited in the battle of Tabuk. Sunni narrators have

[1] - Ibid, vol. 9, p. 211.
[2] - *Zad al-Ma'd*, vol. 2, p. 183.
[3] - *Fath al-Bari*, vol. 9, pp. 210, 212 and 213.
[4] - *Sahih Muslim*, vol. 3, p. 196, tradition, 1406.

reported it from three companions of the Holy Prophet (s), namely Imam Ali (a.s), Jabir b. Abdullah Ansari and Abu Huraira. Nawawi quotes Imam Ali (a.s) as saying, "All scholars excluding Muslim quote Ali (a.s) as saying that the Holy Prophet (s) prohibited temporary marriage in the battle of Tabuk. The chain of this tradition is as below: Ishaq b. Rashid narrates from Zuhri from Abdullah b. Muhammad b. Ali from his father who quotes Ali (a.s) as saying…[1]

Hazmi narrates this tradition from Jabir. As to the tradition of Abu Huraira, it is reported from him by Ibn Rahawai and Ibn Habban. Ibn Hajar has also related the tradition narrated by these two persons. [2]

Since we will deal with tradition of the battle of Tabuk [in future] we will skip dealing with it right know.

Prohibition occurs in battle of Hunain

There is a tradition that says that temporary marriage was prohibited in battle of Hunain. Sunni narrators have narrated this narration from Imam Ali (a.s). Nisaee narrates it as under:

Amr b. Ali, Muhammad b. Bashar and Muhammad b. Muthanna quote Abd al-Wahhab as saying, "Yahya b. Sa'eed says: Malik b. Anas narrated from Ibn Shahab from Abdullah and Hasan, children of Muhammad b. Ali, from their father, Muhammad b. Ali who quoted Ali (a.s) as saying: The Messenger of Allah prohibited it in the battle of Khaibar [/Hunain]."

Muhammad b. Muthanna says that this tradition uses 'battle of Hunain' in place of 'battle of Khaibar'. He says that Abd al-Wahhab has mentioned it as such in his book.[3]

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[1] - Al-Minhaj, Sharh Sahih Muslim, vol. 9, p. 154.

[2] - *Fath al-Bari*, vol. 9, pp. 210 and 211.

[3] -*Al-Sunan al-Kubra,* Nisaee, vol. 6, p. 436, tradition, no. 3367.

Prohibition of temporary marriage in battle of Khaibar

In their sihah and other books, Sunni narrators have narrated from Imam Ali who said that temporary marriage was prohibited in the battle of Khaibar. There are different variations of this tradition. We will suffice to what Bukhari and Muslim have said.

Bukhari narrates from Malik b. Ismael from Ibn Uyainah from Zuhri from Hasan b. Muhammad b. Ali and his brother Abdullah from their father who quotes Ibn Abbas as saying, "The Holy Prophet (s) prohibited temporary marriage and the flesh of domestic asses in the battle of Khaibar".[1]

Muslim has reported this tradition through several chains which are as follows:

Chain One: Yahya b. Yahya narrated Ibn Shihab, from Abdullah and Hasan, children of Muhammad b. 'Ali from their father who quoted Imam Ali as saying, "Allah's Apostle (s) on the Day of Khaibar prohibited forever the contracting of temporary marriage and eating of the flesh of the domestic asses."

Chain Two: Abdullah b. Muhammad b. Asma Zab'ai narrated from Juwariyya from Malik (as in the previous chain) who said that he heard Ali addressing somebody say, "You are forgetful…. This is because the Messenger of Allah had prohibited us from contracting temporary marriage with women …"

Chain three: Abu Bakr b. Abi Shaiba and Ibn Numair and Zuhair b. Harb from Ibn Uyainah from Zuhair, from Zuhri from Hasan and Abdullah children of Muhammad b. Ali from their father who quotes 'Ali (Allah be pleased with him) as saying, "The Holy Prophet (s) on the Day of Khaibar forbade forever the contracting of temporary marriage and the eating of the flesh of domestic asses".

[1] - *Sahih Bukhari*, vol. 5, p. 1966, tradition, 4825.

Chain Four: Muhammad b. Abdullah b. Numair narrated from his father, from Ubaidullah from Ibn Shahab from Hasan and Abdullah children of Muhammad b. Ali from their father who said, "Ali (Allah be pleased with him) heard that Ibn Abbas (Allah be pleased with them) gave some relaxation in connection with the contracting of temporary marriage, whereupon he said: Don't be hasty (in your religious verdict), Ibn 'Abbas, for Allah's Messenger (s) on the Day of Khaibar prohibited forever the doing of it and eating of the flesh of domestic asses".

Chain five: Abu Tahir and Harmala b. Yahya narrated from Wahab from Yunus from Ibn Shahab from Hasan and Abdullah children of Muhammad b. Ali from their father from a person who heard Ali (s) addressing Ibn Abbas say, "The Messenger of Allah (s) forbade contracting temporary marriage with women and flesh of domestic assess on the day of Khaibar."[1]

Common criticisms

All these traditions face some common criticisms which show that they are false and fabricated, though having authentic chains. We first briefly mention these criticisms and then we will specifically deal with the tradition of prohibition of temporary marriage in the year of the conquest of Mecca, for it is said to be well-known. Thereupon we will deal with the tradition of prohibition of temporary marriage in the battle of Khaibar. This is because this tradition is said to be narrated by Imam Ali (s) and Bukhari and Muslim have also narrated it. The reason why we have chosen to deal with these two traditions is that Sunni narrators have narrated these two traditions from Imam Ali (s).

The first criticism concerning these traditions is that they are self-contradictory contradicting each other in content. Some of these traditions refute others, a thing that has caused

[1] -*Sahih Muslim*, vol. 3, pp. 198 – 199, tradition, no. 14097.

confusion among Sunni scholars making them present contradictory solutions.[1]

It is because of this that some scholars have been forced to say that temporary marriage was lawful in the beginning but later on it was forbidden, though it was made legal again. It was however again declared as forbidden, to the extent that Muslim has allocated a chapter in his book to this discussion dealing with the legality of temporary marriage, its abrogation, its legality for the second time and its abrogation forever.[2]

The contradictory statements do not end here. Some scholars like Qurtubi have said that permission and prohibition continued for seven times.[3]

Ibn Qayyim however says that it is not possible in Islamic Shari'a laws to accept abrogation more than once not to speak of more than twice. He, on the other hand, thinks that temporary marriage was forbidden on the Day of Khaibar- a thing that implies a second abrogation which has not happened and will never happen in Islamic Shari'a laws.[4]

These opinions are likewise in contraction with Umar's words, for Umar said, " Two mut'ahs (pleasurable acts) were lawful during the time of the Holy Prophet (s) but I prohibit them…" according to these words which are transmitted through a reliable chain, Umar openly says that he forbade what was lawful during the time of the Holy Prophet (s).

Another criticism is that the companions of the Holy Prophet (s) whether before or after Umar's caliphate testify to the fact that temporary marriage was legal and it was Umar who forbade it. Some of them have also added that if Umar

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[1] - For further information see*: Nawawi's al-Minhaj*, vol. 9, p. 155, Ibn Hajar's *Fath al-Bari*, vo. 9, p. 212.

[2] - *Sahih Muslim*, vol. 3, p. 192.

[3] - *Tafsir Qurtubi*, vol. 5, p. 131.

[4] - *Zad al-Ma'd*, vol. 2, p. 183.

did not forbid it, no one other than a vicious person would commit adultery.

Evaluation of prohibition in conquest of Mecca

Let's now assess and evaluate the tradition that says temporary marriage was forbidden in the year of the conquest of Mecca. If you study Ibn Qayyim's opinion you will know that this tradition is incorrect. According to him, Abd al-Malik b. Rabi'a b. Sabra reported this tradition from his father from his grandfather. Ibn Mu'een is critical of the narrator of this tradition and Bukhari has not mentioned this tradition in his *Sahih*. It will be enough to give an account of his life on the bases of what Ibn Hajar has said.

Ibn Hajar says: Abu Khaithama says: Somebody asked Yahya b. Mu'een about the traditions reported by Abd al-Malik b. Rabi' from his father from his grandfather, he said: According to Ibn Mu'een his traditions are weak. Ibn Jawzi quotes Ibn Mu'een as saying: Abd al-Malik is weak in terms of narrating traditions. Abu al-Hasan b. Qattan is of the view that it was not proved that he was just. Though Muslim narrates traditions from him we cannot rely on his traditions. As mentioned, Muslim has narrated only one tradition from him on temporary marriage.[1]

Evaluation of prohibition in battle of Hunain

Nisaee has reported this tradition from Imam Ali (a.s). We will deal with it while treating the traditions narrated from him. Thus we avoid evaluating it now.

Besides, Sunni narrators narrate a tradition from Rabi'a b. Sabra, according to which temporary marriage was prohibited at Farewell Hajj. According to Abu Dawood, Musaddad b. Musarhad narrated from Abd al-Warith from Ismael b. Umayya from Zuhri who said, "We were in the presence of Umar b. Abd al-Aziz when there was a

[1] - *Tahdib al-Tahdib*, vol. 6, p. 345.

discussion about contracting temporary marriage with women. Rabi'a b. Sabra, addressing Umar b. Abd al-Aziz said: I testify that my father said that the Holy Prophet (s) forbade temporary marriage at Farewell Hajj.[1]

Evaluation of prohibition in battle of Tabuk

We will deal with the tradition of the battle Tabuk, which is reported from Imam Ali (a.s) in its own place. Besides, Ibn Hajar openly says that the tradition narrated from Jabir is not authentic. This is because it is reported through Ibn Kathir who is rejected and is not a reliable person.[2] In his *Tahdib al-Tahdib*, mentioning two narrators named Abbad, he says, "Abbad b. Kathir Thaqafi Basri and Abbad b. Kathir Ramli from Palestine are not reliable. They are rejected. They narrate fabricated traditions and are liars".

Commenting on the one from Palestine, Abu Hatam says that he was thinking that he was better than his namesake, but he found that he did not differ from him and his traditions were thus weak.[3]

It seems that he who fabricated the tradition did so in order to contradict authentic traditions that indicate that temporary marriage was legal until the last moment of the life of the Holy Prophet (s). [To reach their goal], they also invented numerous traditions to show that Ibn Abbas changed his mind (and accepted that temporary marriage was forbidden). We will treat this question later as well as the question of attributing fabricated traditions in this connection to Imam Ali (a.s).

One of the traditions in question was reported by Abu Huraira. According to Ibn Hajar, Abu Huraira's tradition is not correct either. This is because he narrates from Mu'ammil

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[1] - *Sunan Abu Dawood*, vol. 2, p. 92, tradition, 2072.
[2] - *Fath al-Bari*, vol. 9, p. 211.
[3] - *Tahdib al-Tahdib*, vol. 5, pp. 90-92.

b. Ismael from 'Akram b. 'Amar, both of whom are questionable.[1]

Evaluation of prohibition in battle of Khaibar

The most important traditions available in this connection are the traditions falsely narrated from Imam Ali (a.s). This is because Imam Ali (a.s) was a vigorous opponents of this prohibition. Those who were flattering cruel rulers to receive rewards from them did their best to show their enmity towards Imam Ali (a.s) and fabricate traditions in his name. The fabricated traditions narrated from Imam Ali (a.s) are self-contradictory and inconsistent. This is because many were willing to fabricate traditions in his name. This is also one of the great signs of his righteousness. They have narrated these fabricated traditions from his grandchildren from his son Muhammad b. Hanafiyya. They have not narrated any fabricated narration from the children of Imam Hasan (a.s) and Imam Husain (a.s). This is because they know very well that they cannot be accused of such kind of things.

Liars falsely relate that when he heard the relaxation Ibn Abbas had given to temporary marriage he spoke to him angrily…. If there were no contradiction among the fabricated traditions it would be difficult even for scholars to know the truth. Let's now explain in detail under the following headings, why these traditions are fabricated.

Contradiction in time of prohibition

Zuhri narrates from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s), who addressing Ibn Abbas, said, "The

[1] - *Fath al-Bari*, vol. 9, p. 211. For further information on these two reporters, see *Tahdib al-Tahdib*, vo. 10, pp. 339 and 340, vol. 7, pp. 226 and 227.

Messenger of Allah (s) prohibited on the day of Khaibar contracting temporary marriage with women and eating the flesh of asses".[1]

Ibn Muthanna narrates this tradition in a slightly different manner, "The Messenger of Allah (s) prohibited on the day of Huanain contracting temporary marriage with women and eating the flesh of asses". He also says that Abd al-Wahhab had related this tradition as under:

Zuhri narrates from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s), who says that the prohibition occurred in the battle of Hunain.[2]

In accordance with another variation, Zuhri narrates from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s), who says that the Holy Prophet (s) prohibited temporary marriage in the battle of Tabuk.[3]

In accordance with another tradition narrated by Muhammad b. Hanafiyya, Imam Ali (a.s) addressing Ibn Abbas, says that he is a forgetful person as the Holy Prophet forbade temporary marriage in his Farewell Hajj.[4]

In yet another tradition, Shafi'i narrates from Malik who quotes Imam Ali (a.s) as saying, "The Messenger of Allah (s) prohibited on Khaibar day eating the flesh of asses".

This tradition does not talk about the prohibition of temporary marriage with women.[5]

As it is clear, all these traditions that are apparently reported from Imam Ali (a.s) have one chain and speak about one subject matter.

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[1] - *Sahih Muslim*, vol. 3, p. 199, tradition, 1407.
[2] - *Al-Sunan al-Kubra by* Nisaee, vol. 6, p. 436, tradition, 3367.
[3] - Al-Minhaj, Sharh Sahih Muslim, vol. 9, p. 154.
[4] - *Majma' al-Zawaed*, vol. 4, p. 487, tradition, 7391.
[5] -*Umda al-Qari*, vol. 17, p. 274.

If it is said that from among these traditions only some are credible (thus there is no inconsistency among them), in response it has to be said that [all these traditions are credible from their point of view]. The first tradition is regarded as credible by all and that is why they have given reference to it in their works. As to the second tradition, it has to be said that it is also reliable, for Nisa'i has mentioned it in his *Sunan* which is one of the six hadith collections.

As to the fourth tradition, it is mentioned by Tabarani. Haithami has also said that its reporters are reliable.[1] As to the third tradition, Nawawi has mentioned it. He quotes Qazi Ayyaz as saying, "No one has followed him in this and thus it is a mistake of his".[2]

Ibn Hajar says, "Stranger than this is the tradition narrated by Ishaq b. Rashid according to which temporary marriage was prohibited in the battle of Tabuk." This is also a fake tradition.[3]

As to the fifth tradition, the following points have to be said:

If he knew that temporary marriage was forbidden on Khaibar day he would not keep quiet. This is because if he remained silent it would be regarded as concealing the truth which is a bad thing. Shafi'i however believes that the prohibition took place on Khaibar day.[4]

Moreover, Malik narrates in his *al-Mu'atta* from Zuhri from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s) who said, "The Messenger of Allah (s) prohibited on the day of Khaibar contracting temporary marriage with women."[5]

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[1] - *Majma' al-Zawaed*, vol. 4, p. 487, tradition, no, 7391.
[2] - *Al-Minhaj, Sharh Sahih* Muslim, vol. 9, p. 154.
[3] - *Fath al-Bari*, vol. 9, p. 209.
[4] - *Zad al-Ma'd*, vol. 2, p. 183.
[5] -*Al-Muwatta*, vol. 2, p. 543, tradition, no, 41.

Sunni narrators playing with Khaibar tradition

It goes without saying that according to Sunnis the most reliable traditions on prohibition of temporary marriage are traditions reported from Imam Ali (a.s), according to which the prohibition happened in the battle of Khaibar. The most important among them is the tradition reported by Zuhri from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s). We must know Sunnis have narrated this tradition in different variations.

According to Ibn Taymiyya credible reporters in *Sahih Bukhari*, *Sahih Muslim* and other books, have reported this tradition from Zuhri from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s), who addressing Ibn Abbas who was considering temporary marriage as legal, said, "You are forgetful. The Messenger of Allah (s) prohibited on the day of Khaibar contracting temporary marriage with women and eating the flesh of asses".

In their time, great men of Islam such as Sufyan b. Ayyina, Malik b. Anas and other scholars on whose knowledge, equity and being memorizers Muslims were unanimous, have reported this tradition from Zuhri – as the most knowledgeable of his time concerning the conduct of the Holy Prophet (s) and the most concerned among them to keep it. Tradition scholars were unanimous on the authenticity of this tradition and that is why no one from among them criticized it.[1]

Sahih Bukhari, Sahih Muslim, Sunan Tirmidhi and Musnad Ahmad have narrated from Zuhri the following:

Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali narrated from their father from Imam Ali (a.s), who addressing Ibn Abbas, said, "The Messenger of

[1] - *Minhaj al-Sunna*, vol. 4, p. 189.

Allah (s) prohibited on the day of Khaibar contracting temporary marriage with women and eating the flesh of asses"

According to *Sahih Muslim*, it was heard that Ali b. Abi Talib, addressing somebody, said, "You are forgetful". It is related in this book that Ali (a.s) came to know that Ibn Abbas had given relaxation on temporary marriage and thus addressing him he said, "O Ibn Abbas! Be cautious!"

According to Nisa'i, Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali narrated from their father from Imam Ali (a.s) that he learnt that somebody regarded temporary marriage as legal and thus he addressing him said, "You are forgetful. The Messenger of Allah (s) prohibited on the day of Khaibar contracting temporary marriage with women and eating the flesh of asses"

Al-Muwatta quotes Imam Ali (a.s) as saying: "On the day of Khaibar, the harbinger of the Messenger of Allah (s) proclaimed that temporary marriage was forbidden".

Shafi'i also narrates Khaibar tradition, but when he learns that there is difference about it among Muslims he chooses to remain silent!

Tabarani narrates this tradition as under, "Ali was talking with Ibn Abbas on the issue of temporary marriage. Addressing Ibn Abbas Imam Ali said, "You are forgetful. The Holy Prophet (s) prohibited temporary marriage in his Farewell Hajj". Thus Tabarani has also narrated this tradition though he is of the view that the prohibition was made in Farewell Hajj.

Points on signification of Khaibar tradition

According to one of the traditions narrated, temporary marriage was prohibited in the battle of Khaibar. A glance at the text and meaning of this tradition clarifies certain points:

Firstly it shows that Imam Ali (a.s) believed in the prohibition of temporary marriage. That is why he,

addressing Ibn Abbas who believed in its lawfulness, said, "You are forgetful".

This is nothing but a mere lie. All knows that Imam Ali (a.s) was a leading opponent of the prohibition of temporary marriage, just as he was strongly opposed to the prohibition of mut'ah of hajj. It is not however surprising to fabricate traditions and attribute them to him. The same was done in the mut'ah of hajj….. It is not surprising either to narrate such things from the two sons of Muhammad b. Hanafiyya from their father from Imam Ali (a.s).

Bayhaqi narrates a tradition from Hasan b. Muhammad b. Ali and his brother Abdullah b. Muhammad b. Ali from their father from Imam Ali (a.s), who said,

يا بنى افرد الحج فانه افضل[1]

My son, perform (the obligatory) hajj separately, as it is better.

Secondly, it signifies that the prohibition occurred in the battle of Khaibar, which is denied by great tradition scholars. They wonder how to justify it. In his commentary on *Sahih Bukhari*, Ibn Hajar quotes Suhaili as saying, "There is some fault with this tradition. This is because according to this tradition, temporary marriage was prohibited in the battle of Khaibar, whereas no biographer or historiographer has recorded such a thing".[2]

Commenting on this tradition, 'Aini quotes Ibn Abd al-Barr as saying, "The tradition that says that prohibition took place in the battle of Khaibar is incorrect".[3] Qastalani quotes Bayhaqi as saying, "This tradition is not known to biographers and historiographers".[4]

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[1] - *Al-Sunan al-Kubra by Bayhaqi*, vol. 5, p. 8, tradition, 8818.
[2] - *Fath al-Bari*, vol. 9, p. 210.
[3] - *Umda al-Qari*, vol. 7, p. 246.
[4] - *Irshad al-Sari*, vol. 11, p. 397, vol. 9, p. 239.

According to Ibn Qayyim, the companions of the Holy Prophet (s) did not contract temporary marriages with Jewish women in the battle of Khaibar nor did they take permission in this regard from the Holy Prophet (s). On the other hand, no one has related any tradition whatsoever on doing it or on its prohibition in the battle of Khaibar.[1]

According to Ibn Kathir, some scholars including Sheikh Hafiz Abu Hajjaj Mazi have tried to justify this tradition by rearranging some of its words. Despite all this, Ibn Abbas continued to believe that it was permissible to eat the flesh of assess and to contract temporary marriage with women.[2]

Thirdly it implies that Ibn Abbas and Imam Ali (a.s) differed on this issue, whereas we do not accept it. This is because Ibn Abbas used to follow Imam Ali (a.s) particularly on such issues which are among the necessaries of religion. How can then one believe that Imam Ali (a.s) reminds Ibn Abbas of a necessary ruling in Islam and yet he continues to resist it?

By Allah this is not the case. That is why liars felt it inevitable to go towards fabricating traditions. According to Ibn Taymiyya, Ibn Abbas says, "When I heard about the prohibition of temporary marriage, I gave up my own opinion".[3] But Ibn Taymiyya's words are not true. To refute it, we will quote Ibn Hajar's words. He quotes Ibn Battal as saying, "The question that Ibn Abbas gave up his idea is related through weak traditions"[4] It is because of this that according to Ibn Kathir, Ibn Abbas however continued to cherish the idea that temporary marriage is permissible. Thus he did not change his mind until the end of his life. This is what some great scholars of tradition point out.

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[1] - *Zad al-Ma'd*, vol. 2, p. 184.
[2] - *Tarikh Ibn Kathir*, vol. 4, p. 220.
[3] - *MInhaj al-Sunna*, vol. 4, p. 190.
[4] - *Fath al-Bari*, vol. 9, p. 216.

According to Muslim Urwa b. Zubair quotes Abdullah b. Zubair as saying, "Some people who are spiritually blind – just as they are physically so- permit temporary marriage".
Urwa said, "You are ignorant and foolish. By my soul, temporary marriage was practiced during the time of the Holy Prophet (s), the most pious man".
Ibn Zubair said, "If you are bold enough go and contract temporary marriage. By Allah if you do it I will stone you to death".[1]

He was referring to Ibn Abbas, the son of Imam Ali's uncle. At that time, he was blind. The traditions reported by Muslim and Ahmad b. Hanbal from Abi Basra, openly mention the name of Ibn Abbas. It shows that Ibn Abbas was denying temporary marriage at Mecca during the time of Ibn Zubair. Until the end of his life, he continued to believe in the permissibility of temporary marriage and the Meccan jurists were following him.

On the other hand, if the Messenger of Allah (s) had prohibited temporary marriage and Imam Ali (s) had informed him about it, he would have accepted it, not showing any sign of opposition.

Points concerning traditions narrated from Imam Ali (a.s)

As mentioned before, the contradictory traditions narrated from the Holy Prophet (s) through Imam Ali (a.s), are all but fabricated and false. All these traditions are narrated by Zuhri from the sons of Muhammad b. Hanafiyya from their father. Hasan b. Muhammad has on the other hand narrated from Salma b. Awka' and Jabir b. Abdullah Ansari that the Holy Prophet (s) visited them and permitted them to contract temporary marriage with women.

This tradition signifies that the two sons of Muhammad b. Hanafiyya believed in the lawfulness of temporary

[1] - *Sahih Muslim*, vol. 3, p. 197, tradition, 1406.

marriage. This is because it is not reasonable for a person to narrate the lawfulness of temporary marriage from two companions of the Holy Prophet not knowing about its abrogation by the Holy Prophet (s).

Thus if we forget about the signification of the said tradition, the problems in the life of Abdullah and Hasan, sons of Muhammad Hanafiyya and the contradictions in the traditions attributed to Imam Ali (a.s), we cannot forget about Zuhri, who is the axis of the narrators of these traditions. Thus let's go through his account of life.

A glance at life of Zuhri

1. He was among the well-known persons who were opposed to Imam Ali (a.s). He used to associate with Urwa b. Zubair and talk ill of Imam Ali (a.s).
2. He narrated traditions from Umar b. Sa'd b. Abi Waqqas, killer of Imam Husain (a.s).
3. He was one of the Ummayyid's agents. That is why prominent scholars have reproached and criticized him.
4. Imam Yahya b. Mu'een criticized him after comparing him with 'Amash.
5. Writing him a letter, Imam Ali b. al-Husain, Zayn al-'Abdidin rebukes him because of his attending cruel rulers' courts and advises him to change his mind, but his advice did not change him.[1]

Conclusion

1. According to Quran and tradition, temporary marriage is one of the essentials of Islam. Muslims used to adhere to it both practically as well as theoretically.
2. Umar b. Khattab prohibited it after he assumed power and ruled for some time.

[1] - For further information, see: And how Abu Bakr led prayer in place of the Prophet, pp. 61-66.

3. Being aware of these two issues, Sunni scholars differed on how to justify it. Some said that prohibition was made by the Holy Prophet (s) and no one other than Umar was aware of it. This justification as mentioned before, is wrong. Others were of the view that it was Umar who prohibited it. According to them we must follow him, for the Holy Prophet (s) has ordered us to follow his conduct and the conduct of his guided caliphs. We have elsewhere dealt with this tradition independently and proved that it is wrong.[1]

Some have said that the Holy Prophet (s) himself prohibited it. Those who follow this theory, differ on the time and place of this happening. They have resorted to traditions that are squarely fabricated.

4. It is clear thus that temporary marriage is lawful and the traditions on its prohibition are fabricated.

Given all these [specially the tradition that stresses on following caliphs][2] we are led to believe that the prohibition of temporary marriage by Umar was nothing but an innovation – a thing that was forbidden by the Holy Prophet (s).

اياكم و محدثات الامور...

Distance yourself from innovations.

In this short treatise, so far we have briefly evaluated different opinions on the two mut'ahs [and argued that both are lawful], but this issue has other dimensions which need to be touched on by jurists and theologians.

We ask Allah to help us find the true path and do our deeds purely for Allah. We also ask Him to help us associate with the Holy Prophet (s), his progeny and his real followers. He is no doubt beneficent and merciful.

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[1] - For further information see, Conduct of Prophet or Conduct of Caliphs?.

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