



MUT'AH:IN THE FIQH OF AHLUL SUNNA

A comprehensive analysis of
Mut'ah marriages in a fair and
balanced manner as per the Fiqh
of Ahlul Sunna

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PREFACE

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Mut'ah is a temporary marriage contract that is practiced in Islam in which the duration of the marriage and the mahr must be specified and agreed upon in advance. However, this practice is controversial since majority of Sunni scholarship is of the opinion that this contract is invalid. Traditionally, it is only validated in the Ja'fari fiqh of Twelver shiism. There has been a lot of controversy over this practice. Some Islamic scholars even accuse it as a cover for prostitution and sexual promiscuity. Others say it is only a matter that prevents society from prostitution and promiscuity. So, what exactly is Mut'ah?

Here in this article, I seek to give a balanced and fair analysis of Mut'ah from the perspective of the jurisprudence of Ahlul Sunnati Wal Jama'at.

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May Allah guide me in this effort and make it a worthy endeavor that benefits the Ummah for the sake of Allah. May Allah forgive any mistakes I made during this endeavor.

أمين

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INTRODUCTION

What is Mut'ah? Mut'ah (Arabic: المتعة) literally means “pleasure”. Mut'ah as a contract, refers to a man and woman agreeing to be in a relationship for a fixed time period, by giving a fixed price (known as mahr) to the woman. The consent can be expressed either in verbal or written format. This enables couples to engage in sexual relationship with an Islamic religious validity.

An example of mut'ah marriage formula can be summed up in:

Bride: “I gave myself to you in pleasure contract for 3 months for 300 \$”

Groom: “I accepted”

By this, the mut'ah contract is initiated.

This relationship is commonly known as temporary marriage. However, nikah, which is the marriage contract in Islam differs from mut'ah in a lot of ways.

In nikah, there's no time period fixed.

In nikah, the wife and husband inherit each other.(in Mut'ah, they don't)

However, like nikah, the child born out of the relationship is considered legitimate and inherits from the husband.

Mut'ah has been banned in all the 5 traditional Sunni schools of fiqh (Hanafi, Maliki, Shafi'i, Hanbali and Zahiri). Amongst Shias, Zaydi school too prohibit mut'ah. Mut'ah is promoted only in the Ja'fari school of Twelver Shiism.

All Sunnis & Shias agree that Mut'ah was allowed in the early days of Islam. There is consensus ('Ijma') on this. However, majority of Sunnis argue that Mut'ah was prohibited later on by the Prophet (s.a.w). Zaydi shias too agree upon this. However, the Twelver shias disagree and argue that this was not banned by the Prophet (s.a.w), but rather banned by the second Caliph of Islam, Omar(R.A). They therefore, continue to allow Mut'ah marriages.

In order to understand Mut'ah, firstly the Islamic marriage, nikah, should be understood correctly.

Chapter-1

NIKAH

Nikah (Arabic: نِكَاح) literally means sexual intercourse. On a legal level, it refers to the contract between a Muslim man and woman that legitimises sexual relationship between them in Islamic law. Thus, it is popularly referred to as the marriage contract.

One of the main characteristics of nikah is that:

It is referred to as a strong contract/covenant

“And how could you take it (back) while you have gone in unto each other, and they have taken from you a firm and strong covenant!” (Qur’an 4:21)

“.....he (the husband), in whose hands is the marriage contract, agrees to remit it.” (Qur’an 2:237)

As per Hanafi fiqh, the conditions of a fully valid nikah are 4:

- 1) Offer from the bride
- 2) Acceptance of the groom
- 3) Marriage price(mahr) agreed upon to be given to the bride
- 4) Presence of two witnesses during the contract

An example of marriage formula:

Bride: “I gave myself to you in marriage for 500 \$”

Groom: “I accepted”

This initiates the nikah contract.

However, the Shia scholars were of the opinion that two witnesses are not a necessary condition to fulfill the contract.

The Hanafi mad’hab agrees with this, atleast partially, since it classifies marriages into 3 types: Valid, Defective and Void. A nikah contract made without two witnesses will only make it Defective. A Defective marriage will

enforce the legal effects of marriage, such as mahr, inheritance, etc. However, the couple must be separated by the court.

Sunni mujtahids during the era of Salaf such as Yazid Ibn Haroon, Ibn ul Mundir, Abdar-Rahman Al-Mahdi, Dawood, etc were of the opinion that nikah is valid without witnesses. Ibn Zubair & Ibn Umar too did this. Hasan Ibn Ali is reported to have contracted nikah without witnesses and publicized it.

Ibn Al-Mundir says: “No hadiths that stipulate 2 witnesses for marriage is authentic.”

Yazid Ibn Haroon says: “Allah has commanded to bring forth witnesses in trade deals. There’s no such command for marriage. Then, As’haabu Ra’y(advocates of rationalism) stipulated witness for marriage and didn’t stipulate it for trade deals”

(Fiqh As-Sunna, Part 6:Marriage, Pg no. 545)

Abdullah ibn Umar, Abdullah ibn Zubayr, Abdur Rehman bin Mahdi and Uthman have said that it is not obligatory to have witnesses at a Nikah.

(Neel al Autar Volume 6 page 144 Bab Shahdath fi Nikah)

In the standard Hanafi codex, Al-Hidaya, it is stated,

Whether temporary marriage is Batil or a Nikah, this is where a man and woman without witnesses becomes his wife for e.g. Until ten days, the Imams of Ahl asSunnah have commented that this type of Nikah is Sahih, since Nikah does not become batil with the absence of witnesses.

(Al Hidaya Volume 2 page 313)

For the recital of Nikah the declaration shall suffice, it is not compulsory to have witnesses present

(Fatawa Qadhi Khan Volume 1 page 153, Kitab al Nikah)

Imam Malik too had this opinion and only stipulated declaring the marriage.

In my opinion, this is the more correct view. Since nikah is basically an aqd(contract) as described in Qur'an, it requires only the agreement of the two parties and the Mahr as stipulated by the Qur'an. The additional requirement of publicising the nikah is a command from Prophet Muhammad, as per sahih hadith, which is not a stipulation of marriage contract in and of itself, but an obligation after the marriage contract.

The command to publicise the nikah comes from the following sahih hadiths:

1) *It was narrated from Muhammad bin Hatib that the Messenger of Allah said:*

"What differentiates between the lawful and the unlawful is (beating) the Daff and raising the voices (in song) at the time of marriage."

حَدَّثَنَا عَمْرُو بْنُ رَافِعٍ، حَدَّثَنَا هُشَيْمٌ، عَنْ أَبِي بَلْجٍ، عَنْ مُحَمَّدِ بْنِ حَاطِبٍ، قَالَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - " فَصَلُّ مَا بَيْنَ الْحَلَالِ وَالْحَرَامِ الدُّفُّ وَالصَّوْتُ فِي النِّكَاحِ " .

Grade: Hasan (Darussalam)

English reference : Vol. 3, Book 9, Hadith 1896

Arabic reference : Book 9, Hadith 1971

2) *Abu Al-Balj narrated from Muhammad bin Hatib Al-Jumahi who said that:*

The Messenger of Allah said: "The distinction between the lawful and the unlawful is the Duff and the voice."

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ، حَدَّثَنَا هُشَيْمٌ، أَخْبَرَنَا أَبُو بَلْجٍ، عَنْ مُحَمَّدِ بْنِ حَاطِبِ الْجَمْعِيِّ، قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " فَصَلُّ مَا بَيْنَ الْحَرَامِ وَالْحَلَالِ الدُّفُّ وَالصَّوْتُ " . قَالَ وَفِي الْبَابِ عَنْ عَائِشَةَ وَجَابِرٍ وَالرُّبَيْعِ بِنْتِ مِعْوِدٍ . قَالَ أَبُو عَيْسَى حَدِيثُ مُحَمَّدِ بْنِ حَاطِبٍ حَدِيثٌ حَسَنٌ . وَأَبُو بَلْجٍ اسْمُهُ يَحْيَى بْنُ أَبِي سُلَيْمٍ وَيُقَالُ ابْنُ سُلَيْمٍ أَيْضًا . وَمُحَمَّدُ بْنُ حَاطِبٍ قَدْ رَأَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ غُلَامٌ صَغِيرٌ .

Grade: Hasan (Darussalam)

Reference : Jami` at-Tirmidhi 1088

In-book reference : Book 11, Hadith 9

The hadith isn't referring to literally beating the Duff, but rather referring to announcing the marriage to public. The Prophet stipulates this as the sole condition that differentiates between a haram and halal marriage. So, the nikah may be contracted between a man and woman without witnesses, but it is obligatory upon both of them to announce their marriage to the public as soon as possible.

Chapter-2

ZINA

The only kind of sexual relationship prohibited in Islam is zina. What comes under the definition of zina?

Zina (زناً) in its broad meaning indicates any haram (prohibited) act, whether the act was sexual intercourse or a look, talk, touch, or desire that is related or may lead to illicit sexual relations.

“Allah has written for Adam’s son (mankind) his share of zina (adultery and fornication), which he commits inevitably. The zina of the eyes is the sight (to gaze at a forbidden thing), the zina of the tongue is the talk, and the inner-self wishes and desires and the private parts testify all this or deny.” (Al-Bukhari)

Zina, as a legal term, has a more specific meaning because there are legal applications related to it. According to scholars, in its legal meaning zina is ‘the voluntary sexual intercourse outside of marriage when the male sexual organ is inserted inside the female one, regardless of the number of times.’ That is basically, unlawful sexual intercourse.

What is the unlawful sexual intercourse ordained in Islam?

“And they who guard their private parts.

Except from their wives or those their right hands possess, for indeed, they will not be blamed –

But whoever seeks beyond that, then those are the transgressors”

(Qur’an 23:5-7)

So, any kind of sexual relationship/intimacy outside 1) wives and 2) right hands possess is considered zina in sharia as per general meaning.

Some sunni scholars erroneously said that this verse prohibits mut'ah marriage. However, their analysis is wrong. This verse was revealed during Makkah while Mut'ah was freely practiced after that, the earliest ban(temporary) on Mut'ah being on Khaybar. So, the analysis that this verse prohibits mut'ah is false.

Rather this verse shows that, a partner in mut'ah contract comes under the category of "right hands possess".

Allamah Baghdadi in his discussion of the verse 'And those who preserve their private parts except with their spouses or what their right hands possess' also acknowledges this fact in his Tafseer Ruh al Ma'ani Volume 9 page 10:

"This verse is Makkan and descended before the Hijrah [migration], since Mut'ah was halaal after the Hijrah, it is difficult to advance this as evidence of the illegality of Mut'ah".

Renowned Deobandi scholar Allamah Waheed'udeen az Zaman Hyderabadadi in Lughath al Hadeeth Volume 5 page 9 said:

"Mut'ah existed at the outset of Islam and this is a proven fact, when this verse descended 'And those who preserve their private parts except with their spouses or what their right hands possess' it became haraam. This may lead to objections being raised due to the fact that the verse is Makkan and the practise of Mut'ah afterwards is an established fact"

Also, in Lughath al Hadeeth Volume 3 page 105, az Zaman, in his discussion of the word 'Shaqee' states:

"The verse 'except with their wives or those [women] whom their right hands possess' appears in two Surah's and both are without a doubt Makkan. The practise of Mut'ah existed after the descent of these verses".

In his Tayseer al Bari Sharh Bukhari, Volume 6 page 116 Allama az Zaman said:

"Those who rely on 'except with their wives or those [women] whom their right hands possess' are in error as this is a Makkan verse and there is agreement that Mut'ah was halaal after this".

Maulana Sayyid Abul A'ala Maudoodi in his discussion of the verse of Surah Mu'minun in Tafheem ul Qur'an Volume 8 page 12 footnote 4 states:

"Some commentators have proved the prohibition of Mut'ah (temporary marriage) from this verse. They argue that the woman with whom one has entered into wedlock temporarily, can neither be regarded as a wife nor a slave girl. A slave girl obviously she is not, and she is also not a wife, because the legal injunctions normally applicable to a wife are not applicable to her. She neither inherits the man, nor the man her; she is neither governed by the law pertaining to 'iddah (waiting period after divorce or death of husband), divorce, sustenance nor by that pertaining to the vow by man that he will not have conjugal relations with her. She is also from the prescribed limit of four wives. Thus, when she is neither a 'wife' not a 'slave girl' in any sense, she will naturally be included among those 'beyond this', whose seeker has been declared a 'transgressor' by the Qur'an.

This is a strong argument but due to a weakness in it, is difficult to say that this verse is decisive with regard to the prohibition of Mut'ah."

So obviously, a partner in Mut'ah is considered under the category of "right hands possess" (مَا مَلَكَتْ أَيْمَانُهُمْ). It explains beautifully why Almighty Allah used this term instead of explicitly saying "slave" (عَبْد). This proves that both a partner in mut'ah contract and slaves comes under the category of "right hands possess" (مَا مَلَكَتْ أَيْمَانُهُمْ).

Chapter-3

HADITHS ON MUT'AH

Next, let us analyse the hadiths in Sunni hadith codex that refers mut'ah.

It can be classified under 3 categories:

- A) Hadiths that prohibit mut'ah
- B) Hadiths that permit & prohibit mut'ah
- C) Hadiths that permit mut'ah

A&B) Hadiths that prohibit(&permit) mut'ah

Perhaps the most famous hadiths regarding prohibition of Mut'ah was the prohibition in Khaybar.

1) *Narrated `Ali:*

I said to Ibn `Abbas, "During the battle of Khaybar the Prophet (ﷺ) forbade (Nikah) Al-Mut'a and the eating of donkey's meat."

(Reference : Sahih al-Bukhari 5115)

2) *'Ali b. AbiTalib reported that Allah's Messenger (ﷺ) prohibited on the Day of Khaibar the contracting of temporary marriage with women and the eating of the flesh of domestic asses.*

(Reference: Sahih Muslim 1407 c)

3) *'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 (ﷺ) on the Day of Khaibar prohibited that forever - along with the eating of flesh of domestic asses.

(Reference: Sahih Muslim 1407 d)

4)'Ali (Allah be pleased with him) said to Ibn 'Abbas (Allah be pleased with them) that Allah's Messenger (ﷺ) on the Day of Khaibar forbade forever the contracting of temporary marriage and the eating of the flesh of domestic asses.

(Reference: Sahih Muslim 1407 e)

5) It was narrated from Al-Hasan and 'Abdullah, the sons of Muhammad, from their father, that 'Ali heard that a man did not see anything wrong with Mut'ah (temporary marriage). He said:

"You are confused, the Messenger of Allah forbade it, and the meat of domestic donkeys on the day of Khaibar."

Grade : Sahih (Darussalam)

(Reference : Sunan an-Nasa'i 3365)

6) It was narrated from 'Abdullah and Al-Hasan, the sons of Muhammad bin 'Ali, from their father, from 'Ali bin Abi Talib, that the Messenger of Allah on the Day of Khaibar forbade temporary marriage to women, and (he also forbade) the meat of tame donkeys.

Grade : Sahih (Darussalam)

(Reference : Sunan an-Nasa'i 3366)

7) Yahya related to me from Malik from Ibn Shihab from Abdullah and Hasan, the sons of Muhammad ibn Ali ibn Abi Talib from their father, may Allah be pleased with him, that the Messenger of Allah, may Allah bless him and grant him peace, forbade temporary marriage with women and the flesh of domestic donkeys on the Day of Khaybar

(Muwatta Imam Malik)

USC-MSA web (English) reference : Book 28, Hadith 41

Arabic reference : Book 28, Hadith 1136

8) It was narrated from 'Ali bin Abu Talib that: The Messenger of Allah forbade on the Day of Khaibar, the temporary marriage of women and (he forbade) the flesh of domestic donkeys.

(Sunan Ibn Majah)

Grade : Sahih (Darussalam)

English reference : Vol. 3, Book 9, Hadith 1961

9) Ali bin Abi Talib narrated: "The Prophet prohibited the Mut'ah with women, and the meat of domestic donkeys during (the campaign of) Khaibar."

(Jami' At-Tirmidhi)

Grade : Sahih (Darussalam)

Reference : Jami` at-Tirmidhi 1121

These hadiths explain why Ali initially took the stance that Mut'ah was forbidden. Ali's initial stance was that Mut'ah was forbidden as revealed by the following hadiths.

10) *Salama bin Al-Akwa` said:*

Allah's Messenger (ﷺ)'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." I do not know whether that was only for us or for all the people in general. Abu `Abdullah (Al-Bukhari) said: `Ali made it clear that the Prophet said, "The Mut'a marriage has been cancelled (made unlawful). وَقَالَ ابْنُ أَبِي ذَنْبٍ حَدَّثَنِي إِيَّاسُ بْنُ سَلَمَةَ بْنِ الْأَكْوَعِ، عَنْ أَبِيهِ، عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " أَيُّمَا رَجُلٍ وَامْرَأَةٍ تَوَافَقَا فَعِشْرَةٌ مَا بَيْنَهُمَا ثَلَاثَ لَيَالٍ فَإِنْ أَحَبَّا أَنْ يَتَزَايِدَا أَوْ يَتَنَارَكَا تَنَارَكَا . فَمَا أَدْرِي أَشَيْءٌ كَانَ لَنَا خَاصَّةً أَمْ لِلنَّاسِ عَامَّةً . قَالَ أَبُو عَبْدِ اللَّهِ وَبَيَّنَّهُ عَلِيٌّ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ مَنْسُوحٌ .

Reference : Sahih al-Bukhari 5119

11) *Malik narrated this hadith on the authority of the same chain of transmitters that 'Ali b. Abi Talib said to a person:*

You are a person led astray; Allah's Messenger (ﷺ) forbade us (to do Mut'a), as is stated in the hadith transmitted on the authority of Yahya b. Malik.

وَحَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ أَسْمَاءِ الضُّبَيْعِيُّ، حَدَّثَنَا جُوَيْرِيَةُ، عَنْ مَالِكٍ، بِهَذَا الْإِسْنَادِ وَقَالَ سَمِعَ عَلِيَّ بْنَ أَبِي طَالِبٍ، يَقُولُ لِفُلَانٍ إِنَّكَ رَجُلٌ تَأْتِيهِ نَهَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . بِمِثْلِ حَدِيثِ يَحْيَى بْنِ يَحْيَى عَنْ مَالِكٍ .

Reference : Sahih Muslim 1407 b

12) *'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 (ﷺ) on the Day of Khaibar prohibited that forever - along with the eating of flesh of domestic asses.

وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللَّهِ، عَنِ ابْنِ شِهَابٍ، عَنِ الْحَسَنِ، وَعَبْدِ اللَّهِ، ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ عَنِ أَبِيهِمَا، عَنْ عَلِيٍّ، أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ، يُلَيِّنُ فِي مُعَاةِ النِّسَاءِ فَقَالَ

مَهْلًا يَا ابْنَ عَبَّاسٍ فَإِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْهَا يَوْمَ خَيْبَرَ وَعَنْ لُحُومِ الْحُمْرِ
الْإِنْسِيَّةِ .

Reference : Sahih Muslim 1407 d

However, this prohibition of Khaybar was only a temporary prohibition. We have hadiths that Prophet ﷺ permitted Mut'ah after Khaybar.

13) *Rabi' b. Sabra reported that his father went on an expedition with Allah's Messenger (ﷺ) during the Victory of Mecca, and we stayed there for fifteen days (i.e. for thirteen full days and a day and a night), and Allah's Messenger (ﷺ) permitted us to contract temporary marriage with women. So, I and another person of my tribe went out, and I was more handsome than he, whereas he was almost ugly. Each one of us had a cloak, my cloak was worn out, whereas the cloak of my cousin was quite new. As we reached the lower or the upper side of Mecca, we came across a young woman like a young smart long-necked she-camel. We said:*

Is it possible that one of us may contract temporary marriage with you? She said: What will you give me as a dowry? Each one of us spread his cloak. She began to cast a glance on both the persons. My companion also looked at her when she was casting a glance at her side and he said: This cloak of his is worn out, whereas my cloak is quite new. She, however, said twice or thrice: There is no harm in (accepting) this cloak (the old one). So, I contracted temporary marriage with her, and I did not come out (of this) until Allah's Messenger (ﷺ) declared it forbidden.

حَدَّثَنَا أَبُو كَامِلٍ، فَضِيلُ بْنُ حُسَيْنِ الْجَحْدَرِيُّ حَدَّثَنَا بِشْرٌ، - يَعْنِي ابْنَ مَفْضَلٍ - حَدَّثَنَا عُمَارَةُ بْنُ غَزِيَّةَ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، أَنَّ أَبَاهُ، غَزَا مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَفُتِحَ مَكَّةَ قَالَ فَأَقَمْنَا بِهَا خَمْسَ عَشْرَةَ - ثَلَاثِينَ بَيْنَ لَيْلَةٍ وَيَوْمٍ - فَأَذِنَ لَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي مُتْعَةِ النِّسَاءِ فَخَرَجْتُ أَنَا وَرَجُلٌ مِنْ قَوْمِي وَلِي عَلَيْهِ فَضْلٌ فِي الْجَمَالِ وَهُوَ قَرِيبٌ مِنَ الدَّمَامَةِ مَعَ كُلِّ وَاحِدٍ مِنَّا بُرْدٌ فَبُرْدِي خَلْقٌ وَأَمَّا بُرْدُ ابْنِ عَمِّي فَبُرْدٌ جَدِيدٌ غَضٌّ حَتَّى إِذَا كُنَّا بِأَسْفَلِ مَكَّةَ أَوْ بِأَعْلَاهَا فَتَلَقَّيْنَا فَنَاءً مِثْلَ الْبُكَرَةِ الْعَطْنُظَّةِ فَقُلْنَا هَلْ لَكَ أَنْ يَسْتَمْتِعَ مِنْكَ أَحَدُنَا قَالَتْ وَمَاذَا تَبْذُلَانِ فَنَشَرَ كُلُّ وَاحِدٍ مِنَّا بُرْدَهُ فَجَعَلْتُ تَنْظُرُ إِلَى الرَّجُلَيْنِ وَيَرَاهَا صَاحِبِي تَنْظُرُ إِلَى عِطْفِهَا فَقَالَ إِنَّ بُرْدَ هَذَا خَلْقٌ وَبُرْدِي جَدِيدٌ غَضٌّ . فَتَقُولُ بُرْدُ هَذَا لَا بَأْسَ بِهِ . ثَلَاثَ مَرَارٍ أَوْ مَرَّتَيْنِ ثُمَّ اسْتَمْتَعْتُ مِنْهَا فَلَمْ أَخْرُجْ حَتَّى حَرَّمَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ .

Reference : Sahih Muslim 1406 b

In-book reference : Book 16, Hadith 23

USC-MSA web (English) reference : Book 8, Hadith 3253

14) *Rabi' b. Sabra al-juhanni reported on the authority of his father. We went with Allah's Messenger (ﷺ) to Mecca during the year of Victory and he narrated like this a hadith transmitted by Bishr (the previous one) but with this addition:*

" She said: Can it be possible?" And it is also mentioned in it:" He said: The cloak of this (man) is old and worn out."

وَحَدَّثَنِي أَحْمَدُ بْنُ سَعِيدٍ بْنُ صَخْرٍ الدَّارِمِيُّ، حَدَّثَنَا أَبُو النُّعْمَانِ، حَدَّثَنَا وَهَيْبٌ، حَدَّثَنَا عُمَارَةُ بْنُ غَزِيَّةَ، حَدَّثَنِي الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، عَنْ أَبِيهِ، قَالَ خَرَجْنَا مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَامَ الْفَتْحِ إِلَى مَكَّةَ . فَذَكَرَ بِمِثْلِ حَدِيثِ بَشْرِ . وَزَادَ قَالَتْ وَهَلْ يَصْلُحُ ذَلِكَ وَفِيهِ قَالَ إِنَّ بُرْدَ هَذَا خَلَقَ مَخٌ .

Reference : Sahih Muslim 1406 c

15) *Sabra al-Juhani reported on the authority of his father that while he was with Allah's Messenger (ﷺ) he said:*

O people, I had permitted you to contract temporary marriage with women, but Allah has forbidden it (now) until the Day of Resurrection. So, he who has any (woman with this type of marriage contract) he should let her off, and do not take back anything you have given to them (as dower).

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ عُمَرَ، حَدَّثَنِي الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، أَنَّ أَبَاهُ، حَدَّثَهُ أَنَّهُ، كَانَ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " يَا أَيُّهَا النَّاسُ إِنِّي قَدْ كُنْتُ أُدِينْتُ لَكُمْ فِي الْإِسْتِمْتَاعِ مِنَ النِّسَاءِ وَإِنَّ اللَّهَ قَدْ حَرَّمَ ذَلِكَ إِلَيَّ يَوْمَ الْقِيَامَةِ فَمَنْ كَانَ عِنْدَهُ مِنْهُنَّ شَيْءٌ فَلْيُبْخَلْ سَبِيلَهُ وَلَا تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا" .

Reference : Sahih Muslim 1406 d

In-book reference : Book 16, Hadith 25

USC-MSA web reference : Book 8, Hadith 3255

16) *(This hadith has been narrated on the authority of 'Abd al-'Aziz b 'Umar with the same chain of transmitters, and he said:*

I saw Allah's Messenger (ﷺ) standing between the pillar and the gate (of the Ka'ba) and he was relating a hadith as narrated by Ibn Numair.

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ بَنُ سُلَيْمَانَ، عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ، بِهَذَا الْإِسْنَادِ قَالَ رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَائِمًا بَيْنَ الرُّكْنِ وَالْبَابِ وَهُوَ يَقُولُ بِمِثْلِ حَدِيثِ ابْنِ نُمَيْرٍ .

Reference : Sahih Muslim 1406 e

In-book reference : Book 16, Hadith 26

USC-MSA web (English) reference : Book 8, Hadith 3256 English)

17) *'Abd al-Malik b. Rabi' b. Sabra al-Juhanni reported on the authority of his father who narrated it on the authority of his father (i.e. 'Abd al-Malik's grandfather, Sabra al-Juhanni Allah's Messenger (ﷺ) permitted us to contract temporary marriage in the Year of Victory, as we entered Mecca, and we did come out of it but he forbade us to do it.*

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنْ عَبْدِ الْمَلِكِ بْنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، قَالَ أَمَرْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْمُتْعَةِ عَامَ الْفَتْحِ حِينَ دَخَلْنَا مَكَّةَ ثُمَّ لَمْ تَخْرُجْ مِنْهَا حَتَّى نَهَانَا عَنْهَا.

Reference : Sahih Muslim 1406 f

In-book reference : Book 16, Hadith 27

USC-MSA web (English) reference : Book 8, Hadith 3257

18) *Sabra b. Ma'bad reported that Allah's Apostle (ﷺ) permitted his Companions to contract temporary marriage with women in the Year of Victory. So, I and a friend of mine from Banu Sulaim went out, until we found a young woman of Banu Amir who was like a young, she-camel having a long neck. We proposed to her for contracting temporary marriage with us, and presented to her our cloaks (as dower). She began to look and found me more handsome than my friend, but found the cloak of my friend more beautiful than my cloak. She thought in her mind for a while, but then preferred me to my friend. So, I remained with her for three (nights), and then Allah's Messenger (ﷺ) commanded us to part with them (such women).*

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ الرَّبِيعِ بْنِ سَبْرَةَ بْنِ مَعْبَدٍ، قَالَ سَمِعْتُ أَبِي رَبِيعَ بْنَ سَبْرَةَ، يُحَدِّثُ عَنْ أَبِيهِ، سَبْرَةَ بْنَ مَعْبَدٍ أَنَّ نَبِيَّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَامَ فَتْحِ مَكَّةَ أَمَرَ أَصْحَابَهُ بِالْمُتْعَةِ مِنَ النِّسَاءِ - قَالَ - فَخَرَجْتُ أَنَا وَصَاحِبٌ لِي مِنْ بَنِي سُلَيْمٍ حَتَّى وَجَدْنَا جَارِيَةً مِنْ بَنِي عَامِرٍ كَانَتْهَا بَكَرَةٌ عَيْطَاءُ

فَحَطَبْنَاهَا إِلَى نَفْسِهَا وَعَرَضْنَا عَلَيْهَا بُرْدَيْنَا فَجَعَلَتْ تَنْظُرُ فَتَرَانِي أَجْمَلَ مِنْ صَاحِبِي وَتَرَى بُرْدَ صَاحِبِي أَحْسَنَ مِنْ بُرْدِي فَأَمَرْتُ نَفْسَهَا سَاعَةً ثُمَّ اخْتَارْتَنِي عَلَى صَاحِبِي فَكُنَّ مَعَنَا ثَلَاثًا ثُمَّ أَمَرْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِفِرَاقِهِنَّ .

Reference : Sahih Muslim 1406 g

In-book reference : Book 16, Hadith 28

USC-MSA web (English) reference : Book 8, Hadith 3258

19) *Rabi' b. Sabra reported on the authority of his father that Allah's Apostle (ﷺ) prohibited the contracting of temporary marriage.*

حَدَّثَنَا عَمْرُو النَّاقِدُ، وَابْنُ، نُمَيْرٍ قَالَا حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، عَنْ أَبِيهِ، أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ نِكَاحِ الْمُتْعَةِ .

Reference : Sahih Muslim 1406 h

In-book reference : Book 16, Hadith 29

USC-MSA web (English) reference : Book 8, Hadith 3259

20) *Rabi' b. Sabra reported on the authority of his father that Allah's Messenger (ﷺ) forbade on the Day of Victory to contract temporary marriage with women.*

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ عُثَيْمٍ، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنِ الرَّبِيعِ، بْنِ سَبْرَةَ عَنْ أَبِيهِ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى يَوْمَ الْفَتْحِ عَنِ مُتْعَةِ النِّسَاءِ .

Reference : Sahih Muslim 1406 i

In-book reference : Book 16, Hadith 30

USC-MSA web (English) reference : Book 8, Hadith 3260

21) *This hadith has been narrated on the authority of Rabi' b. Sabra that Allah's Messenger (ﷺ) forbade to contract temporary marriage with women at the time of Victory, and that his father had contracted the marriage for two red cloaks.*

وَحَدَّثَنِيهِ حَسَنُ الْخُلَوَانِيُّ، وَعَبْدُ بْنُ حُمَيْدٍ، عَنْ يَعْقُوبَ بْنِ إِبْرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحٍ، أَخْبَرَنَا ابْنُ شَهَابٍ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ، أَنَّهُ أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الْمُتْعَةِ زَمَانَ الْفَتْحِ مُتْعَةَ النِّسَاءِ وَأَنَّ أَبَاهُ كَانَ تَمَتَّعَ بِبُرْدَيْنِ أَحْمَرَيْنِ .

Reference : Sahih Muslim 1406 j

In-book reference : Book 16, Hadith 31

USC-MSA web (English) reference : Book 8, Hadith 3260

22) Sabra al-Juhanni reported on the authority of his father:

Allah's Messenger (ﷺ) prohibited the contracting of temporary marriage and said: Behold, it is forbidden from this very day of yours to the Day of Resurrection, and he who has given something (as a dower) should not take it back.

وَحَدَّثَنِي سَلْمَةُ بْنُ شَيْبٍ، حَدَّثَنَا الْحَسَنُ بْنُ أَعْيَنَ، حَدَّثَنَا مَعْقِلٌ، عَنِ ابْنِ أَبِي عُبَلَةَ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ، قَالَ حَدَّثَنَا الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الْمُتْعَةِ وَقَالَ " أَلَا إِنَّهَا حَرَامٌ مِنْ يَوْمِكُمْ هَذَا إِلَى يَوْمِ الْقِيَامَةِ وَمَنْ كَانَ أُعْطِيَ شَيْئًا فَلَا يَأْخُذْهُ " .

Reference : Sahih Muslim 1406 1

In-book reference : Book 16, Hadith 33

USC-MSA web (English) reference : Book 8, Hadith 3262

23) It was narrated from Ar-Rabi' bin Sabrah Al-Juhani that his father said:

"The Messenger of Allah gave permission for Mut'ah, so I and another man went to a woman from Bani 'Amir and offered ourselves to her (for Mut'ah). She said: 'What will you give me?' I said: 'My Rida' (upper garment).' My companion also said: 'My Rida'.' My companion's Rida' was finer than mine, but I was younger than him. When she looked at my companion's Rida' she liked it, but when she looked at me, she liked me. Then she said: 'You and your Rida' are sufficient for me.' I stayed with her for three (days), then the Messenger of Allah said: 'Whoever has any of these women whom he married temporarily should let them go.'"

أَخْبَرَنَا قُتَيْبَةُ، قَالَ حَدَّثَنَا اللَّيْثُ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ، قَالَ أَذِنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْمُتْعَةِ فَاذْطَلَقْتُ أَنَا وَرَجُلٌ إِلَى امْرَأَةٍ مِنْ بَنِي عَامِرٍ فَعَرَضْنَا عَلَيْهَا أَنْفُسَنَا فَقَالَتْ مَا تُعْطِينِي فَقُلْتُ رِدَائِي . وَقَالَ صَاحِبِي رِدَائِي . وَكَانَ رِدَاءُ صَاحِبِي أَجْوَدَ مِنْ رِدَائِي وَكُنْتُ أَشَبَّ مِنْهُ فَإِذَا نَظَرْتُ إِلَى رِدَاءِ صَاحِبِي أَعْجَبْتُهَا وَإِذَا نَظَرْتُ إِلَيَّ أَعْجَبْتُهُا نَمْ قَالَتْ أَنْتَ وَرِدَاؤُكَ يَكْفِينِي . فَمَكَثْتُ مَعَهَا ثَلَاثًا نَمْ إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ " مَنْ كَانَ عِنْدَهُ مِنْ هَذِهِ النِّسَاءِ اللَّاتِي يَتَمَتَّعُ فَلْيُخَلِّ سَبِيلَهَا " .

Grade: Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3368

In-book reference : Book 26, Hadith 173

24) *It was narrated from Rabi'bin Sabrah that his father said:*

"We went out with the Messenger of Allah on the Farewell pilgrimage (Translator note: Victory of Makkah), and they said: 'O Messenger of Allah, (ﷺ) celibacy has become too difficult for us'. He said: 'Then make temporary marriages with these women'. So, we went to them, but they insisted on setting a fixed time between us and them. They mentioned that to the Prophet and he said: 'Set a fixed time between you and them.' So, I went out with a cousin of mine. He had a cloak and I had a cloak, but his cloak was finer than mine, and I was younger than him. We came to a woman and she said: 'One cloak is like another.' So, I married her and stayed with her that night. Then the next day I saw the Messenger of Allah standing between the Rukn (corner) and the door (of the Ka'bah), saying: 'O people, I had permitted temporary marriage for you, but Allah has forbidden it until the Day of Resurrection. whoever, had any temporary wives, he should let them go, and do not take back anything that you had given to them.' "

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ بْنُ سُلَيْمَانَ، عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، عَنْ أَبِيهِ، قَالَ خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ فَقَالُوا يَا رَسُولَ اللَّهِ إِنَّ الْعُزْبِيَّةَ قَدِ اشْتَدَّتْ عَلَيْنَا . قَالَ " فَاسْتَمْتِعُوا مِنْ هَذِهِ النِّسَاءِ " . فَأَتَيْنَاهُنَّ فَأَبَيْنَ أَنْ يَنْكِحَنَا إِلَّا أَنْ نَجْعَلَ بَيْنَنَا وَبَيْنَهُنَّ أَجَلًا فَذَكَرُوا ذَلِكَ لِلنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ " اجْعَلُوا بَيْنَكُمْ وَبَيْنَهُنَّ أَجَلًا " . فَخَرَجْتُ أَنَا وَابْنُ عَمِّ لِي مَعَهُ بُرْدٌ وَمَعِيَ بُرْدٌ وَبُرْدُهُ أَجْوَدُ مِنْ بُرْدِي وَأَنَا أَشْبُ مِنْهُ فَأَتَيْنَا عَلَى امْرَأَةٍ فَقَالَتْ بُرْدٌ كَبْرِدٍ . فَتَرَوُجْنَهَا فَمَكَنْتُ عِنْدَهَا تِلْكَ اللَّيْلَةَ ثُمَّ عَدَوْتُ وَرَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَائِمٌ بَيْنَ الرُّكْنِ وَالْبَابِ وَهُوَ يَقُولُ " أَيُّهَا النَّاسُ إِنِّي قَدْ كُنْتُ أَدْنْتُ لَكُمْ فِي الإِسْتِمْتَاعِ أَلَا وَإِنَّ اللَّهَ قَدْ حَرَّمَهَا إِلَيَّ يَوْمَ الْقِيَامَةِ فَمَنْ كَانَ عِنْدَهُ مِنْهُنَّ شَيْءٌ فَلْيُخَلِّ سَبِيلَهَا وَلَا تَأْخُذُوا مِمَّا أَنْتُمْ مَوْهُنَّ شَيْئًا " .

Grade: Sahih (Darussalam)

English reference : Vol. 3, Book 9, Hadith 1962

Arabic reference : Book 9, Hadith 2038

Hadith 24, is authenticated by Albani but he stated that it was during Victory of Makkah, not Farewell Pilgrimage. (Since Rabi Ibn Sabrah Al Juhanni stated the same incident regarding expedition to Macca and Victory afterwards that. Besides, it is haram to have sexual intercourse during hajj and to contract

marriage at all during that sacred time. So, this incident is about Victory of Makkah, not Farewell pilgrimage)

So, we have established that the prohibition in Khaybar was only temporary since the Messenger of Allah(ﷺ) permitted it later on during Victory of Makkah with mushrik women. However, he then banned.

The initial opinion of Ali that Mut'ah was prohibited/abrogated was based on what he heard in Khaybar, which is now factually established as incorrect. So, his position that Mut'ah was permanently abrogated during Khaybar is wrong, atleast.

However, a question arises. So, was Mut'ah abrogated forever in Victory of Makkah? According to Sahih Hadith, no. Since, we again have 2 sahih hadiths which states Mut'ah was permitted again, during the Battle of Hunayn after Victory of Makkah. So, the prohibition of Mut'ah in Victory of Makkah too was temporary.

25) Malik bin Anas narrated that Ibn Shihab told him that 'Abdullah and Al-Hasan, the sons of Muhammad bin 'Ali, told him, that their father Muhammad bin 'Ali told them, that 'Ali bin Abi Talib, may Allah be pleased with him, said:

"The Messenger of Allah on the Day of Khaibar forbade temporary marriage to women." (One of the narrators) Ibn Al-Muthanna said: "The Day of Hunain." He said: "This is what 'Abdul-Wahhab narrated to us from his book."

أَخْبَرَنَا عَمْرُو بْنُ عَلِيٍّ، وَمُحَمَّدُ بْنُ بَشَّارٍ، وَمُحَمَّدُ بْنُ الْمُثَنَّى، قَالُوا أَنْبَأَنَا عَبْدُ الْوَهَّابِ، قَالَ سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ، يَقُولُ أَخْبَرَنِي مَالِكُ بْنُ أَنَسٍ، أَنَّ ابْنَ شِهَابٍ، أَخْبَرَهُ أَنَّ عَبْدَ اللَّهِ وَالْحَسَنَ ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ أَخْبَرَاهُ أَنَّ آبَاهُمَا مُحَمَّدَ بْنَ عَلِيٍّ أَخْبَرَهُمَا أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ قَالَ قَالَ نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ خَيْبَرَ عَنِ مُنْعَةِ النِّسَاءِ . قَالَ ابْنُ الْمُثَنَّى يَوْمَ خَيْبَرَ وَقَالَ هَكَذَا حَدَّثَنَا عَبْدُ الْوَهَّابِ مِنْ كِتَابِهِ .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3367

In-book reference : Book 26, Hadith 172

English translation : Vol. 4, Book 26, Hadith 3369

26) *It was narrated from Iyâs bin Salamah that his father said: "During the year of Awtâs, the Messenger of Allah granted a concession allowing Mut'ah three, '] then he forbade it.*

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا يُونُسُ بْنُ مُحَمَّدٍ، حَدَّثَنَا عَبْدُ الْوَاحِدِ بْنُ زِيَادٍ، حَدَّثَنَا أَبُو عُمَيْسٍ،
عَنْ إِيَّاسِ بْنِ سَلَمَةَ، عَنْ أَبِيهِ، قَالَ رَخَّصَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَامَ أُوطَاسٍ فِي الْمُنْعَةِ
ثَلَاثًا ثُمَّ نَهَى عَنْهَا

Reference : Sahih Muslim 1405 f

In-book reference : Book 16, Hadith 21

USC-MSA web (English) reference : Book 8, Hadith 3251

The year of Autas, refers to the year in which battle of Autas took place, 8 A.H same year of Victory of Makkah and Battle of Hunayn.

So, this new prohibition was likely on the Battle of Hunayn as indicated in the Hadith no.25. Therefore, the prohibition in Makkah too wasn't permanent and Mut'ah wasn't abrogated.

Judging from the above bans, its only logical to conclude that Prohibition on Hunayn wasn't really a ban, but rather a halt/temporary order to stop Mut'ah in that situation specifically.

Section A covered both types of hadiths: hadiths which involved prohibition of Mut'ah as well hadiths which tells Mut'ah was permitted and then stopped permanently. Note that in all these cases, CASE A & CASE B, Mut'ah was only temporarily halted, not abrogated permanently. A very important point to be noted is that, **in all cases where Mut'ah was prohibited it was done so temporarily according to situation. It was never abrogated.**

C)HADITHS THAT PERMIT MUT'AH

Now let us discuss the Sunni hadiths that permits Mut'ah

1) Narrated Jabir bin `Abdullah and Salama bin Al-Akwa`:

While we were in an army, Allah's Messenger (ﷺ) came to us and said, "You have been allowed to do the Mut'a (marriage), so do it."

حَدَّثَنَا عَلِيُّ، حَدَّثَنَا سُفْيَانُ، قَالَ عَمْرُو عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَسَلْمَةَ بْنِ الْأَكْوَعِ، قَالَا كُنَّا فِي جَيْشٍ فَأَتَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " إِنَّهُ قَدْ أُذِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا فَاسْتَمْتِعُوا ".

Reference : Sahih al-Bukhari 5117, 5118

In-book reference : Book 67, Hadith 54

USC-MSA web (English) reference : Vol. 7, Book 62, Hadith 52

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

وَحَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ عَمْرُو بْنِ دِينَارٍ، قَالَ سَمِعْتُ الْحَسَنَ بْنَ مُحَمَّدٍ، يُحَدِّثُ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَسَلْمَةَ بْنِ الْأَكْوَعِ، قَالَا خَرَجَ عَلَيْنَا مُنَادِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ أُذِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا . يَعْنِي مُتْعَةَ النِّسَاءِ .

Reference : Sahih Muslim 1405 a

In-book reference : Book 16, Hadith 16

USC-MSA web (English) reference : Book 8, Hadith 3246

3) *Salama b. al. Akwa' and Jabir b. Abdullah reported:*

Allah's Messenger (ﷺ) came to us and permitted us to contract temporary marriage.

وَحَدَّثَنِي أُمِّيَّةُ بِنْتُ بَسْطَامَ الْعَيْشِيَّةُ، حَدَّثَنَا يَزِيدُ، - يَعْنِي ابْنَ زُرَيْعٍ - حَدَّثَنَا رَوْحٌ، - يَعْنِي ابْنَ الْقَاسِمِ - عَنْ عَمْرُو بْنِ دِينَارٍ، عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ، عَنْ سَلْمَةَ بْنِ الْأَكْوَعِ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَتَانَا فَأَذِنَ لَنَا فِي الْمُتْعَةِ .

Reference : Sahih Muslim 1405 b

In-book reference : Book 16, Hadith 17

USC-MSA web (English) reference : Book 8, Hadith 3247

4) *Ibn Uraij reported:*

'Ati' reported that Jabir b. Abdullah came to perform 'Umra, 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 temporary marriage during the lifetime of the Prophet (ﷺ) and during the time of Abu Bakr and 'Umar.

وَحَدَّثَنَا الْحَسَنُ الْحُلَوَانِيُّ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، قَالَ قَالَ عَطَاءُ قَدِيمَ جَابِرِ بْنِ عَبْدِ اللَّهِ مُعْتَمِرًا فَجِئْنَا فِي مَنْزِلِهِ فَسَأَلَهُ الْقَوْمُ عَنْ أَشْيَاءَ ثُمَّ ذَكَرُوا الْمُتْعَةَ فَقَالَ نَعَمْ اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرَ .

Reference : Sahih Muslim 1405 c

In-book reference : Book 16, Hadith 18

USC-MSA web (English) reference : Book 8, Hadith 3248

5) *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 (ﷺ) and during the time of Abu Bakr until 'Umar forbade it in the case of 'Amr b. Huraith.

حَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي أَبُو الرَّبِيعِ، قَالَ سَمِعْتُ جَابِرَ بْنَ عَبْدِ اللَّهِ، يَقُولُ كُنَّا نَسْتَمْتَعُ بِالْقُبْضَةِ مِنَ التَّمْرِ وَالذَّقِيقِ الْأَيَّامَ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ حَتَّى نَهَى عَنْهُ عُمَرُ فِي شَأْنِ عَمْرٍو بْنِ حُرَيْثٍ .

Reference : Sahih Muslim 1405 d

In-book reference : Book 16, Hadith 19

USC-MSA web (English) reference : Book 8, Hadith 3249

Here are 5 explicit authentic hadiths where Mut'ah is permitted by Rasoolullah(ﷺ) without any situational condition or circumstance. By definition, this command is for all times. However, many scholars assume that

this was before each temporary ban on various situations. They have to bring proof to assert their argument. By reading the hadiths, it's clear that Mut'ah is halal.

Besides, more importantly we have established proof that Sahaba were freely practicing Mut'ah until Omar(R.A) banned it in the case of 'Amr bin. Huraith.

Thus, we can have only 2 logical positions:

- 1) Mut'ah was halal in the time of Salaf
- 2) It is haram, Majority of Sahaba were unaware of its prohibition

The second opinion is illogical and foolish, because in all instances were Rasoolullah` (ﷺ) temporarily stopped Mut'ah, it was in large gatherings publicly. It's foolish to suggest that the majority of sahaba, let alone even a minority, be unheard of its prohibition.

Since that's not the case, opinion 1 is the only sane opinion.

Besides, there's unanimous consensus that Mut'ah was halal. The opinion that it was abrogated is not certain. By definition, an uncertain opinion, can't nullify a certain opinion, much less Ijma'.

(PS: there are more important narrations that makes Mut'ah halal and affirms its validity. Perhaps more significant ones. I will discuss those hadiths as well, appropriately, Insha'Allah)

So, we have established, that neither the Prophet(ﷺ) nor Abubakr(R.A) ban Mut'ah permanently during their lifetime.

Why did Omar ban Mut'ah in the case of Amr b. Huraith?

This is explained in a hadith in Musannaf Abdur Razzaq

Jabir said: 'We used to contract Mut'ah marriage in exchange for a handful of dates and flour during the days of the Holy Prophet, Abu bakr, and Umar. It was only during the last days of the caliphate of Umar that it so happened that amr ibn hurayth contracted mut'ah marriage with a woman and she became pregnant. When the report of this incident reached Umar, he banned muta

marriage. [Al Musannaf by Abdur Razzaq vol7 p496 chapter on mutah]

That is, 'Umar banned Mut'ah only when he saw an instance of abuse over Mut'ah wherein a man denied the child of a woman! That was Omar's own temporary Ijtihad.

Omar's stance on Mut'ah during that time should be taken in that context.

It was narrated that Ibn 'Umar said. "When 'Umar bin Khattab was appointed caliph, he addressed the people and said: 'The Messenger of Allah permitted temporary marriage for us three times, then he forbade it. By Allah, if I hear of any married person entering a temporary marriage, I will stone him to death, unless he can bring me four witnesses who will testify that the Messenger of Allah allowed it after he forbade it.'"

(Sunan ibn Majah Vol 3 The Chapters on Marriage 1963)

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that Khawla ibn Hakim came to Umar ibn al-Khattab and said, "Rabia ibn Umayya made a temporary marriage with a woman and she is pregnant by him." Umar ibn al-Khattab went out in dismay dragging his cloak, saying, "This temporary marriage, had I come across it, I would have ordered stoning and done away with it!"

028: 042: Section 368

(Muwatta Imam Malik)

This reflects 'Umar(R.A)'s initial stance on Mut'ah. What his later stance was, will be discussed appropriately.

In his commentary of Muwatta Imam Malik page 390, Maulana Waheed'ud Deen az Zaman Khan:

There is absolute agreement that one that Mut'ah does not incur the same penalty as for Zinah, Umar only said this to frighten the people.

Chapter-4

VERSE OF MUT'AH

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ ۚ كَتَبَ اللَّهُ عَلَيْكُمْ ۖ وَأَجَلَ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا
بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ ۖ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا
تَرْضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

“Also (forbidden are) women already married, except those whom your right hands possess. Thus, has Allah ordained for you. All others are lawful, provided you seek them (with a dowry) from your property, desiring chastity, not fornication, and as for those among them whom you have enjoyed(istamta’tum), give them their due compensation(dowry/mahr) as an obligation. And there is no blame upon you for what you mutually agree to beyond the obligation. Surely, Allah is Ever All-Knowing, All-Wise.” (Qur’an 4:24)

Both Sunni and Shia scholars agree that this Qur’anic verse was revealed regarding mut’ah.

In Tafsir Ibn Kathir, one of the foremost Sunni Tafsirs, it is stated that

“Mujahid stated that,

‘So, with those among them whom you have enjoyed, give them their required due’ was revealed about the Mut`ah marriage”

The word used for enjoyment here is “istamta’tum” an Arabic word that is commonly used to denote mut’ah marriages in the hadith. Hence, it is established from the Qur’an that mut’ah marriages are indeed a valid form of contract/covenant, just like Nikah.

However, a minority of Sunni scholars amongst recent times, (especially modernists) as well as Qur’anists have argued that this has nothing to do with Mut’ah. And that istamta’tum(اسْتَمْتَعْتُمْ) only refers to enjoyment in marriage, not Mut’ah.

This argument is either out of sheer ignorance of Arabic linguistics or out of utter deception.

Firstly,

We see in the hadiths that *istamta'tum* (اسْتَمْتَعْتُمْ) always was used in reference to contracting Mut'ah. For example:

1) Narrated Jabir bin `Abdullah and Salama bin Al-Akwa`:

While we were in an army, Allah's Messenger (ﷺ) came to us and said, "You have been allowed to do the Mut'a (marriage), so do it."

حَدَّثَنَا عَلِيُّ، حَدَّثَنَا سُفْيَانُ، قَالَ عَمْرُو عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَسَلْمَةَ بْنِ الْأَكْوَعِ، قَالَا كُنَّا فِي جَيْشٍ فَأَتَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " إِنَّهُ قَدْ أُذِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا فَاسْتَمْتِعُوا ".

Reference : Sahih al-Bukhari 5117, 5118

In-book reference : Book 67, Hadith 54

USC-MSA web (English) reference : Vol. 7, Book 62, Hadith 52

Here, the word used is: (*istam'ti'uu*-اسْتَمْتِعُوا) which means “to do mut’ah”

2) Another example is:

Ibn Uraij reported:

'Ati' reported that Jabir b. Abdullah came to perform 'Umra, 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 temporary marriage during the lifetime of the Prophet (ﷺ) and during the time of Abu Bakr and 'Umar.

وَحَدَّثَنَا الْحَسَنُ الْحُلَوَانِيُّ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، قَالَ قَالَ عَطَاءُ قَدِيمَ جَابِرِ بْنِ عَبْدِ اللَّهِ الْمُعْتَمِرًا فَجِئْنَاهُ فِي مَنْزِلِهِ فَسَأَلَهُ الْقَوْمُ عَنْ أَسْيَاءِ ثُمَّ ذَكَرُوا الْمُنْعَةَ فَقَالَ نَعِمَ اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرَ .

Reference : Sahih Muslim 1405 c

In-book reference : Book 16, Hadith 18

USC-MSA web (English) reference : Book 8, Hadith 3248

Here too, the word used to contract Mut'ah is (istamta'na-استمتعنا)

Thus, it is established that istamta'tum in verse 4:24 is directly referring to Mut'ah marriage.

Secondly,

Qur'an also uses terms like "tankihu", "yankihna", etc to in reference to contracting nikah. "Nikah" is an Arabic word which literally means sexual intercourse. Does this mean Qur'an said to have sexual intercourse? Rather than contracting nikah? A'oodhubillah! The same fallible logic is used by Qur'anists against Mut'ah when they encounter the term "istamta'tum".

For example,

“وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ...”

(Qur'an 2:232)

“And when you have divorced women and they have fulfilled the term of their prescribed period, do not prevent them from marrying(yankihna) their (former) husbands, if they mutually agree on reasonable basis.” (2:232)

Will the Qur'anists and modernists come up with the argument that “yankihna” (يَنْكِحْنَ) refers to having sex without contracting nikah?

Allahu A'alam.

Similarly, istamta'tum(استمتعتم) also refers to contracting Mut'ah, not having sex with the woman.

Usually, Qur'an refers to actual sexual physical intercourse vaguely such as terms like “approach your women” (الرَّفَقْتُ إِلَى نِسَائِكُمْ) [2:187], “go, then, into your tith as you wish” (فَاتُوا حَرَثَكُمْ أَنَّى شِئْتُمْ) [2:223], “then come to them from where Allah has ordained for you” (فَاتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ) [2:222]

Thus, we have established that Allah refers to sexual intercourse in Qur'an using vague terms like these.

When terms like “Yankihna” ,” Tankihu”, “Istamta’tum” were used it was always in reference to contracting the nikah/mut’ah. Istamta’tum was generally understood by the public as contracting Mut’ah just like “Tankihu”, “yankihna”, etc were understood as contracting nikah

For example in the hadith:

1) *Jabir b. 'Abdullah and Salama b. al-Akwa' said:*

There came to us the proclaimer of Allah's Messenger (ﷺ) and said: Allah's Messenger (ﷺ) has granted you permission to benefit yourselves, i. e. to contract temporary marriage with women.

وَحَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ عَمْرِو بْنِ دِينَارٍ، قَالَ سَمِعْتُ الْحَسَنَ بْنَ مُحَمَّدٍ، يُحَدِّثُ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَسَلَمَةَ بْنِ الْأَكْوَعِ، قَالَا خَرَجَ عَلَيْنَا مُنَادِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ أَدِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا . يَعْنِي مُنْعَةَ النِّسَاءِ .

Reference : Sahih Muslim 1405 a

In-book reference : Book 16, Hadith 16

USC-MSA web (English) reference : Book 8, Hadith 3246

The word used here is (تَسْتَمْتِعُوا) “tastamti’uu” in reference to contracting Mut’ah.

2) *Narrated Jabir bin `Abdullah and Salama bin Al-Akwa`:*

While we were in an army, Allah's Messenger (ﷺ) came to us and said, "You have been allowed to do the Mut'a (marriage), so do it."

حَدَّثَنَا عَلِيُّ، حَدَّثَنَا سُفْيَانُ، قَالَ عَمْرُو عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَسَلَمَةَ بْنِ الْأَكْوَعِ، قَالَا كُنَّا فِي جَيْشٍ فَأَتَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " إِنَّهُ قَدْ أَدِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا فَاسْتَمْتِعُوا " .

Reference : Sahih al-Bukhari 5117, 5118

In-book reference : Book 67, Hadith 54

USC-MSA web (English) reference : Vol. 7, Book 62, Hadith 52

Again, the word used is “tastamti’uu”(تَسْتَمْتِعُوا).

So, it is established beyond a shred of doubt that "istamta'tum" is definitely referring to contracting Mut'a.

Thirdly, let's linguistically analyse this verse step by step.

First the verse says: “وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ كَتَبَ اللَّهُ عَلَيْكُمْ”

“Also (forbidden are) women already married, except those whom your right hands possess. Thus, has Allah ordained for you.”

The Ayah means, you are prohibited from marrying or having sexual relationship with women who are already married, إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ (except those whom your right hands possess) except those whom you acquire through war, for you are allowed such women after making sure they are not pregnant.

Imam Ahmad recorded that Abu Sa`id Al-Khudri said,

"We captured some women from the area of Awtas who were already married, and we disliked having sexual relations with them because they already had husbands. So, we asked the Prophet about this matter, and this Ayah was revealed (وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ) *(Also (forbidden are) women already married, except those whom your right hands possess)*. Consequently, we had sexual relations with these women."

This is the wording collected by At-Tirmidhi AnNasa'i, Ibn Jarir and Muslim in his Sahih.

Allah's statement,

كَتَبَ اللَّهُ عَلَيْكُمْ.

“Thus, has Allah ordained for you.”

means, this prohibition was ordained for you by Allah. Therefore, adhere to Allah's Book, do not transgress His set limits, and adhere to His legislation and decrees.

Allah said,

..... وَأَجَلَ لَكُمْ مَّا وَرَاءَ ذَٰلِكُمْ

“All others are lawful”,

meaning, you are allowed to marry women other than the prohibited types mentioned here, as Ata and others have stated.

Allah's statement,

وَأَجَلَ لَكُمْ مَّا وَرَاءَ ذَٰلِكُمْ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ....

“provided you seek them (with a dowry) from your property, desiring chastity, not fornication,”

meaning, you are allowed to use your money to marry up to four wives and for (the purchase of) as many female slaves as you like, all through legal means,

“(desiring) chastity, not fornication” (مُحْصِنِينَ غَيْرَ مُسَافِحِينَ)

Next comes the important wording. Remember that up until this, the verse is talking about those who are prohibited in nikah(marriage).

Allah says,

“فَمَا اسْتَمْتَعْتُمْ

What does “fa”(ف) means in Arabic? It is usually denoted to connect a separate action done in future grammatically. For example, “And then I went to the market”, here the word “fa” (ف) is used to substitute “and then”

What does “ma”(مَا) mean in Arabic? It usually denotes an enquiry, such as “what”?

So, “فَمَا اسْتَمْتَعْتُمْ”

Literally means, “then what about those who did Mut’ah?/ Then What if you do Mut’ah(istamta’tum)?” We have already established that istamta’tum refers to contracting Mut’ah just like “yankihna” refers to contracting nikah.

Then comes the word “بِهِ”

Which translates to, “for him”/ “in connection with him”

Basically, “بِهِ” (bihi) is an Arabic word which connects the action of “istamta’tum” to the man who does.

Then comes the word “مِنْهُنَّ”

Which means “from them/of them”(the women), ie, this connects “istamta’tum” to the object(with those whom Mut’ah was contracted(istamta’tum)) ; the women.

So basically, “فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ”

Means, “and what about those who contracted mut’ah of them?..”

Then, Allah says: “فَأْتُوهُنَّ أَجُورَهُنَّ فَرِيضَةً”

Meaning, “give them their due compensation(ujoor) as an obligation.”

فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَأْتُوهُنَّ أَجُورَهُنَّ فَرِيضَةً”

So, this verse basically means, “And as for those who did Mut’ah(istamta’tum) with them, give them their due compensation(dowry/mahr) as an obligation”.

Then Allah says,

.....وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرَضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ

“but if you agree mutually after the requirement (has been determined), there is no sin on you.”

The meaning of these Ayat is:

If you have stipulated a dowry for her, and she later forfeits it, either totally or partially, then this bears no harm on you or her in this case.

Ibn Jarir said,

“Al-Hadrami said that some men would designate a certain dowry, but then fall into financial difficulties. Therefore, Allah said that there is no harm on you, O people, concerning your mutual agreement after the requirement (has been determined).”

(Tafseer Ibn Kathir)

meaning, if she gives up part of the dowry, then you men are allowed to accept that.

Also, this part also has one more complementary meaning, i.e., the Mut'ah contract can be terminated before the pre-fixed timeperiod through mutual consensus or by giving the mahr. (This is discussed in section 6 of Chapter 7: “Legal Jurisprudence of Mut'ah in Fiqh of Ahlul Sunna”. Pg.67-68)

Then Allah says,

.....إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

“Surely, Allah is Ever All-Knowing, All-Wise.”

One thing to be noted that before the part of istamta'tum, Allah says:

“وَأَجَلٌ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ”

“All others are lawful, provided you seek them (with a dowry) from your property, desiring chastity, not fornication”

So mahr/ujur is already stipulated by Allah in nikah obligatorily.

If “Istamta'tum” was referring to nikah, why would Almighty Allah repeat this same command again?

“فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً”

, “And as for those who did Mut'ah(istamta'tum) with them, give them their due compensation(dowry/mahr) as an obligation”

Hence, it is undoubtedly clear that the latter part is referring to something other than a nikah relationship, in this case Mut'ah

Thus, both linguistically and grammatically, it is established that “istamta'tum” Qur'anic verse (4:24) is referring to Mut'ah

Thus, it is established that Mut'ah marriages are sanctioned by the Qur'an. According to the opinion of majority of the Sunni scholars, a command established through Qur'an can only be abolished/abrogated by another Qur'anic verse. Since there is no other Qur'an verse that contradicts Mut'ah (forget contradicting, there's another verse which strengthens Mut'ah and bans its prohibition!), by definition, Mut'ah is a valid contract in the sharia. Also, this opinion is the only sane opinion in eyes of Ahlul Sunna. Since Ahlul Sunna are unanimous that Qur'an is the Eternal, Uncreated Kalam of Allah, it almost amounts to mocking Allah that He will abrogate His Laws through something other than His Kalam. No mortal(infallible/fallible) can abrogate His Law. His Law can be abrogated only by His Own Kalam.

As for the minority opinion that considers, that Qur'anic commands can be abrogated by something other than Qur'an, they are in grave error. (May Allah forgive them)

This minority opinion is held by Imam Abu Hanifa and Imam Malik(may Allah have mercy on them). Imam Shafi'i and Imam Ahmad ibn Hanbal held the

correct position that Qur'an cannot be abrogated by something other than the Qur'an.

Imam Shafi'i states in Al-Risala:

100. Shafi'i said: God indeed created mankind for whatever His established knowledge desired in creating it and for whatever [its destiny] should be. There is no reversal at all of His judgment, He being swift of reckoning., And he revealed to them the Book that explains everything, as a guide and a mercy. In it He laid down some duties which He confirmed, and others which He abrogated, as a mercy to His people so as to lighten their burden and to, comfort them in addition to the favors which He had begun to bestow upon them. For the fulfilment [of the duties] He confirmed, He rewarded them with Paradise and with salvation from His punishment. His mercy has included all of them in what he confirmed and what He abrogated. Praise be to Him for His favors.

101. Shafi'i said: God has declared that He abrogated [communications] of the Book only by means of other communications in it; that the Sunna cannot abrogate [a text in] the Book but that it should only follow what is laid down in the Book, and that the sunna is intended to explain the meaning of communications of general [nature] set forth [in the Book]. For God said:

“When Our signs are recited to them as Evidences, those who do not look forward to meeting us, say: Bring a Scripture other than this or change it. [You O Muhammad] say: It is not for me to change it of my own accord; I only follow what is revealed to me; verily I fear, if I go against my Lord, the punishment of a mighty day [Q. X, 16-17].

Thus, God informed [men] that He had commanded His Prophet to obey what was communicated to him, but that He did not empower him to alter [the Book] of his own accord. For there is in His saying: ***“It is not for me to alter it of my own accord ”*** [Q. X, 16], an evidence for what I stated, that nothing can abrogate the Book of God save His Book. Since [God] is the originator of His [own] commands, He [alone] can repeal or confirm whatever of it He wills-glorious be His praise-but no one of His creatures may do so. For He also said: ***“ God repeals what He wills, or confirms; with Him is the Mother of the Book”***. [Q. XIII, 39]

(Al-Risala, Chapter VI, On the Abrogation of Divine Legislation, Pg.123-124)

Also, the time period of revelation of this verse needs to be checked.

It was after the Battle of Autas (8 A.H)

1) Imam Ahmad recorded that Abu Sa`id Al-Khudri said,

"We captured some women from the area of Awtas who were already married, and we disliked having sexual relations with them because they already had husbands. So, we asked the Prophet about this matter, and this Ayah was revealed, "وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ كَتَبَ اللَّهُ عَلَيْكُمْ" ("Also (forbidden are) women already married, except those whom your right hands possess"). Consequently, we had sexual relations with these women."

This is the wording collected by At-Tirmidhi AnNasa'i, Ibn Jarir and Muslim in his Sahih.

(Tafseer Ibn Kathir)

2) *It was narrated from Abu Sa'eed Al-Khudri that the Prophet of Allah sent an army to Awtas. They met the enemy, fought them, and prevailed over them. They acquired female prisoners who had husbands among the idolaters. The Muslims felt reluctant to be intimate with them. Then Allah, the Mighty and Sublime revealed:*

"Also (forbidden are) women already married, except those (slaves) whom your right hands possess," meaning, this is permissible for you once they have completed their 'Iddah.

أَخْبَرَنَا مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى، قَالَ حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، قَالَ حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ أَبِي الْخَلِيلِ، عَنْ أَبِي عُلْقَمَةَ الْهَاشِمِيِّ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ نَبِيَّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ جَيْشًا إِلَى أَوْطَاسٍ فَلَقُوا عَدُوًّا فَقَاتَلُوهُمْ وَظَهَرُوا عَلَيْهِمْ فَأَصَابُوا لَهُمْ سَبَايَا لَهُنَّ أُرُوجٌ فِي الْمُشْرِكِينَ فَكَانَ الْمُسْلِمُونَ تَحَرَّجُوا مِنْ غَشْيَانِهِنَّ فَأَنْزَلَ اللَّهُ عَزَّ وَجَلَّ { وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ } أَي هَذَا لَكُمْ حَلَالٌ إِذَا انْقَضَتْ عِدَّتُهُنَّ .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3333

In-book reference : Book 26, Hadith 138

English translation : Vol. 4, Book 26, Hadith 3335

3) Abu Sa'id Al Khudri said *“The Apostle of Allaah (ﷺ) sent a military expedition to Awtas on the occasion of the battle of Hunain. They met their enemy and fought with them. They defeated them and took them captives. Some of the Companions of Apostle of Allaah (ﷺ) were reluctant to have relations with the female captives because of their pagan husbands. So, Allaah the exalted sent down the Qur'anic verse “And all married women (are forbidden) unto you save those (captives) whom your right hand posses.” This is to say that they are lawful for them when they complete their waiting period.*

حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ بْنِ مَيْسَرَةَ، حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ صَالِحِ أَبِي الْخَلِيلِ، عَنْ أَبِي عَلْقَمَةَ الْهَاشِمِيِّ، عَنْ أَبِي سَعِيدِ الْخُدْرِيِّ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ يَوْمَ حُنَيْنٍ بَعْثًا إِلَى أَوْطَاسٍ فَلَقُوا عَدُوَّهُمْ فَقَاتَلُوهُمْ فَظَهَرُوا عَلَيْهِمْ وَأَصَابُوا لَهُمْ سَبَايَا فَكَانَ أَنْاسًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَحَرَّجُوا مِنْ غَشْيَانِهِنَّ مِنْ أَجْلِ أَرْوَاجِهِنَّ مِنَ الْمُشْرِكِينَ فَأَنْزَلَ اللَّهُ تَعَالَى فِي ذَلِكَ { وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ } أَي فِهِنَّ لَهُمْ حَلَالٌ إِذَا انْقَضَتْ عِدَّتُهُنَّ .

Grade: Sahih (Al-Albani) : حكم صحيح (الألباني)

Reference : Sunan Abi Dawud 2155

In-book reference : Book 12, Hadith 110

English translation : Book 11, Hadith 2150

4) Abu Sa'id Al Khudri said *“The Apostle of Allaah (ﷺ) sent a military expedition to Awtas on the occasion of the battle of Hunain. They met their enemy and fought with them. They defeated them and took them captives. Some of the Companions of Apostle of Allaah (ﷺ) were reluctant to have relations with the female captives because of their pagan husbands. So, Allaah the exalted sent down the Qur'anic verse “And all married women (are forbidden) unto you save those (captives) whom your right hand posses.” This is to say that they are lawful for them when they complete their waiting period.*

حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ بْنِ مَيْسَرَةَ، حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ صَالِحِ أَبِي الْخَلِيلِ، عَنْ أَبِي عَلْقَمَةَ الْهَاشِمِيِّ، عَنْ أَبِي سَعِيدِ الْخُدْرِيِّ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ يَوْمَ حُنَيْنٍ بَعْثًا إِلَى أَوْطَاسٍ فَلَقُوا عَدُوَّهُمْ فَقَاتَلُوهُمْ فَظَهَرُوا عَلَيْهِمْ وَأَصَابُوا لَهُمْ سَبَايَا فَكَانَ أَنْاسًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَحَرَّجُوا مِنْ غَشْيَانِهِنَّ مِنْ أَجْلِ أَرْوَاجِهِنَّ مِنَ الْمُشْرِكِينَ فَأَنْزَلَ اللَّهُ تَعَالَى فِي ذَلِكَ { وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ } أَيُّ فَهِنَّ لَهُمْ حَلَالٌ إِذَا انْقَضَتْ عِدَّتُهُنَّ .

Grade : Sahih (Al-Albani) : حكم صحيح (الألباني)

Reference : Sunan Abi Dawud 2155

In-book reference : Book 12, Hadith 110

English translation : Book 11, Hadith 2150

5) Abu Sa'eed Al-Khudri narrated:

"We got some captives on the day of Awtas, and they had husbands among their people. They mentioned that to the Messenger of Allah, so the following was revealed: And women who are already married, except those whom your right hands possess.

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ، حَدَّثَنَا هُشَيْمٌ، حَدَّثَنَا عُمَانُ الْبَيْهَقِيُّ، عَنْ أَبِي الْخَلِيلِ، عَنْ أَبِي سَعِيدِ الْخُدْرِيِّ، قَالَ أَصَبْنَا سَبَايَا يَوْمَ أَوْطَاسٍ وَلَهُنَّ أَرْوَاحٌ فِي قَوْمِهِنَّ فَذَكَرُوا ذَلِكَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَتَنَزَّلَتْ : { وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ } . قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ حَسَنٌ . وَهَكَذَا رَوَاهُ الثَّوْرِيُّ عَنْ عُمَانَ الْبَيْهَقِيِّ عَنْ أَبِي الْخَلِيلِ عَنْ أَبِي سَعِيدٍ . وَأَبُو الْخَلِيلِ اسْمُهُ صَالِحُ بْنُ أَبِي مَرْيَمَ .

وَرَوَى هَمَّامٌ، هَذَا الْحَدِيثَ عَنْ قَتَادَةَ، عَنْ صَالِحِ أَبِي الْخَلِيلِ، عَنْ أَبِي عَلْقَمَةَ الْهَاشِمِيِّ، عَنْ أَبِي سَعِيدٍ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ .

حَدَّثَنَا بِدَلِّكَ عَبْدُ بْنُ حَمِيدٍ، حَدَّثَنَا حَبَّانُ بْنُ هَالَلٍ، حَدَّثَنَا هَمَّامٌ، .

Grade : Hasan (Darussalam)

Reference : Jami` at-Tirmidhi 1132

In-book reference : Book 11, Hadith 54

English translation : Vol. 2, Book 6, Hadith 1132

Thus, scholars of Ahlul Sunna are unanimous that Verse 4:24 was revealed sometime after Battle of Autas (8 A.H). Battle of Autas was a battle that took place against remaining pagans of Arabia who refused to yield to Prophet's

authority after Victory of Makkah. This was after Battle of Hunayn. We have already established that the last temporary prohibition on Mut'ah was on Battle of Hunayn. **Battle of Autas took place after the Battle of Hunayn. So, by definition, Allah has eternally made Mut'ah a part of sharia.**

Other prominent Tafseers and traditions that confirm that Verse 4:24 was revealed about Mut'ah:

Tafsir al-Kabir, by al-Tha'labi, under commentary of verse 4:24 of Qur'an;

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

Tafsir At-Tabari, perhaps, the most authentic Sunni Tafseer also confirms that istamta'tum in Qur'an (4:24) is about contracting Mut'ah.

From Mohammad bin Umar, he said: From Abu 'Asm, from Isa, from ibn Abi Njih, from Mujahid, "So for whatever you have had of pleasure (Istamta'tum) with them by the contract (Quran 4:24)". He said that means the Nikah of Mut'ah.

Ref: Tafsir al-Tabari, commentary of verse 4:24, volume 6, page 586.

Until the coming of Qur'anist, Qadiani and obscurantist takfiri sections of Wahhabi/Najdi movement, the mainstream position of Ahlul Sunna was that Verse 4:24 was about Mut'ah

Chapter-5

THE SECOND VERSE OF MUT'AH

Most of us believe that Qur'an only revealed a single verse regarding Mut'ah. However, as per the hadiths of Ahlul Sunna there is one more verse in the Qur'an that re-affirms the validity of Mut'ah. This is not even present in Shiite fiqh or Hadiths.

1) Narrated 'Abdullah:

We used to participate in the holy battles led by Allah's Messenger (ﷺ) and we had nothing 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 (2) 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.' (5.87)

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا جَرِيرٌ، عَنْ إِسْمَاعِيلَ، عَنْ قَيْسٍ، قَالَ قَالَ عَبْدُ اللَّهِ كُنَّا نَعْرُو مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَيْسَ لَنَا شَيْءٌ فَقُلْنَا أَلَا نَسْتَخْصِي فَنَهَانَا عَنْ ذَلِكَ ثُمَّ رَخَّصَ لَنَا أَنْ نَتَكَحَّ الْمَرْأَةَ بِالنُّوبِ، ثُمَّ قَرَأَ عَلَيْنَا { يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ }.

Reference : Sahih al-Bukhari 5075

In-book reference : Book 67, Hadith 13

USC-MSA web (English) reference : Vol. 7, Book 62, Hadith 13

2) Abdullah (b. Mas'ud) reported:

We were on an expedition with Allah's Messenger (ﷺ) 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).

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ الْهَمْدَانِيُّ، حَدَّثَنَا أَبِي وَوَكَيْعٌ، وَابْنُ، بِشْرِ عَنْ إِسْمَاعِيلَ، عَنْ قَيْسٍ، قَالَ سَمِعْتُ عَبْدَ اللَّهِ، يَقُولُ كُنَّا نَعْرُو مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَيْسَ لَنَا نِسَاءٌ فَقُلْنَا أَلَا نَسْتَخْصِي فَنَهَانَا عَنْ ذَلِكَ ثُمَّ رَخَّصَ لَنَا أَنْ نُنْكِحَ الْمَرْأَةَ بِالثُّوبِ إِلَى أَجَلٍ ثُمَّ قَرَأَ عَبْدُ اللَّهِ { يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَحْرِمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ } .

Reference : Sahih Muslim 1404 a

In-book reference : Book 16, Hadith 13

USC-MSA web (English) reference : Book 8, Hadith 3243

3)A similar report (as hadith no.2) narrated from Ismâ'il bin Abi Khalid with this chain, and he said: "Then he recited this verse to us," and he did not say: "Abdullâh recited.

وَحَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا جَرِيرٌ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، بِهَذَا الْإِسْنَادِ . مِثْلَهُ وَقَالَ ثُمَّ قَرَأَ عَلَيْنَا هَذِهِ الْآيَةَ . وَلَمْ يَقُلْ قَرَأَ عَبْدُ اللَّهِ .

Reference : Sahih Muslim 1404 b

In-book reference : Book 16, Hadith 14

USC-MSA web (English) reference : Book 8, Hadith 3244

4) This hadith has been narrated on the authority of Isma'il with the same chain of transmitters (and the words are):

" We were young, so we said: Allah's Messenger, should we not have ourselves castrated? But he (the narrator) did not say; We were on an expedition."

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكَيْعٌ، عَنْ إِسْمَاعِيلَ، بِهَذَا الْإِسْنَادِ قَالَ كُنَّا وَنَحْنُ شَبَابٌ فَقُلْنَا يَا رَسُولَ اللَّهِ أَلَا نَسْتَخْصِي وَلَمْ يَقُلْ نَعْرُو .

Reference : Sahih Muslim 1404 c

In-book reference : Book 16, Hadith 15

USC-MSA web (English) reference : Book 8, Hadith 3245

5) 4615. Narrated 'Abdullāh : We used to participate in the holy fighting 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 M forbade us to do that and thenceforth he allowed us to marry a woman (temporarily) by giving her even a garment (as Mahr), and then he recited: "O you who believe! Make not unlawful the Tayyibat (all that is good as regards foods, things, deeds, beliefs, persons) which Allah has made lawful for you (Sahih Bukhari)

So, from the hadith we conclude that there was another Qur'an verse(5:87) which was used to affirm the validity of Mut'ah. Hadith no.1&5 states that Holy Prophet himself recited that verse. Hadith no.2 states that Abdullah recited it in front of the Prophet. However, hadith no.3 which is the same chain as that of Hadith No.2 suggests that it was Prophet Muhammad(ﷺ) himself who recited this verse. Thus, the 2 view can be reconciled by concluding that Abdullah(R.A) recited this verse after Prophet Muhammad(ﷺ) recited it to the sahaba.

So, we have a hadith which suggests there is actually a Second Verse of Mut'ah!

Before coming to that Verse, timeframe of the revelation of the Verse seems to be during the Tabuk expedition or after it. This is because Hadith No.1 & Hadith No.4 suggests that it might have been after Tabuk expedition when they returned to Madina. Hadith No.2 & Hadith No.3 suggests that it was during the return of expedition after Tabuk campaign while they were returning to Madina.

The first view is more correct, since Hadiths and Tafsirs suggest that this verse was revealed in Madina.

Now let's analyse the verse.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

"O you who believe! Make not unlawful the good things (Tayyibat) which Allah has made lawful to you, and transgress not. Verily, Allah does not like the transgressors." (Qur'an 5:87)

Ali bin Abi Talhah said that Ibn Abbas said,

"This Ayah was revealed about some of the Companions of the Prophet who said, 'We should cut off our male organs, abandon the desires of this life and travel in the land, just as the Ruhban (monks) do.' When the Prophet heard of this statement, he summoned them and asked them if they made this statement and they answered 'Yes.'

The Prophet said:

لِكَيْبِي أَصُومُ وَأُفْطِرُ وَأُصَلِّي وَأَنَاؤُ وَأَنْكِيحُ النِّسَاءَ فَمَنْ أَحَدَ بِسُنَّتِي فَهُوَ مِنِّي وَمَنْ لَمْ يَأْخُذْ بِسُنَّتِي فَلَيْسَ مِنِّي

I fast and break my fast, pray and sleep, and marry women. Whoever follows my Sunnah is of me, and whoever abandons my Sunnah is not of me."

Ibn Abi Hatim also collected this Hadith.

Ibn Marduwyah recorded that Al-Awfi said that Ibn Abbas narrated a similar Hadith.

It is recorded in the Two Sahihs that Aishah said that;

some of the Companions asked the wives of the Prophet about the acts of worship that he performed in private.

One of them said, "I will not eat meat," another said, "I will not marry women," while the third said, "I will not sleep on the bed."

When the Prophet heard this statement, he said,

مَا بَالُ أَقْوَامٍ يَقُولُ أَحَدُهُمْ كَذَا وَكَذَا لِكَيْبِي أَصُومُ وَأُفْطِرُ وَأَنَاؤُ وَأَقُومُ وَأَكُلُ اللَّحْمَ وَأَتْرَوِّجُ النِّسَاءَ فَمَنْ رَغِبَ عَنِّي فَلَيْسَ مِنِّي

What is the matter with some people who said such and such? I fast and break the fast, sleep and wake to stand to pray, eat meat, and marry women. He who is not pleased with my Sunnah is not of me.

Allah's statement,

وَلَا تَعْتَدُوا

"and transgress not",

means, do not exaggerate and make it hard for yourselves by prohibiting the permissible things. Do not transgress the limits by excessively indulging in the permissible matters; only use of it what satisfies your need; and do not fall into extravagance.

So, Allah legislated a medium way between those who are extreme and those who fall into shortcomings, and it does not allow excessive application, nor lack of application.

This is why Allah said here,

لَا تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

“.... Make not unlawful the good things which Allah has made lawful to you, and transgress not. Verily, Allah does not like the transgressors.”

(Tafseer Ibn Kathir)

The hadiths pertaining to this can be found in various Sunni collections.

1) Sa'd b. Abi Waqqas (Allah be pleased with him) reported:

The Messenger of Allah (ﷺ) rejected (the idea) of Uthman b. Muz'un living in celibacy (saying): And if he (the Holy Prophet) had given me permission We would have got ourselves castrated.

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ، ح وَحَدَّثَنَا أَبُو كُرَيْبٍ، مُحَمَّدُ بْنُ الْعَلَاءِ - وَاللَّفْظُ لَهُ - أَخْبَرَنَا ابْنُ الْمُبَارَكِ، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ، قَالَ رَدَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى عَثْمَانَ بْنِ مَطْعُونِ النَّبْتَلِيِّ وَلَوْ أُذِنَ لَهُ لِأَخْتَصَيْنَا .

Reference : Sahih Muslim 1402 a

In-book reference : Book 16, Hadith 7

USC-MSA web (English) reference : Book 8, Hadith 3237

2) Sa'id b. al-Musayyib reported:

I heard Sa'd (b. Abi Waqqas) saying that the idea of 'Uthman b. Maz'un for living in celibacy was rejected (by the Holy Prophet), and if he had been given permission, they would have got themselves castrated.

وَحَدَّثَنِي أَبُو عَمْرَانَ، مُحَمَّدُ بْنُ جَعْفَرِ بْنِ زِيَادٍ حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنِ ابْنِ، شَهَابِ الزُّهْرِيِّ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، قَالَ سَمِعْتُ سَعْدًا، يَقُولُ رَدَّ عَلَيَّ عُثْمَانَ بْنِ مَظْعُونِ النَّبْتُ لَوْ أُذِنَ لَهُ لِأَخْتَصِينَا .

Reference : Sahih Muslim 1402 b

In-book reference : Book 16, Hadith 8

USC-MSA web (English) reference : Book 8, Hadith 3238

3) Sa'id b. al Musayyib heard Sa'd b. Abi Waqqas (Allah be pleased with him) saying that Uthman b. Maz'un decided to live in celibacy, but Allah's Messenger (ﷺ) forbade him to do so, and if he had permitted him, we would have got ourselves castrated.

حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا حُجَيْبُ بْنُ الْمُنْتَنَى، حَدَّثَنَا لَيْثٌ، عَنْ عَقِيلٍ، عَنِ ابْنِ، شَهَابِ أَنَّهُ قَالَ أَخْبَرَنِي سَعِيدُ بْنُ الْمُسَيَّبِ، أَنَّهُ سَمِعَ سَعْدَ بْنَ أَبِي وَقَّاصٍ، يَقُولُ أَرَادَ عُثْمَانُ بْنُ مَظْعُونٍ أَنْ يَتَّبِعَ، فَذَهَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَوْ أَجَازَ لَهُ ذَلِكَ لِأَخْتَصِينَا .

Reference : Sahih Muslim 1402 c

In-book reference : Book 16, Hadith 9

USC-MSA web (English) reference : Book 8, Hadith 3239

4) Narrated Sa'd bin Abi Waqqas:

It was narrated that Sa'd bin Abi Waqqas said: "The Messenger of Allah forbade 'Uthman to be celibate. If he had given him permission, we would have castrated ourselves."

أَخْبَرَنَا مُحَمَّدُ بْنُ عُبَيْدٍ، قَالَ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ، عَنْ مَعْمَرٍ، عَنِ الرَّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ، قَالَ لَقَدْ رَدَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَيَّ عُثْمَانَ النَّبْتَلِ وَلَوْ أُذِنَ لَهُ لَأَخْتَصَيْنَا .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3212

In-book reference : Book 26, Hadith 17

English translation : Vol. 4, Book 26, Hadith 3214

5) Narrated 'Aishah:

It was narrated from 'Aishah that the Messenger of Allah forbade celibacy.

أَخْبَرَنَا إِسْمَاعِيلُ بْنُ مَسْعُودٍ، قَالَ حَدَّثَنَا خَالِدٌ، عَنْ أَشْعَثَ، عَنِ الْحَسَنِ، عَنْ سَعْدِ بْنِ هِشَامٍ، عَنْ عَائِشَةَ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ النَّبْتِ .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3213

In-book reference : Book 26, Hadith 18

English translation : Vol. 4, Book 26, Hadith 3215

6) Narrated Samurah bin Jundab:

It was narrated from Samurah bin Jundab that the Prophet forbade celibacy. Abu Abdur-Rahman said: Qatadah is more reliable and better preserves narrations than Ash'ath but the hadith of Ash'ath (here) appears to be the correct one. Allah, Most High, knows best.

أَخْبَرَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، قَالَ أَنْبَأَنَا مُعَاذُ بْنُ هِشَامٍ، قَالَ حَدَّثَنِي أَبِي، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ بْنِ جُنْدَبٍ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . أَنَّهُ نَهَى عَنِ النَّبْتِ . قَالَ أَبُو عَبْدِ الرَّحْمَنِ قَتَادَةُ : أَثْبَتُ وَأَحْفَظُ مِنْ أَشْعَثَ وَحَدِيثُ أَشْعَثَ أَشْبَهُ بِالصَّوَابِ وَاللَّهُ تَعَالَى أَعْلَمُ .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3214

In-book reference : Book 26, Hadith 19

English translation : Vol. 4, Book 26, Hadith 3216

7) Narrated Abu Salamah:

It was narrated from Abu Salamah that Abu Hurairah said: "I said: 'O Messenger of Allah, I am a young man and I fear hardship for myself, but I cannot afford to marry; should I castrate myself?'" The Prophet turned away from him until he said it three times. Then the Prophet said: "O Abu Hurairah, the pen is dried concerning what you are going to face, so (it is up to you whether) you castrate yourself or not." Abu Abdur-Rahman (An-Nasai) said: Al-Awzai did not hear this narration from Az-Zuhri, and this hadith is sahih, Yunus reported it from Az-Zuhri.

أَخْبَرَنَا يَحْيَى بْنُ مُوسَى، قَالَ حَدَّثَنَا أَنَسُ بْنُ عِيَاضٍ، قَالَ حَدَّثَنَا الْأَوْزَاعِيُّ، عَنِ ابْنِ شِهَابٍ، عَنِ أَبِي سَلَمَةَ، أَنَّ أَبَا هُرَيْرَةَ، قَالَ قُلْتُ يَا رَسُولَ اللَّهِ إِنِّي رَجُلٌ شَابُّ قَدْ خَشِيتُ عَلَى نَفْسِي الْعَنْتَ وَلَا أُجِدُّ طَوْلًا أَنْتَزَوْجَ النِّسَاءِ فَأَخْتَصِي فَأَعْرَضَ عَنْهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَتَّى قَالَ ثَلَاثًا فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " يَا أَبَا هُرَيْرَةَ جَفَّ الْقَلَمُ بِمَا أَنْتَ لَاقٍ فَاخْتَصِ عَلَى ذَلِكَ أَوْ دَعُ " . قَالَ أَبُو عَبْدِ الرَّحْمَنِ الْأَوْزَاعِيُّ لَمْ يَسْمَعْ هَذَا الْحَدِيثَ مِنَ الزُّهْرِيِّ وَهَذَا حَدِيثٌ صَحِيحٌ قَدْ رَوَاهُ يُونُسُ عَنِ الزُّهْرِيِّ .

Grade: Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3215

In-book reference : Book 26, Hadith 20

English translation : Vol. 4, Book 26, Hadith 3217

8) Narrated Anas:

It was narrated from Anas that there was a group of the Companions of the Prophet, one of whom said: "I will not marry women." Another said: "I will not eat meat." Another said: "I will not sleep on a bed." Another said: "I will fast and not break my fast." News of that reached the Messenger of Allah and he praised Allah then said: "What is the matter with people who say such and such? But I pray and I sleep, I fast and I break my fast, and I marry women. Whoever turns away from my Sunnah is not of me."

أَخْبَرَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، قَالَ أَنْبَأَنَا عَفَّانُ، قَالَ حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، عَنِ ثَابِتٍ، عَنِ أَنَسِ، أَنَّ نَفَرًا، مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ بَعْضُهُمْ لَا أَنْتَزَوْجَ النِّسَاءِ . وَقَالَ بَعْضُهُمْ لَا أَكُلُ اللَّحْمَ . وَقَالَ بَعْضُهُمْ لَا أَنْامُ عَلَى فِرَاشٍ . وَقَالَ بَعْضُهُمْ أَصُومُ فَلَا أَفْطِرُ . فَبَلَغَ ذَلِكَ رَسُولَ اللَّهِ

صلى الله عليه وسلم فَحَمِدَ اللَّهَ وَأَثْنَى عَلَيْهِ ثُمَّ قَالَ " مَا بَالُ أَقْوَامٍ يَقُولُونَ كَذَا وَكَذَا لِكَيْبِي أُصَلِّي وَأَنَا مُ وَأَصُومُ وَأُفْطِرُ وَأَتَزَوَّجُ النِّسَاءَ فَمَنْ رَغِبَ عَنِّي فَلَيْسَ مِنِّي " .

Grade: Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3217

In-book reference : Book 26, Hadith 22

English translation : Vol. 4, Book 26, Hadith 3219

9) *It was narrated from Ibn Abbas that:*

the Messenger of Allah said: "There is nothing like marriage, for two who love one another."

حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى، حَدَّثَنَا سَعِيدُ بْنُ سُلَيْمَانَ، حَدَّثَنَا مُحَمَّدُ بْنُ مُسْلِمٍ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ مَيْسَرَةَ، عَنْ طَاوُسٍ، عَنْ ابْنِ عَبَّاسٍ، قَالَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - " لَمْ تَرَ لِلْمُتَحَابِّينِ مِثْلَ النِّكَاحِ " .

Grade: Hasan (Darussalam)

English reference : Vol. 3, Book 9, Hadith 1847

Arabic reference : Book 9, Hadith 1920

10) *It was narrated that:*

Sa'd said: "The Messenger of Allah disapproved of Uthman bin Maz'un's desire to remain celibate; if he had given him permission, we would have gotten ourselves castrated."

حَدَّثَنَا أَبُو مَرْوَانَ، مُحَمَّدُ بْنُ عُثْمَانَ الْعُثْمَانِيُّ حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنِ الرَّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ سَعْدٍ، قَالَ لَقَدْ رَدَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى عُثْمَانَ بْنِ مَطْعُونِ التَّيْبَلِيِّ وَلَوْ أُذِنَ لَهُ لَأَخْتَصَيْنَا .

Grade: Sahih (Darussalam)

English reference : Vol. 3, Book 9, Hadith 1848

Arabic reference : Book 9, Hadith 1921

11) *Sa'eed bin Al-Musayyab narrated from Sa'd bin Abi Waqqas:*

Al-Hakim collected a narration similar to that of AtTirmidhi in his Mustadrak, and he said, *"It is Sahih according to the criteria of the Two Sheikhs and they did not record it."*

Al-Hakim narrated that Jubayr bin Nufayr said,

"I performed Hajj once and visited Aishah and she said to me, `O Jubayr! Do you read (or memorize) AlMa'idah?"

I answered `Yes.'

She said, `It was the last Surah to be revealed. Therefore, whatever permissible matters you find in it, then consider (treat) them permissible. And whatever impermissible matters you find in it, then consider (treat) them impermissible."

Al-Hakim said, "It is Sahih according to the criteria of the Two Sheikhs and they did not record it."

Imam Ahmad recorded that Abdur-Rahman bin Mahdi related that Muawiyah bin Salih added this statement in the last Hadith,

I (Jubayr) also asked Aishah about the Messenger of Allah's conduct and she answered by saying, *"The Qur'an."*

An-Nasa'i also recorded it.

(Tafsir Ibn Katheer)

The saying of Aisha(R.A) that: **“It was the last Surah to be revealed. Therefore, whatever permissible matters you find in it, then consider (treat) them permissible. And whatever impermissible matters you find in it, then consider (treat) them impermissible.”**

This is significant because many of the final laws were revealed in Surah Al-Ma'ida. Such as halal&haram food, permission to marry Ahlul Kitab, etc

Also, this verse too was revealed in Surah Al-Ma'ida:

“This day, I have perfected your religion for you, completed My favor upon you, and have chosen for you Islam as your religion” (Qur'an 5:3)

This verse is generally thought to be known as the last verse that was revealed in Qur'an, according to majority opinion.

So, when was verse (5:87) revealed?

Surah Al-Maida focuses mainly a Christian-Jewish(Ahlul Kitab) issues and refutes their arguments and dogmas. This indicates that this was revealed at a time after the pagans were defeated. It was certainly revealed after the Victory of Makkah. Many parts of it are likely to be revealed during and after the expedition of Tabuk.

The hadiths indicate that the Prophet was on an expedition (or returned after an expedition) when he recited Verse 5:87 to reaffirm Mut'ah.

The only major expedition that the Prophet made after defeating the pagans (Victory of Makkah, Hunayn, Awtas, Siege of Taif in 8 A.H) was to Tabuk to challenge the threat from Christian Byzantine Roman empire.

Thus, Prophet recited this verse during the Tabuk expedition or after returning from Tabuk expedition to affirm the validity of Mut'ah once and for all.

It is already known that Verse 4:24 was revealed after Battle of Awtas, after the last temporary ban on Mut'ah in Battle of Hunayn. Thus Verse 4:24 established Mut'ah in sharia forever. And the Verse 5:87 strengthened it.

This is a concession from The Most Merciful to His Servants. Just like the Most Merciful gave concessions like "Tayammum" , "Qasr", etc through single verses in the Qur'an.

Mut'ah on the other hand do not have just one, but two verses as its affirmation.

Also, as we discussed earlier that none of the hadiths can establish that Mut'ah was invalidated/abrogated. All the hadiths show the same pattern: Prophet temporarily halted Mut'ah in certain situations.

Also, this explains why the sahaba were freely practicing Mut'ah during the lifetime of Prophet, Abubakr and until the first half of Omar's reign.

Ibn Uraij reported:

'Ati' reported that Jabir b. Abdullah came to perform 'Umra, 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 temporary marriage during the lifetime of the Prophet (ﷺ) and during the time of Abu Bakr and 'Umar.

وَحَدَّثَنَا الْحَسَنُ الْخُلَوَانِيُّ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، قَالَ قَالَ عَطَاءُ قَدِيمِ جَابِرِ بْنِ عَبْدِ اللَّهِ مُعْتَمِرًا فَجِئْنَاهُ فِي مَنْزِلِهِ فَسَأَلَهُ الْقَوْمُ عَنْ أَشْيَاءَ ثُمَّ ذَكَرُوا الْمُنْعَةَ فَقَالَ نَعَمْ اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرَ .

Reference : Sahih Muslim 1405 c

In-book reference : Book 16, Hadith 18

USC-MSA web (English) reference : Book 8, Hadith 3248

Its already explained why Omar and Ali(R.A) were initially against Mut'ah in the earlier chapter. Now, it's appropriate to discuss about their final position regarding Mut'ah.

Chapter-6

OMAR'S AND ALI'S OPINION ON MUT'AH

It has already made clear the circumstances why Omar(R.A) banned Mut'ah temporarily in the first place. Next, clear evidence from hadith is quoted to establish that **'Umar(R.A) actually retracted his temporary ban and changed his position.**

Quote:

According to Muhammad b. Ishaq-Yahya b. Ma'in6-Ya'qub b. Ibrahim-'Isi b. Yazid b. Da'b-'Abd al-Rahman b. Abi Zayd-'Imran b. Sawidah: I said the morning prayer with 'Umar, and he recited the Subhan chapter and one other. Then he left. I went off with him, and he asked if there was anything he could do. I told him there was, so he asked me to join him. I did so and, when he entered this house, he gave me permission [to enter]. There he was on a bed with nothing on it. I told him I wanted to give him some advice. His reply was, "The person giving good advice is welcome anytime ." I said, "Your community finds fault with you on four counts." ('Umar) put the top of his whip in his beard and the lower part on his thigh. Then he said, "Tell me more." I continued, "It has been mentioned that you declared the lesser pilgrimage forbidden during the months of the [full] pilgrimage. The Messenger of God did not do this, nor Abu Bakr, though it is permitted." He answered, "It is permitted. If they were to perform the lesser pilgrimage during the months of the pilgrimage, they would regard it as being in lieu of the full pilgrimage, and (Mecca) would be a deserted place that year, and the pilgrimage would be celebrated by no one, although it is part of God's greatness. You are right." I continued, "It is also said that you have forbidden temporary marriage, although it was a license (rukhsah) given by God. We enjoy a temporary marriage for a handful [of dates], and we can separate after three nights." He replied, "The Messenger of God permitted it at a time of necessity. Then people regained their life of comfort. I do not know any Muslim who has practiced this or gone back to it. Now anyone who wishes to can marry for a handful [of dates] and separate after three nights. You are right." I continued, "You emancipate a slave girl if she

gives birth, without her master's [consenting to] the emancipation. He replied, "I added one thing that is forbidden to another, intending only to do some good. I ask God's forgiveness." I continued, "There have been complaints of your raising your voice against your subjects and your addressing them harshly." He raised his whip, then ran his hand down it right to the end. Then he said, "I am Muhammad's traveling companion"- he had [in fact) sat behind him at the raid on Qarqarat al-Kudr. "Indeed I pasture [my flocks] well until they are satisfied. I water them and quench their thirst. I push back the she-camel that grumbles when milked. I chide the shecamel that does not stick to the road. I keep them moving. I do not drive them too fast. I gather together camels pasturing alone. I bring up camels lagging behind. I chide often and beat seldom. I raise my stick. I push away with my hand. Were it not for all this, I would be much at fault!" (The source) continued: Mu'awiyah heard this and said, "He was indeed knowledgeable about their subjects."

Source: History of Tabari, Vol.14-The Conquest of Iran, Chapter: The Events of the Year 23, Section: Some of 'Umar's Meritorious Deeds Not Previously Recorded, Page No:140 [Translated by G. Rex Smith, State University of New York Press]

This confirms without a shred of uncertainty that Omar(R.A) retracted his position and legalized Mut'ah. The reason why his second stance got so unpublicized in later years is explained by the title of the section itself: "Some of 'Umar's Meritorious Deeds Not Previously Recorded"

Thus, Mut'ah was legalized during the later years of Omar(R.A)'s reign and it became a widespread practice of the salaf. Until the first century, Mut'ah was a widespread practice among all Muslims until Imam Abu Hanifa and Imam Shafi'i took the position that it was haram due to error in their understanding of hadiths. Or perhaps, the only hadiths that reached them was about its prohibition at Khaybar.(May have Mercy Upon them) Surprisingly, Imam Malik and Imam Ahmad ibn Hanbal, held the position that Mut'ah was valid, but unfortunately, their followers went against this opinion.

Mut'ah was also practiced during the reign of 'Uthman and 'Ali.

As already stated, 'Ali's initial position was that Mut'ah was haram. It has been already demonstrated that his initial opinion was due to his misunderstanding of Prohibition in Khaybar. As already demonstrated, the idea that Mut'ah was abrogated at Khaybar is baseless. Later incidents regarding its permissibility didn't reach 'Ali(R.A) while he held the initial position for a long time.

However, unlike 'Umar, it is well-known that 'Ali had changed his opinion and concluded that Mut'ah is valid.

The following hadeeth is present in important Sunni commentaries:

Ali (RA) said: The Mut'ah is a blessing from Allah to his servants. If it were not for Umar forbidding it, no one would commit (the sin of) fornication except a Shaqi (a wretched person.)"

Reference: [Sunni Tafseer Durre Manthur Volume 2 page 140, Ayat 4:24]

Imam Suyuti(ra) is a renowned Sunni Scholar and his virtues are expounded in detail in the book of Rijjal. In his Tafseer he states that he compiled this Tafseer with good chains he found. Suyuti's recording of 'Ali's testimony is proof that he later retracted his position.

The same narration is recorded by a sahih chain in Tafseer Al-Tabari (Tafseer Al-Tabari #9042)

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

(Ref: Tafsir al-Tabari, commentary of verse 4:24, volume 6, page 588)

Also, in the following authentic Sunni Sources:

- Tafseer Durre Manthur Volume 2 p. 40
- Tafseer Gharab al Quran Volume 3 p. 6 pt 5
- Tafseer Tabari Volume 5 p.
- Tafseer Kabeer Volume 3 p. 95
- Tafseer al Abi Hayyan Volume 3 p. 18
- Kanz al Ummal Volume 8 p. 94.
- Musanaf Abdul Razaq Volume 7 p. 00
- Bidayat al-Mujtahid, by Ibn Rushd, v2, p. 8
- al-Nihaya, by Ibn al-Athir, v2, p. 49
- al-Faiq, by al-Zamakhshari, v1, p. 31
- Lisan Al-Arab, Ibn Mandhoor, v19, p. 66
- Taj al-Aroos, v10, p. 00
- Fat'h al-Bari, v9, p. 41
- Al-Iqd Al-Fareed, v2, p. 39
- Umadat al-Qari, by al-'Ayni, v8, p. 10,

All these sources have the words of 'Ali (ra):

"Ali (r) said: The Mut'ah is a blessing from Allah to his servants. If it were not for Umar forbidding it, no one would commit (the sin of) fornication except a wretched person".

In 'Lughuth al Hadeeth' Volume 4-page 9 Chapter "Meem", Maulana Waheed'ud Deen az Zaman further expands on the words of 'Ali (ra):

Hadhrath 'Ali [ra] said 'Had Umar not banned Mut'ah then the only person to fornicate would have been a disgraceful person, since Mut'ah is easy, and one can attain the objective, there would have then been no need to indulge in haraam acts'

Thus, authentically it is established that 'Ali(R.A) too finally arrived at this position. If Ali(R.A), the narrator of Khaybar incident himself, later retracted his initial opinion, then why shouldn't the opposers of Mut'ah (who claim to adhere to the Sunnah and Ijma' of sahaba) ?

Also, in reality, **Sahaba had Ijma' that Mut'ah is valid**, which shall be established appropriately at a later section.

Chapter-7

Legal Jurisprudence of Mut'ah in Fiqh of Ahlul Sunna

The fact that Mut'ah is an integral part of sharia has already been established by these unrefutable proofs.

Now the legal and fiqhi aspects of Mut'ah is discussed and explained in detail (according to the fiqh of Ahlul Sunna) so as to enlighten the layman.

1)When to contract Mut'ah?

As mentioned in hadiths above Prophet(s.a.w) permitted Mut'ah during cases of necessity such as war, travel, difficulty to contract nikah, fear of falling into zina, etc

The position of Ibn Abbas is very enlightening on this regard:

Narrated Abu Jamra: I heard Ibn 'Abbas (giving a verdict) when he was asked about the Mut'a with the women, and he permitted it (Nikah-al-Mut'a). On that a freed slave of his said to him, "That is only, when it is very badly needed and women are scarce." On that, Ibn 'Abbas said, "Yes."(Sahih Bukhari 5116)

So, based on this opinion of Ibn Abbas(R.A);

Mut'ah is

- a) Ja'iz- during situations like war, sexual difficulty, inability to do nikah, fear of falling into zina(despite taking Sunnah measures like fasting), travel, etc
- b) Makrooh- highly disliked , during normal situations
- c) Haram- Forbidden, when you are in a state of marriage and don't inform your wife. However, if your wife permits it, Mut'ah becomes makrooh during normal situations. And during extremely difficult situations like

travel, war, etc Mut'ah becomes ja'iz even without the permission of the wife.

d) Void- When it is contracted in the state of Ihram

As always there is a procedure for this. If a person seeks chastity, he must marry as ordained in the Sunnah of Rasoolullah. If he is unable to marry and fears zina(haram sexual acts like masturbation, fornication, etc) he must fast. If he is unable to fast or if fasting doesn't help, then only as a last precautionary measure, is he recommended to contract Mut'ah to protect him from falling to evil sins like prostitution, zina, etc. Same conditions apply for women.

However, what if a person does a Mut'ah contract in a Haram way?

Is that contract invalid?

It isn't invalid, and the person didn't commit zina. However, that person is a sinner for exploiting the Blessing/Concession given by Allah during difficult situations. He had no reason or necessity to contract Mut'ah, yet he still exploited it for his lust. Such a person should immediately terminate the contract and repent to Allah.

2)How to contract Mut'ah?

Conditions of Mut'ah contract are 4:

- 1) Offer from the woman
- 2) Acceptance from the man
- 3) Specified price as mahr to be given to woman(anything monetary or non-monetary)
- 4) Stipulation of time-period of the contract
- 5) Time-period must be no less than 3 days (this is clear from the Sunni hadiths about Mut'ah)

An example of Mut'ah marriage formula is as follows:

Bride: I gave myself to you in pleasure marriage for 5 months for 300\$

Groom: I accepted

Note:

- 1) Both the statements should be in past tense
- 2) It is a must that the bride uses the term “Mut’ah”/ “pleasure marriage”/ “temporary marriage”/ “pleasure contract”

Unlike Nikah, witnesses aren't necessary for this contract.

We have evidence from Hadith that Mut’ah was contracted without any witnesses. All hadiths regarding Mut’ah contract doesn't stipulate witnesses nor publicizing. According to above-quoted Hadiths, it was done without any witness.

Nor does it stipulate publicizing as per any Hadith.

This is a concession from The Most Merciful to Ummat Muhammadiyya.

Question: Why is there no need for guardian or witness in contracting Mut’ah?

Answer: Sahih hadiths confirm that Mut’ah can be contracted without a guardian or witness

Sahih Muslim Book 008, Number 3252, Bab ul Nikah:

Sabra Juhanni reported: Allah's Messenger (may peace be upon him) 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 (may peace be upon him) said: He who has any such woman with whom he had contracted temporary marriage, he should let her off.

In his commentary of this tradition, Imam Nawawi stated:

This hadith serves as proof that a Guardian and Witness is not required for Nikah Mut'ah.

3) With Whom to contract Mut'ah?

It has already been proven from the earlier explanation of verses (23:5-7) that Mut'ah partners come under the category of “right hand posses” (مَا مَلَكَتْ أَيْمَانُهُمْ).

Thus, it is established that there's no limit on the number of Mut'ah partners for a man.

(Note: This doesn't mean a man is permitted to marry as much women as he lusts. The conditions specified in 1) When to contract Mut'ah? still holds)

A Muslim man or woman can validly contract Mut'ah with any human or Jinn of the opposite sex, regardless of their religion.

This is established from the hadiths where we see Muslims contracting Mut'ah with pagans and people that do not belong to Ahlul Kitab.

However, can a Muslim woman contract Mut'ah with a person outside her religion?

The answer is, yes, she can validly do that.

This is proven from the hadith of Asma bint Abibakr(R.A) :

Abu Dawood Al-Tayaalsi

“We came to Asma Bint Abu Bakr and asked her about Mut'ah of women. She said: ‘We performed this during the lifetime of Rasulallah (صلى الله عليه وآله وسلم)’.

Hadith is Sahih

حدثنا يونس قال : حدثنا أبو داود قال : حدثنا شعبة ، عن مسلم القرني ، قال : دخلنا على أسماء بنت أبي بكر ، فسألناها عن متعة النساء ، فقالت : « فعلناها على عهد النبي صلى الله عليه وسلم

Reference source: Musnad Abu Dawood al-Tayaalsi, Volume 3, page 208, Tradition 1742

“Amongst the Sahaba exist a group that believed in the legitimacy of Mut'ah. Nasai and Tahawi have stated that Asma [ra] Bint Sidiq Akbar [ra] said: "We practised it during the life of Rasulallah(s)."

Ref: Tafseer al-Mazhari, Surah an-Nisa, page 74.

It is firmly established that after the death of the Messenger of Allah, a huge number of the Salaf (RA) consider Mut'ah to be halal, and among them Sahabah (RA). Among those Sahabah are:

1. *Asma daughter of Abubakr al-Siddiq*
2. *Jabir ibn Abdullah*
3. *Ibn Mas'ud*
4. *Ibn Abbas*
5. *Mu'awiyah ibn Abu Sufyan*
6. *Amr ibn Harith*
7. *Abu Sa'eed al-Khudri*
8. *Salamat*
9. *Ma'bad Abna' Ummayah bin Khalaf*

Ref: al-Muhalla, by Ibn Hazm (died 456 Hijri), volume 9, page 519.

We went to ask Asma' bint Abu Bakr about mut'ah of women so she said: "We did it during Rasoolullah (SAW) time".

Ref: Takhlis al-Habayr, by al-Hafiz, volume 3, page 328.

From the hadiths, Asma(R.A) affirms that Mut'ah was a common practice amongst the sahaba and that she too did it like the rest of the Sahaba. Through

Qiyas, one can assume that a Muslim woman too is permitted the same things as that of Muslim men, unless there's an explicit prohibition from Allah.

For example, a Muslim man may marry upto 4 wives but a Muslim woman is forbidden to do that. This is as per Verse 4:24 which forbids marrying married women in Verse (4:24)

Also, the prohibition of woman having sexual relationship with her slave is not based on Sunnah, but rather it was based on the Ijtihad of 'Umar(R.A) and Ijma' of the Sahaba.

And the Sahaba agreed with his decision.

Hence, based on 'Ijma' of sahaba a woman is prohibited to have sex with her male slave servants.

Similarly, there is explicit prohibition on Muslim woman from marrying(contracting nikah) to a disbeliever.

Qur'an(60:10) "They are not lawful(wives) For the Unbelievers, nor are The (Unbelievers) lawful(husbands) For them"

However, there's no such prohibition on woman with regards to Mut'ah. In the Fiqh of Ahlul Sunnah, anything that isn't explicitly prohibited by the Qur'an and the Sunnah, is by default halal.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَحْرِمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

"O you who believe! Make not unlawful the good things(Tayyibat) which Allah has made lawful to you, and transgress not. Verily, Allah does not like the transgressors." (Qur'an 5:87)

Hence, there's nothing wrong with a Muslim woman contracting Mut'ah (in halal manner obliging fiqhi conditions) with a non-Muslim human or Jinn.(be it mushrik, ahlul kitab or secular)

However, it is recommended for both Muslim men and women to contract Mut'ah with Muslims only.

But If there's temptation to fall into deviancy or fahishah or kufr, then contracting Mut'ah with a non-Muslim is haram.

So, basic principle is: Mut'ah contract of a Muslim/Muslimah is valid with any Jinn or humanbeing is valid, regardless of their Deen.

4)Does Mut'ah fortify?

Since, Mut'ah comes under the category of “right hands possess”(مَا مَلَكَتْ أَيْمَانُهُمْ) , Mut'ah does not fortify(Ihsan) in The Fiqh of Ahlul Sunna . A man owning a slave girl doesn't make him meet the criteria of Ihsan(chastity/fortification) . Similarly, a woman in Mut'ah doesn't make her meet the criteria of Ihsan(chastity/fortification) simply because they are under the category of “right hands possess”(مَا مَلَكَتْ أَيْمَانُهُمْ).

So, if a person who is known to be in Mut'ah is caught fornicating with 4 witnesses, under sharia court, he only receives the punishment for fornication, i.e., 100 lashes, since he still isn't a Muhsan.

5)Iddah

The Iddah(waiting period) of Mut'ah for a woman, is 2 menstrual cycles, once the contract is expired. For non-menstruating woman, the period is 50 days.

During this period, it is permitted for her to make a new Mut'ah contract with her previous partner. It is also permissible for her to make a Nikah contract with her previous Mut'ah partner during the same period.

However, other than that she is obliged to abstain from any sexual relationships during that period. She is also forbidden to make a Nikah or Mut'ah contract with another person during that period.

There's no Iddah for infertile women in Mut'ah.

(This mustn't be confused with Iddah of Nikah, since Iddah of Nikah is based on explicit command of Allah and must be followed to the letter. It has a far greater wisdom than determining pregnancy. However, the Iddah of Mut'ah is based solely on Ijtihad and revolves around the issue of determining pregnancy)

If a woman is found to be pregnant during Iddah of Mut'ah, she should observe her Iddah until she gives birth.

If a woman, can confirm that she's not pregnant within the Iddah period, then she can breakoff her Iddah period.

(Modern scientific technology has now enabled women to determine pregnancy accurately within 3 weeks of sexual intercourse. If a woman has access to this facility, uses it and confirms that she isn't pregnant after 3 weeks of termination of Mut'ah contract, she can breakoff from her Iddah period)

Question: What is the purpose of Iddah in Mut'ah when today parentage can be established through DNA testing?

Answer: Such a scenario requires that facilities like DNA testing, Pregnancy testing, etc are universally accessible to all humanbeings. Such a scenario is not the case today, nor is it the case in the near future. Millions of underprivileged women are illiterate, many are poor and vast majority lack any access to these facilities. Therefore, Iddah of Mut'ah must be observed by every Muslim woman.

6)How to Cancel Mut'ah Contract before Fixed Time

A Mut'ah contract maybe cancelled by a man or woman before its termination after fixed period.

If a man had sexual intercourse with the woman, he can cancel the contract before the Stipulated Time by paying her the mahr fully.

If he didn't have sexual intercourse with the woman, he can cancel the contract before the Stipulated Time by paying her half the mahr.

It is also permissible for him to cancel the contract without paying the mahr, if the woman agrees that mahr needn't be paid.

A woman can cancel the contract before the stipulated timeperiod, based on giving up her mahr in proportion to the number of days remaining.

For example, if the mahr is 100\$ for 10 days, she can cancel the contract after 6 days by giving up 40\$.

Or she needn't give up the mahr at all, if her male partner agrees to it.

7)Inheritance

A woman and man in Mut'ah contract wont inherit each other(since they come under the "righthandposses" category). However, a child born in Mut'ah is legitimate and inherits from his father. The child born in Mut'ah is fully legal and is not considered illegitimate. Islam and sharia has no room for zina.

A question may arise. A slavegirl too is "right hand posses". However, a child from the slavewoman doesn't inherit. Why?

Answer: A child born from a slavewoman is legitimate, but the child is still a slave. Slavery is one of the conditions that prohibit inheritance. His slavery is the one that blocks his inheritance. However, in the case of a child born in Mut'ah, no such roadblocks exist.

Chapter-8

REFUTING NON-SCRIPTURAL ARGUMENTS AGAINST MUT'AH

The validity of Mut'ah has already been proven in sharia through Scripture (Qur'an and Sunnah). Now the last argument used by the thick-skulled opponents of Mut'ah is pure rhetorical. Baseless accusations like Mut'ah is prostitution, rape, bestiality, etc. A'oodhubillah! They don't know they are unknowingly committing a kufri act when they themselves agree that Rasoolullah himself commanded to do Mut'ah!

This section is to clarify such arguments.

Argument 1)

“Mut'ah was abrogated by all the other verses dealing with inheritance and divorce and so forth.”

Reply:

This is seems like a scriptural argument but is such a foolish argument to have been included in the earlier sections. It doesn't deserve to be included in the Scriptural sections.

There's Ijma of the Sahaba and the unanimous Ijma' of Ahlul Sunna that nikah with a Kitabi woman is valid. As is well known, a Kitabi wife doesn't receive inheritance from her husband, since a Muslim and non-Muslim doesn't inherit each other. Can the proponents of this argument dare say that marriage with a Kitabi woman is zina? It seems like they are willing to go to depths of ridiculousness and monasticism to make their points.

Also, a slave woman and the child born out of that relationship also doesn't inherit, does this mean that Verses of Inheritance abrogated concubinage and slavery?

Ofcourse, this is ridiculous but it seems very convenient of Qur'anists, modernists and other deviants.

In any case, even if we are to accept that these other verses somehow abrogated the verse of Mut'ah, then we are left with the same perennial problem: the fact that verses that claim to abrogate the verse of Mut'ah were revealed before the verse of Mut'ah.

Besides, Verses of divorce (which are general) in Surat al-Baqarah, they are the first of a Madinan Surah which was revealed before the verses of Surat an-Nisa' that encompass the verse of Mut'ah. Similar is the case with the verses about the number of wives, which appear in Surat an-Nisa before the verse of Mut'ah, and similar the verses of inheritance, which occur before the verse of Mut'ah in the same context and in the same surah. As such, the specific verse (verse of Mut'ah) came down after the general verse.

[Remember, Verse of Mut'ah was revealed after the Battle of Autas in 8 A.H , latter Medinan period]

Argument 2)

Mut'ah is so degenerate, promiscuous and disgusting

Reply:

Isn't that what Christian Orientalists and other Islamophobes accuse Islam of when they talk about polygamy and concubinage? Isn't this the exact same rhetoric? Mut'ah too is proven from the Scripture same as polygamy and concubinage. So, are you accusing the Qur'an and the Sunnah of degeneracy and promiscuity?

Perhaps, you must change your "Greco-Roman" concept of "degeneracy, promiscuity and disgust".

Their laws evolved separately and was highly influenced by Christianity and other Pagan traditions.

Marriage in their worldview is primarily an eternal union of souls in Paradise, which was a ridiculous, blasphemy innovated by the Catholic Church into the religion of Abraham. They even mock marriage and celebrate celibacy and monasticism. Our Deen is not that.

Narrated 'Aishah:

It was narrated from 'Aishah that the Messenger of Allah forbade celibacy.

أَخْبَرَنَا إِسْمَاعِيلُ بْنُ مَسْعُودٍ، قَالَ حَدَّثَنَا خَالِدٌ، عَنْ أَشْعَثَ، عَنِ الْحَسَنِ، عَنْ سَعْدِ بْنِ هِشَامٍ، عَنْ عَائِشَةَ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ التَّبْتُلِ .

Grade : Sahih (Darussalam)

Reference : Sunan an-Nasa'i 3213

In-book reference : Book 26, Hadith 18

English translation : Vol. 4, Book 26, Hadith 3215

This ayah is enough to refute these Greco-Roman arguments

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَحْرِمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

"O you who believe! Make not unlawful the good things (Tayyibat) which Allah has made lawful to you, and transgress not. Verily, Allah does not like the transgressors." (Qur'an 5:87)

Ali bin Abi Talhah said that Ibn Abbas said,

"This Ayah was revealed about some of the Companions of the Prophet who said, 'We should cut off our male organs, abandon the desires of this life and travel in the land, just as the Ruhban (monks) do.' When the Prophet heard of this statement, he summoned them and asked them if they made this statement and they answered 'Yes.'

The Prophet said:

لِكِنِّي أَصُومُ وَأُفْطِرُ وَأُصَلِّي وَأَنَاؤم وَأَنْكِحُ النِّسَاءَ فَمَنْ أَحَدَ بِسُنَّتِي فَهُوَ مِنِّي وَمَنْ لَمْ يَأْخُذْ بِسُنَّتِي فَلَيْسَ مِنِّي

I fast and break my fast, pray and sleep, and marry women. Whoever follows my Sunnah is of me, and whoever abandons my Sunnah is not of me."

(Tafsir Ibn Kathir)

Nikah in Islam is basically an aqd(contract).

Mut'ah too is another aqd(contract) with an additional stipulation of a time limit.

Islam upholds the true Abrahamic spirit.

Argument 3) Zina and Mut'ah are for a fixed time, hence they are both haram

Reply:

The 3 Sunni schools of fiqh, Hanafi, Shafi'i and Maliki have affirmed the validity of nikah with a prior agreement to divorce. Do the opponents of Nikah consider this to be zinah as well? A'oodhubillah

Argument 4): Zina and Mut'ah are done in hiding, hence they are both haram

Reply:

What can anyone respond to this immense logic put forth? When any person intends to copulate with his wife, does he perform this act in public? Does any Khatib declare at the time of the Friday Sermon that he shall sleep with his wife tonight?

Argument 5): Mut'ah is like khamr. Khamr too was prohibited in stages, so was Mut'ah.

Reply:

This is a very foolish analogy. Khamr was prohibited by Allah through 3 verses in Qur'an in 3 stages. Mut'ah on the other hand has a whole verse in Qur'an which sanctions (4:24) and another Ayah that strengthens it (5:87). Besides, all these Ayahs were revealed after the temporary bans on Mut'ah by the Prophet after which he never halted it.

And unlike Khamr, Prophet commanded to people to contract Mut'ah by using the term "اسْتَمْتَعُوا" (istamti'uu) in several hadiths. This term is identical to the term "istamta'tum" used in Verse 4:24.

So, people who are comparing Mut'ah to khamr are indirectly implying that it wouldn't be inappropriate if our beloved Holy Prophet himself commanded to do drink khamr! (A'oodhubillah!)

Chapter-9

OPINIONS OF SUNNI SCHOLARS ON MUT'AH

Amongst the Ummah are so many great scholars who deem Mut'ah to have been abrogated, whilst others say that Mut'ah still remains.

(Tafseer Kabir Volume 3 p. 95, Surah Nisa verse 24)

Some Sunni scholars deem Mut'ah permissible, in the same way the Sahaba Ibn Abbas and Imran bin Hussein deemed it permissible.

(Tafseer Haqqani Volume 2)

Waheed'udeen Zaman states:

On the topic of Mut'ah, differences have arisen amongst the Sahaba, and Ahlul Hadith (people of Hadith), and they deemed Mut'ah to be permissible, since Mut'ah under the Shari'ah was practised and this is proven, and as evidence of permissibility they cite verse 24 of Surah Nisa as proof. The practise of Mut'ah is definite and there is ijma (consensus) on this and you can't refute definite proof by using logic.

(Nuzul al Ibrar fi fiqh Mukthasar Nabi al Mukthar p. 3)

Former Leader of Jamaat-e-Islam, Sayyid Abul A'ala Maudoodi deemed Mut'ah to be permissible.

"Whether Mut'ah is haram or halaal is a dispute that creates dissension between Shi'as and Sunnis, and has resulted in heated discussion, it is not difficult to ascertain the truth. A man comes across such situations when Nikah becomes impossible and he is forced to make a distinction between Zina and Mut'ah. In such scenarios practising Mut'ah is a better option to Zina"

(Former Leader of Jamaat-e-Islami, Sayyid Abul A'ala Maudoodi in his periodical Turjuman al Qur'an in his commentary of Surah Mu'minun, [1955 edition])

Maulana Waheed'ud Deen az Zaman al Hanafi deemed Mut'ah to be permissible

The legendary Deobandi Sunni scholar of Indian subcontinent, Maulana Waheed'ud Deen az Zaman translated the words of Ibn Mas'ud, in his Sharh of Sahih al Bukhari, Tayseer al Bari Volume 6 page 111 (printed in Karachi) as follows:

He gave us the permission to use cloth and contract Nikah, i.e. Mut'ah with women.

The reference is absolutely clear that the Prophet gave the order to contract Mut'ah, and curiously in his commentary of this tradition Zaman says as follows:

From this hadith it can be seen that the usage of Mut'ah arises in 'needed' circumstances such as travel,

it cannot be utilized in situations where no need arises".
(Tayseer al Bari Volume 6 page 111)

Maliki scholar Muhammad al-Tahir Ibn Ashur deemed Mut'ah to be Halal

Muḥammad al-Ṭahir Ibn Ashur (d. 1972) was a legendary Sunni Maliki jurist from Tunisia and was the Sheikh of Zaytuna, a position that is somewhat similar to Sheikh of Al-Azhar and that makes him the highest Maliki scholar of his era. In his authority work, Tafsir al-Taḥrir wa-al-Tanwir, (Volume 1 page 298):

وقد ثبت أن الناس استمتعوا في زمن أبي بكر وعمر ثم نهى عنها عمر في آخر خلافته

“It has been proven that the people practised Mut'ah during the time of Abu Bakr and Umar, then Umar prohibited it in the last part of his reign”.

On the same page:

والذي يستخلص من مختلف الأخبار أن المتعة أذن فيها رسول الله صلى الله عليه و سلم مرتين ونهى عنها مرتين والذي يفهم من ذلك أن ليس ذلك بنسخ مكرر ولكنه إناطة بإباحتها بحال الاضطرار فاشتبه على الرواة تحقيق عذر الرخصة بأنه نسخ

The conclusion of all different traditions is that the Allah's Apostle allowed Mut'ah twice and prohibited it twice, and what we understand of these is that is not for abrogating it repeatedly but it is to clarify that Mut'ah is permissible only for emergencies but **the narrators got confused and thought that was meant abrogation(Naskh).**

Similarly, the author stated:

والذي استخلصناه في حكم نكاح المتعة أنه جائز عند الضرورة

“The result which I end up is that Mut’ah is lawful in emergencies”.

(Tafsir al-Taḥrīr wa-al-Tanwīr, Volume 5 page 10):

وعن علي بن أبي طالب ، وعمران بن حصين ، وابن عباس ، وجماعة من التابعين والصحابة أنهم قالوا بجوازه

“And quoting Ali bin Abi Talib, Imran bin Husain, Ibn Abbas and a some of the Taabi’een and Sahaba said that it is allowed”

The Sunni Scholar Khaled Abou-El Fadl also considers Mut’ah to be a valid contract:

See: <https://www.searchforbeauty.org/2019/01/23/fatwa-is-mut-ah-marriage-temporary-marriage-permissible-can-he-do-it-without-me-knowing/>

FATWA: Is Mut’ah (temporary marriage) permissible?

Imam Fakhruddin Ar-Razi stated that Mut’ah was valid

It has been reported that `Umar said from the pulpit:

"Two Mut`ah existed during the lifetime of the Messenger of God (SAW) and I now forbid them: Mut`ah of Hajj and Mut`ah of marriage."

(The author goes on by saying) This is a proof that Mut`ah of marriage was permissible during the period of Gods Messenger (SAW). And his (`Umar's) saying "and I now forbid them" proves that the Messenger of God (SAW) did not prohibit them, rather it was `Umar who prohibited them. And if these matters are proven then we say: these sayings prove to us that the Mut'ah was stable under the period of Gods Messenger (SAW). And he alayhissalam did not forbid, and he is not amongst those who forbid, therefor it is Umar who forbade. And if these matters are

proven therefore it can't be forbidden because it was allowed under the period of Gods Messenger (SAW), and he (the Prophet (SAW)) did not forbid it. Therefore, it is Umar who has forbidden it. And this is the saying that was used by Imran bin al-Husayn when he said: God has sent an ayah on Mut'ah, and He has not forbidden it with another ayah. And Gods Messenger (SAW) told us to do it, then a man said of his own opinion whatever he wished [to say], Umar wants to forbid Mut'ah, and this is a sentence used by those who allow Mut'ah.

(Ref: Tafsir Fakhruddin al-Razi, volume 10, page 54.)

[Note: of course the ban on Mut'ah by 'Umar(R.A) was only temporary]

Imam Malik held the opinion that Mut'ah was halal

Imam Malik, one of the 4 Imams of the Fiqh of Ahlul Sunna, held the opinion that Mut'ah is valid.

وقال مالك : هو جائز لأنه كان مباحا فيبقى إلى أن يظهر ناسخة

Malik said: 'It is lawful because it was Mubah so it will remain (lawful) till the abrogation appears'

(Al Hidayah, Volume 1 page 186)

The Book of Al-Hidaya (الهداية شرح بداية المبتدي) is one of the relied upon standard Hanafi Fiqh Text authored by al-Imam Abu al-Hasan Ali ibn Abi Bakr al-Marghinani (أبو الحسن علي بن أبي بكر (المرغيناني الحنفي), May Allah shower him with Mercy.

This shows that Imam Malik understood the narration of prohibition at Khyber as only a temporary ban. This narration is included in his Muwatta.(as referenced earlier) Besides, it was the Ijma' of Ahlul Sunna that Allah ordained Mut'ah through verse 4:24 during the era of the Salaf and first 10 centuries.

However, the followers of Imam Malik rejected this position basing another opinion narrated about him.

In Al-Mudawwana al-kubra compiled by al-Imam Sahnun ibn Saeed al-Tanukhi (died 240 H), who gathered the bulk of Imam Malik's positions through Imam Malik's direct student al-Imam Abdurrahman ibn al-Qaasim (died 191 H) and who accompanied Imam Malik for 20 years (May Allah shower them with Mercy).

Under the section entitled "Marriage to a set time" 2/130 (النكاح إلى أجل), he says:

I said: If he marries a woman, with the approval of her guardian, upon a dowry which they specified, and [specifies] that he shall marry her for a month, or a year, or two, will this marriage be considered valid?

He said: Imam Malik said: That marriage is void/invalid (Baatil). If he marries her to a specified period of time then that marriage becomes void.

قلت: أرأيت إذا تزوج امرأة بأمر الولي بصداق قد سماه تزوجها شهرا أو سنة أو سنتين أيصلح هذا النكاح؟ قال: قال مالك: هذا النكاح باطل، إذا تزوجها إلى أجل من الأجل فهذا النكاح باطل، قال: وقال مالك: وان تزوجها بصداق قد سماه وشرطوا على الزوج ان أتي بصداقها إلى أجل كذا وكذا من الأجل وإلا فلا نكاح بينهما؟ قال مالك: هذا النكاح باطل، قلت: دخل بها أو لم يدخل بها؟ قال: قال مالك: هو مفسوخ على كل حال دخل بها أو لم يدخل بها، قال مالك: وإنما رأيت فسخه لأنني رأيت نكاحا لا يتوارث عليه أهله

Thus, we have 2 conflicting opinions of Imam Malik.

However, the majority of followers of Imam Malik took the latter position without considering into account the proper fiqhi methodology.

In such a scenario, they should have properly understood the famous Qur'an verse:

وَمَا اخْتَلَفْتُمْ فِيهِ مِنْ شَيْءٍ فَحُكِّمُوهُ إِلَى اللَّهِ ذَلِكُمْ اللَّهُ رَبِّي عَلَيْهِ تَوَكَّلْتُ وَإِلَيْهِ أُنِيبُ

“And in whatsoever you differ, the decision thereof is with Allah. Such is Allah, my Lord in Whom I put my trust, and to Him I turn in repentance”

(Qur'an 42:10)

وَمَا اخْتَلَفْتُمْ فِيهِ مِنْ شَيْءٍ فَحُكِّمُوهُ إِلَى اللَّهِ

“And in whatsoever you differ, the decision thereof is with Allah.”

means, in whatever issue you differ. This is general in meaning and applies to all things.

ءِ فَحُكِّمُوهُ إِلَى اللَّهِ

“the decision thereof is with Allah.”

means, He is the Judge of that, according to His Book and the Sunnah of His Prophet.

ذٰلِكُمْ اللّٰهُ رَبِّي

"Such is Allah, my Lord,"

means, (He is) the Judge of all things.

عَلَيْهِ تَوَكَّلْتُ وَالْيَهُ انِّيْبُ

"in Whom I put my trust, and to Him I turn in repentance"

This is very important. This means when in existential doubt, 'I refer all matters to Him.' The Furqan(Criterion/Standard Bearer) is the Paramount source since it is through this that Allah communicates to you.

We have already established from the Sunnah that Mut'ah is valid contract. If the disagreement was over which interpretation of Sunnah, the mainstream followers of Imam Malik should have given precedence to the Qur'an ayah 4:24, which indeed was unanimously understood as Verse of Mut'ah during that era.

However, they erred in their methodology and took the latter opinion of Imam Malik which was his initial position.

His original and final position, was that he indeed believed in the permissibility of Mut'ah as was stated in Al-Hidaya.

This is also recorded in Fatawa Al-Qadi Khan.

"Mut'ah cannot be Nikah, Mut'ah is false, it should not be practised, Ibn Abbas and Imam Malik had differing views, in their views this was practicable"

(Fatawa Qadhi Khan Volume 1 p 151 al Nikah Fayl)

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

According to Imam Ahmed bin Hanbal, Mut'ah is Makrooh and can be done when it is extremely necessary but it is not Haram. Imam Ibn Qudamah records in his legendary Al-Mughni, Volume 7 page 571:

وقال أبو بكر فيها رواية أخرى : أنها مكروهة غير حرام ، لأن ابن منصور سأل أحمد عنها ؟ فقال : يجتنبها أحب إلي ، قال : فظاهر هذا الكراهة دون التحريم

Abu Bakr said that there is another narration which deems it [Mut'ah] Makrooh and not Haram because Ibn Mansur asked Ahmad about it? and he (Ahmad) replied: 'According to me it is better to avoid it'. He (Abu Bakr) said: 'Apparently this text refers to that which is disliked[Makrooh] and not prohibited [Tahreem].

Another report on Imam Hanbal.

It(Mut'ah) is also said that it was permitted due to necessity. Based on this, once necessity calls for it, then it becomes permissible. This is a reported opinion from Imam Ahmad. Another opinion argues that it was not absolutely prohibited and it is still under permissibility.

(Reference: Winning Hearts & Souls, Expeditions and delegations in lifetime of the prophet (Peace and Blessings of Allah be upon him) Taken from *Al-Bidayah wan-Nihayah*,By:Ibn Katheer, Translation & Researched By: Darussalam Research, Center Copyright: Darussalam Publishers & Distributers)

Ibn Katheer's in his Tafseer, Surah an-Nisa, Page 3 under the verse 4:24 said:

"Ibn Abbas and other Sahaba said that Mut'ah can be utilised when needed, Ibn Hanbal also narrated the same".

al Bidayah wa al Nihaya Volume 4 and p. 94, Dhikr Khayber:

"In the same way that Ibn Abbas deemed Mut'ah to be halaal, Imam Ibn Hanbal also stated Mut'ah was halaal"

Imam Ahmad ibn Hanbal's position is not surprising. This is because, like Imam Shafi'i, he too held the authentic position that Qur'an can't be abrogated by Sunnah or anything other than Qur'an. Since, the Verse of Mut'ah was unanimously accepted by early Ahlul Sunna, this position is the only rational and logical position he would have held. However, the majority of Ahmad's students affirm that he took the position that Mut'ah was abrogated. They believe that this was the position of the early Muslims and the generation which followed them. However, they cant quote an authentic narration attributed to Imam Hanbal which states that he didn't believe in the permissibility of Mut'ah.

They have erred even according to the methodology adopted by Imam Ahmad.

Imam Ahmad ibn Hanbal pleaded, "Do not follow me or Malik or Shafi'i or Awzaai or Thawri, and rather take from the source (Qur'an and Sunnah) from which we have taken."

According to this methodology, Hanbal stipulates that Qur'anic verse cant be abrogated by Sunnah, so by definition, the default position of Hanbali school must have been to sanction the validity of Mut'ah. However, the followers of Imam Hanbal erred in this regard. (May Allah Have Mercy upon them)

Mut'ah is valid in Shafi'i methodology as well

We have already established that the practice of Mut'ah is validated by the 2 Qur'anic verses (4:24) & (5:87)

Imam Shafi'i held the position that Mut'ah is unlawful.

His followers also took his position.

However, they too erred when taking this position.

Imam Shafi'i stipulated that Qur'an cannot be abrogated by any hadith.

So the hadiths which used to reach him were mostly hadiths on temporary bans on Mut'ah which he mistakenly understood as permanent bans.

Also, it seems he didn't understand correctly the implications of Verse 4:24 and 5:87.

Imam Shafi'i is reported to have said: "I never argue with anyone without praying that Allah may put the truth on the tongue of that person." He also said: "My opinion is correct but the possibility of error exists."

So, according to Imam Shafi'i's methodology, his followers should first understand his methodology and then take position.

Through verses 4:24 and 5:87 Mut'ah has been sanctioned by Allah and no verse was revealed that abrogated it. Hence, by definition, in Shafi'i methodology, Mut'ah has full legal validity.

I myself, being a follower of mad'hab of Imam Shafi'i (may Allah have mercy upon him) have come to this conclusion and hope more of my Shafi'i comrades in fiqh adopt this position.

It was historically decreed that Mut'ah was fully sanctioned in Maliki school!

Dictionary of Islam, Vol 2., pg. 438

At the request of the Emperor(Legendary Sunni Mughal emperor of Hindustan, Akbar), Bada'oni gave the following summary of the discussion: *“Imam Malik and Shias are unanimous in looking upon Mut'ah marriages as legal; Imam Shafi'i and great Imam Abu Hanifa look upon mut'ah marriages as illegal. But should at any time a Qazi of the Maliki sect decide that Mut'ah is legal, it is legal, according to common belief, even for Hanafis and Shafi'is. Every other opinion on this subject is idle talk.” This saying pleased the Emperor, and he at once appointed a Qazi, who gave a decree which made Mut'ah marriages legal”*

(Another Reference of this event in detail: The Muslim Question: Understanding Islam and Indian History

By Raziuddin Aquil)

Mut'ah marriages were legal in the mightiest Sunni Muslim empire of Indian subcontinent, the Mughal Empire. It was also one amongst the three Gunpowder Islamic empires(alongside Ottomans and Safavids)

Mut'ah marriages were a common practice during early Islam(first century) until the codification of mad'habs began. Followers of Imam Abu Hanifa, the mightiest Sunni Imam in Fiqh, adopted the position that Mut'ah was illegal(though no reliable narration is attributed to Imam Abu Hanifa directly) and as a result of its prominence, this also influenced the other 3 schools, going against the opinion/methodologies of the very same founders of these schools.

Chapter-10

SAHABA HAD IJMA' ON VALIDITY OF MUT'AH

As established earlier, it was well-known that Sahaba freely practiced Mut'ah until 'Umar(R.A) temporarily banned. However, after he reverted his ban the practice was again revived. During the first century, practice of Mut'ah was common in the Muslim Ummah until the codification of 4 schools of Fiqh by the followers of its founders.

This codification misunderstood the temporary halts on Mut'ah by the Prophet according to circumstances as commands that abrogated Mut'ah. As already proven, such an interpretation is simply false and completely goes against what Allah ordained through both the Qur'an and the Sunnah.

Also, hadiths that validate Mut'ah include Qudsi hadiths which have the highest status for any hadith. None of the hadiths that temporarily halted Mut'ah have this status.

Next, we discuss about the Sahaba who believed in the validity of Mut'ah and practiced it.

Another tradition that Omar (R.A) banned was Mut'ah in Hajj. Like his temporary ban on Mut'ah with women, this too was based on his ijtiḥad.

[Note: Mut'ah of Hajj is a relaxation time period in hajj and is a well-known concession accepted unanimously by Ahlul Sunna]

The following hadiths tells us why 'Umar (R.A) reached this conclusion:

1)Abu Musa, (Allah be pleased with him) reported that he used to deliver religious verdict in favor of Hajj Tamattu'. A person said to him:

Exercise restraint in delivering some of your religious verdicts, for you do not know what the Commander of Believers has introduced in the rites (of Hajj) after you (when you were away in Yemen). He (Abu Musa,) met him (Hadrat Umar) subsequently and asked him (about it), whereupon 'Umar said: I know that Allah's Apostle (May peace be upon

him) and also his Companions did that (observed Tamattu'), but I do not approve that the married persons should have intercourse with their wives under the shade of the trees, and then set out for Hajj with water trickling down from their heads.

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى، وَابْنُ، بَشَّارٍ قَالَ ابْنُ الْمُثَنَّى حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ إِبْرَاهِيمَ بْنِ أَبِي مُوسَى، عَنْ أَبِي مُوسَى، أَنَّهُ كَانَ يُفْتِي بِالْمُنْعَةِ فَقَالَ لَهُ رَجُلٌ رُوِيَكَ بَعْضُ فُتَيَّاكَ فَإِنَّكَ لَا تَدْرِي مَا أَحَدَّثَ أَمِيرُ الْمُؤْمِنِينَ فِي النَّسْكِ بَعْدَ حَتَّى أَقْبِيَهُ بَعْدَ فَسَالَهُ فَقَالَ عُمَرُ قَدْ عَلِمْتُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ فَعَلَهُ وَأَصْحَابُهُ وَلَكِنْ كَرِهْتُ أَنْ يَطَّلُوا مُعْرَسِينَ بِهِنَّ فِي الْأَرَكَ ثُمَّ يَرُوحُونَ فِي الْحَجِّ تَقَطُّرُ رُءُوسُهُمْ .

Reference : Sahih Muslim 1222

In-book reference : Book 15, Hadith 170

USC-MSA web (English) reference : Book 7, Hadith 2814

2) It was narrated that Abu Musa said that:

he used to issue Fatwas concerning Tamattu' Then a man said to him: "Withhold some of your Fatwas, for you do not know what the commander of the Believers introduced into the rites subsequently." Then when I met him, I asked him. 'Umar said: "I know that the Messenger of Allah and his companions did it, but I did not like that people should lay with their wives in the shade of the Arak trees, and then go out for Hajj with their heads dripping."

أَخْبَرَنَا مُحَمَّدُ بْنُ الْمُثَنَّى، وَمُحَمَّدُ بْنُ بَشَّارٍ، - وَاللَّفْظُ لَهُ - قَالَ حَدَّثَنَا مُحَمَّدٌ، قَالَ حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ إِبْرَاهِيمَ بْنِ أَبِي مُوسَى، عَنْ أَبِي مُوسَى، أَنَّهُ كَانَ يُفْتِي بِالْمُنْعَةِ فَقَالَ لَهُ رَجُلٌ رُوِيَكَ بَعْضُ فُتَيَّاكَ فَإِنَّكَ لَا تَدْرِي مَا أَحَدَّثَ أَمِيرُ الْمُؤْمِنِينَ فِي النَّسْكِ بَعْدَ . حَتَّى أَقْبِيَهُ فَسَأَلْتُهُ فَقَالَ عُمَرُ قَدْ عَلِمْتُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ فَعَلَهُ وَلَكِنْ كَرِهْتُ أَنْ يَطَّلُوا مُعْرَسِينَ بِهِنَّ فِي الْأَرَكَ ثُمَّ يَرُوحُوا بِالْحَجِّ تَقَطُّرُ رُءُوسُهُمْ .

Grade: Sahih (Darussalam)

Reference : Sunan an-Nasa'i 2735

In-book reference : Book 24, Hadith 0

English translation : Vol. 3, Book 24, Hadith 2736

3) It was narrated from Ibrahim bin Abu Musa:

“Abu Musa Al-Ash’ari used to issue rulings concerning Tamattu’. Then a man said to him: ‘Withhold some of your rulings, for you do not know what the Commander of the Believers has introduced into the rites after you.’ (Abu Musa said:) ‘Then when I met him later on, I asked him.’ ‘Umar said: ‘I know that the Messenger of Allah (ﷺ) and his Companions did it, but I did not like that people should lie with their wives in the shade of the Arak trees and then go out for Hajj with their heads dripping,’ (i.e. due to the bath after sexual relations).”

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمَحَمَّدُ بْنُ بَشَّارٍ، قَالَ حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، ح وَحَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ، حَدَّثَنِي أَبِي قَالَ، حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنِ عُمَارَةَ بْنِ عُمَيْرٍ، عَنِ إِبْرَاهِيمَ بْنِ أَبِي مُوسَى، عَنِ أَبِي مُوسَى الْأَشْعَرِيِّ، أَنَّهُ كَانَ يُفْتِي بِالْمُتْعَةِ فَقَالَ لَهُ رَجُلٌ رُوِيَكَ بَعْضُ فُتْيَاكَ فَإِنَّكَ لَا تَدْرِي مَا أَحَدَثَ أَمِيرُ الْمُؤْمِنِينَ فِي النَّسْكِ بَعْدَكَ . حَتَّى لَقِيْتُهُ بَعْدُ فَسَأَلْتُهُ فَقَالَ عُمَرُ قَدْ عَلِمْتُ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَعَلَهُ وَأَصْحَابُهُ وَلَكِنِّي كَرِهْتُ أَنْ يَظْلَمُوا بِهِنَّ مُعْرَسِينَ تَحْتَ الْأَرَاكِ ثُمَّ يَرُوحُونَ بِالْحَجِّ تَفْطُرُ رُءُوسَهُمْ .

Grade: Sahih (Darussalam)

English reference : Vol. 4, Book 25, Hadith 2979

Arabic reference : Book 25, Hadith 3093

This prohibition of Mut’ah on Hajj by ‘Umar(R.A) too was temporary and by no means permanent. He used his Ijtihad for a greater good.

And then later, when the conditions changed, this practice of Mut’ah of Hajj was revived during Khilafah of ‘Uthman(R.A)

1) Narrated Marwan bin Al-Hakam:

I saw `Uthman and `Ali. `Uthman used to forbid people to perform Hajj-at-Tamattu` and Hajj-al- Qiran (Hajj and `Umra together), and when `Ali saw (this act of `Uthman), he assumed Ihram for Hajj and `Umra together saying, "Labbaik for `Umra and Hajj," and said, "I will not leave the tradition of the Prophet (ﷺ) on the saying of somebody."

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا غُنْدَرٌ، حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنِ عَلِيِّ بْنِ حُسَيْنٍ، عَنِ مَرْوَانَ بْنِ الْحَكَمِ، قَالَ شَهِدْتُ عُثْمَانَ وَعَلِيًّا - رَضِيَ اللَّهُ عَنْهُمَا - وَعُثْمَانُ يَنْهَى عَنِ الْمُتْعَةِ وَأَنْ يُجْمَعَ بَيْنَهُمَا . فَلَمَّا رَأَى عَلِيٌّ، أَهَلَ بِهِمَا لَبَيْكَ بِعُمْرَةٍ وَحَجَّةٍ قَالَ مَا كُنْتُ لِأَدْعَ سُنَّةَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِقَوْلِ أَحَدٍ .

Reference : Sahih al-Bukhari 1563

In-book reference : Book 25, Hadith 49

USC-MSA web (English) reference : Vol. 2, Book 26, Hadith 634

2) Narrated Sa'id bin Al-Musaiyab:

'Ali and 'Uthman differed regarding Hajj-at-Tamattu' while they were at 'Usfan (a familiar place near Mecca). 'Ali said, "I see you want to forbid people to do a thing that the Prophet (ﷺ) did?" When 'Ali saw that, he assumed Ihram for both Hajj and 'Umra.

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ الْأَعْوَرُ، عَنْ شُعْبَةَ، عَنْ عَمْرِو بْنِ مُرَّةَ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، قَالَ اخْتَلَفَ عَلِيٌّ وَعُثْمَانُ - رَضِيَ اللَّهُ عَنْهُمَا - وَهُمَا بِعُسْفَانَ فِي الْمُنْتَعَةِ، فَقَالَ عَلِيٌّ مَا تُرِيدُ إِلَّا أَنْ تَنْهَى عَنْ أَمْرِ فَعَلَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. فَلَمَّا رَأَى ذَلِكَ عَلِيٌّ أَهْلًا بِهِمَا جَمِيعًا.

Reference : Sahih al-Bukhari 1569

In-book reference : Book 25, Hadith 55

USC-MSA web (English) reference : Vol. 2, Book 26, Hadith 640

3) Sa'eed bin Al-Musayyab said:

"Ali and 'Uthman performed Hajj, and when we were partway there, 'Uthman forbade Tamattu, 'Ali said 'When you see him setting out, set out with him (saying the Talbiyah for 'Umrah)So 'Ali and his companions recited the Talbiyah for 'Umrah, and 'Uthman did not forbid them. 'Ali said: 'Have I not been told that you did.' Ali said to him: 'Did you not hear that the Messenger of Allah did Tamattu? He said: 'Of course

أَخْبَرَنَا عَمْرُو بْنُ عَلِيٍّ، قَالَ حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، قَالَ حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ حَزْمَةَ، قَالَ سَمِعْتُ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ حَجَّ عَلِيٌّ وَعُثْمَانُ فَلَمَّا كُنَّا بِبَعْضِ الطَّرِيقِ نَهَى عُثْمَانُ عَنِ التَّمَتُّعِ فَقَالَ عَلِيٌّ إِذَا رَأَيْتُمُوهُ قَدْ ارْتَحَلَ فَارْتَحِلُوا . فَلَبَّى عَلِيٌّ وَأَصْحَابُهُ بِالْعُمْرَةِ فَلَمَّ يَنْهَهُمُ عُثْمَانُ فَقَالَ عَلِيٌّ أَلَمْ أُخْبَرَ أَنَّكَ تَنْهَى عَنِ التَّمَتُّعِ قَالَ بَلَى . قَالَ لَهُ عَلِيٌّ أَلَمْ تَسْمَعْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَمَتَّعَ قَالَ بَلَى .

Grade: Sahih (Darussalam)

Reference : Sunan an-Nasa'i 2733

In-book reference : Book 24, Hadith 0

English translation : Vol. 3, Book 24, Hadith 2734

4) *Salim bin 'Abdullah narrated that he had heard a man from AshSham asking 'Abdullah bin 'Umar about Tamattu' after "Umrah until Hajj, so 'Abdullah bin 'Umar said: "It is lawful." The man from AshSham said: "But your father prohibited it." So 'Abdullah bin 'Umar said: "Is the order to follow my father or is the order (to follow) for the Messenger of Allah a?" The man said: "Rather it is for the Messenger of Allah." So, he said: "Indeed the Messenger of Allah did it." (Sahih)*

This Hadith is Hasan Sahih.

Abu 'Eisa said: The Hadith of Ibn 'Abbas is a Hasan Hadith. There are those among the people of knowledge among the Companions of the Prophet ii and others who preferred Tamattu' after "Umrah. Tamattu' is for a man to enter into "Umrah during the months of Hajj and stay there, as one who may gratify himself until he performs Hajj; he is required to slaughter whatever Hady is facilitated for him, and if he does not find one then he fasts for three days during Hajj, and seven when he returns to his family. When the one performing Tamattu' fasts the three days during Hajj, it is recommended that he fast during the ten (days), and that the last of them be the Day of 'Arafah. If he does not fast during the ten days then he does so during the Days of Tashriq according to the view of some of the people of knowledge among the Companions of the Prophet . Among them were Ibn 'Umar and 'Aishah, and it is the view of Malik, Ash-Shāfi'i, Alimad and Ishaq. Some of them said that he does not fast the Days of Tashriq; this is the saying of the people of Al-Kufah. Abu 'Elsa said: The people of Hadith prefer Tamattu' with "Umrah until Hajj]. This is the view of AshShafi'i, Ahmad, and Ishaq.

حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنِي يَعْقُوبُ بْنُ إِبرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحِ بْنِ كَيْسَانَ، عَنْ ابْنِ شِهَابٍ، أَنَّ سَالِمَ بْنَ عَبْدِ اللَّهِ، حَدَّثَهُ أَنَّهُ، سَمِعَ رَجُلًا، مِنْ أَهْلِ الشَّامِ وَهُوَ يُسْأَلُ عَبْدَ اللَّهِ بْنَ عُمَرَ عَنِ التَّمَتُّعِ بِالْعُمْرَةِ إِلَى الْحَجِّ فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ هِيَ حَلَالٌ . فَقَالَ الشَّامِيُّ إِنَّ أَبَاكَ قَدْ نَهَى عَنْهَا . فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ أَرَأَيْتَ إِنْ كَانَ أَبِي نَهَى عَنْهَا وَصَنَعَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَمَرَ أَبِي تَنْبُحٍ أَمْ أَمَرَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ الرَّجُلُ بَلْ أَمَرَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . فَقَالَ لَقَدْ صَنَعَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . قَالَ هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ . قَالَ وَفِي الْبَابِ عَنْ عَلِيٍّ وَعُثْمَانَ وَجَابِرٍ وَسَعْدٍ وَأَسْمَاءَ بِنْتِ أَبِي بَكْرٍ وَابْنِ عُمَرَ . وَقَدْ اخْتَارَ قَوْمٌ مِنْ أَهْلِ

الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَغَيْرِهِمْ التَّمَتُّعُ بِالْعُمْرَةِ . وَالتَّمَتُّعُ أَنْ يَدْخُلَ الرَّجُلُ بِعُمْرَةٍ فِي أَشْهُرِ الْحَجِّ ثُمَّ يُقِيمَ حَتَّى يَحْجَّ فَهُوَ مُتَمَتِّعٌ وَعَلَيْهِ دَمٌ مَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَإِنْ لَمْ يَجِدْ صَامَ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةَ إِذَا رَجَعَ إِلَى أَهْلِهِ وَيُسْتَحَبُّ لِلْمُتَمَتِّعِ إِذَا صَامَ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ أَنْ يَصُومَ فِي الْعَشْرِ وَيَكُونَ آخِرُهَا يَوْمَ عَرَفَةَ فَإِنْ لَمْ يَصُمْ فِي الْعَشْرِ صَامَ أَيَّامَ التَّشْرِيقِ فِي قَوْلِ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْهُمْ ابْنُ عُمَرَ وَعَائِشَةُ وَبِهِ يَقُولُ مَالِكٌ وَالشَّافِعِيُّ وَأَحْمَدُ وَإِسْحَاقُ . وَقَالَ بَعْضُهُمْ لَا يَصُومُ أَيَّامَ التَّشْرِيقِ . وَهُوَ قَوْلُ أَهْلِ الْكُوفَةِ . قَالَ أَبُو عَيْسَى وَأَهْلُ الْحَدِيثِ يَخْتَارُونَ التَّمَتُّعَ بِالْعُمْرَةِ فِي الْحَجِّ وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ .

Grade: Sahih (Darussalam)

Reference : Jami` at-Tirmidhi 824

In-book reference : Book 9, Hadith 17

English translation : Vol. 2, Book 4, Hadith 824

5) *It was narrated that Jabir bin 'Abdullah said:*

"We began our Talbiyah for Hajj only with Allah's Messenger (ﷺ), and we did not mix it with 'Umrah. We arrived in Makkah when four nights of Dhul-Hijjah had passed, and when we had performed Tawaf around the Ka'bah and Sa'y between Safa and Marwah, the Messenger of Allah (ﷺ) commanded us to make it 'Umrah, and to come out of Ihram and have relations with our wives. We said: 'There are only five (days) until 'Arafah. Will we go out to it with our male organs dripping with semen?' The Messenger of Allah (ﷺ) said: 'I am the most righteous and truthful among you, and were it not for the sacrificial animal, I would have exited Ihram.' Suraqah bin Malik said: 'Is this Tamattu' for this year only or forever?' He said: 'No, it is forever and ever.'"

حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ إِبْرَاهِيمَ الدِّمَشْقِيُّ، حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ، حَدَّثَنَا الْأَوْزَاعِيُّ، عَنْ عَطَاءٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، قَالَ أَهَلُّنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْحَجِّ خَالِصًا لَا نَخْلِطُهُ بِعُمْرَةٍ فَقَدِمْنَا مَكَّةَ لِأَرْبَعِ لَيَالٍ خَلَوْنَ مِنْ ذِي الْحِجَّةِ فَلَمَّا طُفْنَا بِالْبَيْتِ وَسَعَيْنَا بَيْنَ الصَّفَا وَالْمَرْوَةِ أَمَرَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ نَجْعَلَهَا عُمْرَةً وَأَنْ نَجَلَّ إِلَى النَّسَاءِ . فَقُلْنَا مَا بَيْنَنَا لَيْسَ بَيْنَنَا وَبَيْنَ عَرَفَةَ إِلَّا خَمْسٌ فَخَرَجُ إِلَيْهَا وَمَذَاكِبُرْنَا تَقَطَّرُ مَنِيًّا فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - " إِيَّيْ لَأَبْرُكُكُمْ وَأَصْدَقُكُمْ وَلَوْلَا الْهَدْيُ لَأَخْلَلْتُ " . فَقَالَ سُرَاقَةُ بْنُ مَالِكٍ أَمْتَعْتُنَا هَذِهِ لِعَامِنَا هَذَا أَمْ لِأَبْدٍ فَقَالَ " لَا بَلْ لِأَبْدٍ الْأَبْدِ " .

Grade: Sahih (Darussalam)

English reference : Vol. 4, Book 25, Hadith 2980

Arabic reference : Book 25, Hadith 3094

So, we know for certain that Mut'ah of Hajj was revived later on. However, 'Umar(R.A)'s decision to temporarily ban Mut'ah of Hajj was from his own Ijtihad.

Same goes for his decision to temporarily ban Mut'ah.

As clarified earlier, 'Umar(R.A) temporarily banned Mut'ah when a person named 'Amr b. Huraith denied the pregnancy of a woman with whom he contracted Mut'ah. As explained earlier, this too was based on His Ijtihad for the greater good. (which is part of Maqasid Al-Sharia(Objectives of Sharia)).

Certain category of (not everything) rulings in sharia maybe temporarily withheld(by a legitimate Muslim ruler) for the purpose of attaining Maqasid Al-Sharia(Objectives of sharia).

'Umar(R.A)'s Ijtihad proves this.

Anyone who rejects this is actually slandering 'Umar(R.A).

What about Ali(R.A)?

Ali(R.A) had a different route.

He initially thought Mut'ah was haram because he thought Mut'ah was abrogated at Khaybar. (Which is established earlier that it isn't). Then realizing his error, he later changed this initial stance and came to his final(and correct) stance that Mut'ah is halal.

Some opponents of Mut'ah state 'Ibn Abbas(R.A) changed his stance on Mut'ah. This is absolutely false and a slander. Atleast such detractors must be honest about their accusations.

Al-Albani, the renowned Muhaddith, himself concluded that 'Ibn Abbas(R.A) upheld that Mut'ah was permissible until his death.

Also, we have an important hadith which confirms this from Sahih Muslim:

“Urwa b. Zubair reported that 'Abdullah b. Zubair (Allah be pleased with him) stood up (and delivered an address) in Mecca saying:Allah has made blind the hearts of some people as He has deprived them of eyesight that they give religious verdict in favour of temporary marriage, while he was alluding to a person (Ibn 'Abbas). Ibn Abbas called him and said: You are an uncouth person, devoid of sense. By my life, Mut'a was practised during the lifetime of the leader of the pious (he meant Allah's Messenger, may peace be upon him), and Ibn Zubair said to him: just do it yourselves, and by Allah, if you do that, I will stone you with your stones....”

Reference : Sahih Muslim 1406 k

In-book reference : Book 16, Hadith 32

USC-MSA web (English) reference : Book 8, Hadith 3261

Two things are established from this tradition:

- 1) Ibn Zubayr was alluding to the fact that Ibn Abbas was blind. Ibn Abbas became blind towards the end of his life and yet he still maintained the position that Mut'ah was halaal even in his last days.
- 2) The threat of Ibn Zubayr to inflict a penalty proves that his order came at a time when he had the clout to inflict such an act, namely when he attained brief power during the Khilafath of Yazeed. This serves as a major proof on the lawfulness of Mut'ah, since the brief reign of Ibn Zubayr was well after Abu Bakr, Umar and Uthman. The view of Ibn Abbas is clear evidence that he believed its banning to be of Umar's own violation and not the word of Rasulullah(s), if we are wrong in our assertion then why the objection of Ibn Zubayr? There would be no reason for a dispute if Ibn Abbas believed, like Ibn Zubayr, that Mut'ah was haram.

As such, there can be no doubt that Ibn 'Abbas maintained this opinion until his death

another tradition quoted by Imam Nawawi:

Hadhrath Abdullah ibn Abbas died in 68 Hijri and became blind towards the end of his life. On one occasion Ibn Zubayr sought to mock him in a

gathering by stating 'some people's hearts are blind like their eyes, since they deem Mut'ah to be permissible, Ibn Abbas immediately spoke saying 'I saw the Imam of the Praiseworthy, Rasulullah (s) with my own eyes, giving the permissibility to practise Mut'ah'.

(Al Minhaj Be Sharh Sahih Muslim Volume 4 page 20)

Ibn Abbas lived almost 57 years after the Prophet (s), and lost his eyesight in his final years, a time when he refuted the comments of Ibn Zubayr, so even then he upheld the validity of Mut'ah, this destroys any notion that he had revoked his position practising Nikah Mut'ah.

Finally, we also read in Fathul Bari Volume 9 page 173 that:

...Ibn Abbas never believed that Mut'ah had been abrogated.

"On Mut'ah's prohibition comments of Ibn Abbas have a weak chain. Whilst his fatwa on Mut'ah's permissibility is more Sahih

(Fathul Bari Volume 9 p. 173)

"Ibn Zubayr mocked Ibn Abbas for issuing a fatwa on Mut'ah's permissibility and this event happened after the death of 'Ali, during the Khilafath of ibn Zubayr and this proves that Ibn Abbas believed in the permissibility of Mut'ah until his dying days"

(Mirqat Sharh Mishkat Volume 6 p. 20 Dhikr Mut'ah)

And those detractors of Mut'ah who throw the opinion of Ibn 'Abbas(R.A) under the bus to fit their agendas, let them be reminded of the status of 'Ibn Abbas(R.A) in Islam:

Masruq ibn al-Ajda' well-known and respected tabi'i, jurist and Muhaddith said of Ibn Abbas(R.A):

"Whenever I saw Ibn Abbas, I would say: He is the most handsome of men. When he spoke, I would say: He is the most eloquent of men. And

when he held a conversation, I would say: He is the most knowledgeable of men."

(source:

https://archive.is/20090528032416/http://www.msawest.com/islam/history/biographies/sahaabah/bio.ABDULLAH_IBN_ABBAS.html)

Ahlul Sunna view him as the most knowledgeable of the Companions in tafsir. A book entitled Tanwir al-Miqbas min Tafsir Ibn Abbas is tafsir, all explanations of which may go back to Ibn Abbas. Of all narrations transmitted by Ibn Abbas, 1660 were considered authentic by the authors of the two Sahihs.

There is a reason for this. 'Ibn Abbas(R.A) was Divinely blessed by Allah with intercession of the Prophet.

Narrated Ibn `Abbas:

The Prophet (ﷺ) embraced me and said, "O Allah! Teach him (the knowledge of) the Book (Qur'an)."

حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ، حَدَّثَنَا وَهَيْبٌ، عَنْ خَالِدٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ، قَالَ ضَمَّنِي إِلَيْهِ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَالَ " اللَّهُمَّ عَلِّمَهُ الْكِتَابَ "

Reference : Sahih al-Bukhari 7270

In-book reference : Book 96, Hadith 3

USC-MSA web (English) reference : Vol. 9, Book 92, Hadith 375

Even 'Umar(R.A) used to ask 'Ibn Abbas on interpretation of Qur'an.

Narrated Sa`id bin Jubair:

About Ibn `Abbas: `Umar bin Al-Khattab used to treat Ibn `Abbas very favorably `Abdur Rahman bin `Auf said to him. "We also have sons that are equal to him (but you are partial to him.)" `Umar said, "It is because of his knowledge." Then `Umar asked Ibn `Abbas about the interpretation of the Verse:- 'When come the Help of Allah and the conquest (of Mecca)

(110.1) Ibn `Abbas said. "It portended the death of Allah's Messenger (ﷺ), which Allah had informed him of." `Umar said, "I do not know from this Verse but what you know."

حَدَّثَنَا مُحَمَّدُ بْنُ عَزْرَةَ، حَدَّثَنَا شُعْبَةُ، عَنْ أَبِي بَشِيرٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ، قَالَ كَانَ عُمَرُ بْنُ الْخَطَّابِ - رَضِيَ اللَّهُ عَنْهُ - يُدْنِي ابْنَ عَبَّاسٍ، فَقَالَ لَهُ عَبْدُ الرَّحْمَنِ بْنُ عَوْفٍ إِنَّ لَنَا أَبْنَاءَ مِثْلَهُ. فَقَالَ إِنَّهُ مِنْ حَيْثُ تَعْلَمُ. فَسَأَلَ عُمَرُ ابْنَ عَبَّاسٍ عَنْ هَذِهِ الْآيَةِ { إِذَا جَاءَ نَصْرُ اللَّهِ وَالْفَتْحُ }. فَقَالَ أَجَلُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَعْلَمَهُ إِيَّاهُ. قَالَ مَا أَعْلَمُ مِنْهَا إِلَّا مَا تَعْلَمُ.

Reference : Sahih al-Bukhari 3627

In-book reference : Book 61, Hadith 131

USC-MSA web (English) reference : Vol. 4, Book 56, Hadith 821

Narrated Ibn `Abbas:Once the Prophet (ﷺ) embraced me (pressed me to his chest) and said, "O Allah, teach him wisdom"

حَدَّثَنَا مُسَدَّدٌ، حَدَّثَنَا عَبْدُ الْوَارِثِ، عَنْ خَالِدٍ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ،، قَالَ ضَمَّنِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَى صَدْرِهِ وَقَالَ " اللَّهُمَّ عَلِّمَهُ الْحِكْمَةَ " .

Reference : Sahih al-Bukhari 3756

In-book reference : Book 62, Hadith 103

USC-MSA web (English) reference : Vol. 5, Book 57, Hadith 100

Ibn Katheer (may Allah have mercy on him) said:

Many of the Sahaabah learned from him, as did many of the Taabi'een, and he showed great initiative that was unmatched by any of the other Sahaabah, because of his vast knowledge, deep understanding, mature thinking, great virtue, and noble origin, may Allah be pleased with him and make him pleased.

He accompanied the Prophet (blessings and peace of Allah be upon him), stayed close to him, learned from him, memorised the Sunnah, and

memorised with precision the Prophet's words and deeds and events surrounding him. He acquired a great deal of knowledge from the Sahaabah, in addition to his own deep understanding, eloquence, handsome looks, noble origin and ability to express himself. The Messenger of the Most Gracious (blessings and peace of Allah be upon him) offered supplication for him, as was narrated in well-proven hadiths, according to which the Messenger of Allah (blessings and peace of Allah be upon him) offered supplication for him, that Allah would teach him the interpretation of the Qur'an and grant him deep understanding of the religion.

Al-Bidaayah wa'n-Nihaayah (12/78, 81)

It was narrated that Talhah ibn 'Ubaydullah said: Ibn 'Abbaas was granted understanding, smartness and knowledge, and I never saw 'Umar ibn al-Khattaab give anyone precedence over him.

It was narrated that Ubayy ibn Ka'b said – when Ibn 'Abbaas was with him; he stood up and said: This man will be the leading scholar of this ummah; he has been given maturity and deep understanding. The Messenger of Allah (blessings and peace of Allah be upon him) offered supplication for him, praying that he be granted deep understanding of the religion.

It was narrated that Abu Ma'bad said: I heard Ibn 'Abbaas say: No one ever narrated a hadith to me and I asked him to explain it (i.e., I understood it immediately). I would come to the door of Ubayy ibn Ka'b when he was sleeping and nap at his door, and if he knew I was there, he would prefer to be woken up for me, because of my connection to the Messenger of Allah (blessings and peace of Allah be upon him), but I did not like to trouble him.

It was narrated from 'Ubaydullah ibn 'Ali that his grandmother Salma said: I saw 'Abdullah ibn 'Abbaas and he had tablets with him on which

he was writing down something from Abu Raafi' of the deeds of the Messenger of Allah (blessings and peace of Allah be upon him).

It was narrated that Abu Salamah al-Hadrami said: I heard Ibn 'Abbaas say: I used to stay close to the senior companions of the Messenger of Allah (blessings and peace of Allah be upon him), both Muhaajireen and Ansaar, and ask them about the campaigns of the Messenger of Allah (blessings and peace of Allah be upon him) and what was revealed of the Qur'an concerning that.

And I would not go to any one of them but he would be happy that I had come to him, because of my relationship to the Messenger of Allah (blessings and peace of Allah be upon him).

One day I asked Ubayy ibn Ka'b – who was well-versed in knowledge – about what of the Qur'an had been revealed in Madinah. He said: Twenty-seven soorahs were revealed in Madinah; the rest was revealed in Makkah.

At-Tabaqaat al-Kubra (2/283); al-Isaabah fi Tamyeez as-Sahaabah (4/125)

Abdullah ibn Mas'ood said: When 'Abdullah ibn 'Abbaas reaches our age, none of us will have one tenth of his knowledge. In other words, if he were the same age as us, none of us would have attained one tenth of what he knows.

Al-Majmoo' al-Mugheeb by Abu Moosa al-Madeeni (2/450); an-Nihaayah by Ibn al-Atheer (3/240)

It was narrated that Tawoos said: I saw seventy of the companions of the Messenger of Allah (blessings and peace of Allah be upon him); if they differed concerning an issue, they would settle on the view of Ibn 'Abbaas.

It was narrated that Ibn Abi Nujayh said: I have never seen the like of Ibn 'Abbaas. On the day he died, he was the most prominent scholar of this ummah.

It was narrated that Mujaahid said: Ibn 'Abbaas was called al-bahr (the ocean) because of his vast knowledge.

'Amr ibn Habashi said: I asked Ibn 'Umar about a verse and he said: Go to Ibn 'Abbaas and ask him, for he is the most knowledgeable among those who are left of what Allah, may He be exalted, revealed to Muhammad.

Al-Isaabah (4/125-128)

It was narrated that 'Ubaydullah ibn 'Abdullah ibn 'Utbah said: Ibn 'Abbaas surpassed people in the following characteristics: knowledge of those who came before him, maturity so that people would need his advice, forbearance, good lineage, and virtue. I have never seen anyone with greater knowledge of the hadith of the Prophet (blessings and peace of Allah be upon him) than him, or of the fatwas of Abu Bakr, 'Umar and 'Uthmaan, or anyone who was more mature in thinking than him, or anyone who had more knowledge of poetry, Arabic language, interpretation of the Qur'an, mathematics, and shares of inheritance, or with more knowledge of the past, or who was more sound in offering advice when needed. He would sit (and teach people) on a particular day, and teach nothing but fiqh; on another day he would teach nothing but interpretation of the Qur'an; and on other days he would teach nothing but the campaigns of the Prophet (blessings and peace of Allah be upon him), or nothing but poetry, or nothing but the history of the Arabs. I have never seen any scholar who sat with him but he deferred to him, and I have never seen anyone ask him a question but he found an answer with him.

Al-Bidaayah wa'n-Nihaayah (12/88-95)

'Ibn Abbas(R.A) isn't just a Mujtahid, he isn't just Mufassir, he isn't just an Imam, he isn't just a faqih, he is but a mad'hab in and of itself. Nay! He is mad'hab is worth more than all the 4 mad'habs combined!

By definition,

Any Sunni can do taqlid of Imam 'Ibn Abbas(R.A) and follow his opinions. Even if you are a Muqallid to one of the 4 mad'habs.

Also, the hadith that 'Umar(R.A) took the views of 'Ibn Abbas(R.A) re-confirms that he changed his initial opposition to Mut'ah and fit in lines with his permission to revive of Mut'ah.

'Ibn Abbas(R.A) is speaking from a deep knowledge of Qur'an and its tafsirs. He clearly understood verse 4:24 as Verse of Mut'ah and verse 5:87 as an ayah that re-affirms its validity.

Another notable sahabi who voiced opposition to Mut'ah was 'Abdullah ibn Zubayr(son of Asma' Bint Abibakr).

Ibn Zubayr used to have huge disputes with 'Ibn Abbas(R.A) over both Mut'ahs- Mut'ah of Hajj and Mut'ah with women. For example,

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'as (benefits, Tamattul in Hajj and temporary marriage with women), whereupon jabir said: We have been doing this during the lifetime of Allah's Messenger (way peace be upon him), and then 'Umar forbade us to do so, and we never resorted to them.

حَدَّثَنِي حَامِدُ بْنُ عُمَرَ الْبَكْرَاوِيُّ، حَدَّثَنَا عَبْدُ الْوَّاجِدِ، عَنْ عَاصِمٍ، عَنْ أَبِي نَضْرَةَ، قَالَ كُنْتُ عِنْدَ جَابِرِ بْنِ عَبْدِ اللَّهِ فَأَتَاهُ آتٍ فَقَالَ إِنَّ ابْنَ عَبَّاسٍ وَابْنَ الزُّبَيْرِ اخْتَلَفَا فِي الْمُتَعَتِّينِ فَقَالَ جَابِرٌ فَعَلْنَا هُمَا مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ نَهَانَا عَنْهُمَا عُمَرُ فَلَمْ نَعُدْ لَهُمَا

Reference : Sahih Muslim 1249

In-book reference : Book 15, Hadith 233

USC-MSA web (English) reference : Book 7, Hadith 2874

(deprecated numbering scheme)

(Note: Jabir's statement "فَلَمْ نَعُدْ لَهُمَا" (we did not return to them) should be implied that a group of sahaba still had doubts of Mut'ah despite 'Umar(R.A) unbanning it. We have already stated 'Umar(R.A)'s unbanning of Mut'ah was in the section of List of 'Umar's Meritorius deeds not Previously Recorded. So it is no wonder some sahaba were still unaware and were confused.

Jabir(R.A) later was able to clear his confusion and concluded that Mut'ah was valid.

We read in Muwatta Sharh Durqani:

It is proven that Sahaba such as Jabir, Ibn Abbas and Asma deemed Mut'ah to be permissible.

[Muwatta, Sharh Durqani Volume 3 p. 54]

)

This is quite hilarious because his mother herself contracted Mut'ah and rebuked him for his erroneous position on Mut'ah. Some narrations even suggest that Ibn Zubayr himself was conceived by Asma(R.A) through Mut'ah!

The hadiths referring to this incident:

1) "Urwa b. Zubair reported that 'Abdullah b. Zubair (Allah be pleased with him) stood up (and delivered an address) in Mecca saying: Allah has made blind the hearts of some people as He has deprived them of eyesight that they give religious verdict in favour of temporary marriage, while he was alluding to a person (Ibn 'Abbas). Ibn Abbas called him and said: You are an uncouth person, devoid of sense. By my life, Mut'a was practised during the lifetime of the leader of the pious (he meant Allah's Messenger, may peace be upon him), and Ibn Zubair said to him: just do it yourselves, and by Allah, if you do that I will stone you with your stones...."

Reference : Sahih Muslim 1406 k

In-book reference : Book 16, Hadith 32

USC-MSA web (English) reference : Book 8, Hadith 3261

2) Muslim al-Qurri reported:

I asked Ibn Abbas (Allah be pleased with them) about Tamattu' in Hajj and he permitted it, whereas Ibn Zubair had forbidden it. He (Ibn 'Abbas) said: This is the mother of Ibn Zubair who states that Allah's Messenger (ﷺ) had permitted it, so you better go to her and ask her about it. He (Muslim al-Qurri said): So we went to her and she was a bulky blind lady and she said: Verily Allah's Messenger (ﷺ) permitted it.

حَدَّثَنَا مُحَمَّدُ بْنُ كَاتِمٍ، حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ، حَدَّثَنَا شُعْبَةُ، عَنْ مُسْلِمِ الْقُرِّيِّ، قَالَ سَأَلْتُ ابْنَ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - عَنْ مُتْعَةِ الْحَجِّ، فَرَحَّصَ فِيهَا وَكَانَ ابْنُ الزُّبَيْرِ يَنْهَى عَنْهَا فَقَالَ هَذِهِ أُمُّ ابْنِ الزُّبَيْرِ تَحَدَّثُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَحَّصَ فِيهَا فَادْخُلُوا عَلَيْهَا فَاسْأَلُوهَا قَالَ فَدَخَلْنَا عَلَيْهَا فَإِذَا امْرَأَةٌ ضَخْمَةٌ عَمِيَاءُ فَقَالَتْ قَدْ رَحَّصَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِيهَا .

Reference : Sahih Muslim 1238 a

In-book reference : Book 15, Hadith 213

USC-MSA web (English) reference : Book 7, Hadith 2854

At first glance, it may seem like it is talking about the Mut'ah of Hajj. However, it is talking about the same incident. This is revealed by the very next hadith.

3) *It was narrated from Shu'bah with this chain (the same hadith above). As for (the narration of) 'AbdurRahmân, it mentions Mut'ah but it does not say "Mut'ah in Hajj." As for Ibn Ja'far, he said: Shu'bah said: 'Muslim said: "I do not know whether it is Mut'ah (Tamattu') in Hajj or Mut'ah with women."*

وَحَدَّثَنَا ابْنُ الْمُثَنَّى، حَدَّثَنَا عَبْدُ الرَّحْمَنِ، ح وَحَدَّثَنَا ابْنُ بَشَّارٍ، حَدَّثَنَا مُحَمَّدٌ، - يَعْنِي ابْنَ جَعْفَرٍ - جَمِيعًا عَنْ شُعْبَةَ، بِهَذَا الْإِسْنَادِ فَأَمَّا عَبْدُ الرَّحْمَنِ فَفِي حَدِيثِهِ الْمُتْعَةُ وَلَمْ يَقُلْ مُتْعَةُ الْحَجِّ . وَأَمَّا ابْنُ جَعْفَرٍ فَقَالَ قَالَ شُعْبَةُ قَالَ مُسْلِمٌ لَا أَدْرِي مُتْعَةُ الْحَجِّ أَوْ مُتْعَةُ النِّسَاءِ .

Reference : Sahih Muslim 1238 b

In-book reference : Book 15, Hadith 214

USC-MSA web (English) reference : Book 7, Hadith 2855

So the hadith is referring to the same incident. Its about Mut'ah with women.

Besides, why would 'Ibn Abbas(R.A) advice him to enquire about Mut'ah of Hajj with his mother Asma? Its because Asma herself admits in other narrations that Abdullah ibn Zubayr was conceived through Mut'ah and rebukes her son for his false stance. This is the only logical view. Also, the description

“امرأة ضخمة عمياء”(a big/bulky blind woman) about Asma(R.A) suits the timeline because she was very very old when this dispute happened.

Imam of Ahl as-Sunnah al-Raghib al-Isfahani reported:

4)"Ibn Zubair denounced Ibn Abbas for his opinion on Mut'ah. Thus Ibn Abbas told him: "Go and ask your mother what she did with your father." When Ibn Zubair asked her, she said: "By God, I did not conceive you except through Mut'ah"

(in al-Maudhoorath Volume 2 page 96)

5)On the authority of the famous Imam of Ahl as-Sunnah Imam Abu Ja'far Ahmad At-Tahaawee, in his Sharh Ma'ani al Asar Volume 2 page 14, Chapter on Mut'ah, a hadeeth of Saeed bin Jabeer who discusses a conversation between Ibn 'Abbas and Abdullah ibn Zubayr:

"I heard Abdullah ibn Zubayr reading a sermon wherein he condemned Abdullah ibn Abbas for believing in the permissibility of Mut'ah. Ibn Abbas said "You should ask your mother about this if you are truthful. His mother said "Ibn 'Abbas spoke the truth Mut'ah did indeed exist'. Ibn Abbas then said; "If you like I can cite the names of the men from Quraysh who were born from Mut'ah."

6)Abdullah Ibn Zubayr mocked Ibn Abbad for believing that Mut'ah wa halaal, we said go and ask your mother on how she and your father first used this practise.

(Source: Al Maudhoorath Volume 3 p. 14)

So, Ibn Zubayr's later position on this is not known. It also was the time of Second Muslim Civil War/Fitna(680-692). However, it is safe to assume that Ibn Zubayr(R.A) changed his stance since his mother Asma(R.A) herself harshly rebuked him.

So in effect that leaves us with no Sahabi who ever opposed Mut'ah as per any records of Ahlul Sunna.

We have already established that Omar(R.A) and Ali(R.A) have later retracted their earlier positions.

(a list of prominent Sahaba who deemed Mut'ah to be valid shall be compiled later appropriately)

Ibn Hazm (d. 456) who is one of the esteemed Sunni scholars, in his book Muhalla gave the name of some of the companions and their disciples who believed that Mut'ah is Halal. In the 9th section of the chapter of Marriage Ibn Hazm gives a detailed account of Mut'ah and its regulations. Among the numerous companions and their disciples who believed in practising Mut'ah after the demise of the Prophet are:

Imam Ali, Abu Dhar, Jabir Ibn Abdillah, Abdullah Ibn Abbas, Abdullah Ibn Masud, Zubair Ibn al-Awwam, Imran Ibn Husain, Abdullah Ibn Umar, Ubay Ibn Ka'ab, Abu Sa'id al-Khudri, Salamah Ibn Umayyah, Awka' Ibn Abdillah, Salamah Ibn al-Awka', Khalid Ibn Muhajir, 'Amr Ibn Huraith, Rabi'a Ibn Umayya, Suhair, Sa'id Ibn Jubair Tawoos, Qotadah, Mujahid, Ataa al-Madani al-Suddy, and Imam al-Hasan...

(Al Muhalla, Chapter of Marriage, Section 9)

Ibn Taymiyya also listed those Sahaba that believed in the legitimacy of Mut'ah after the death of Rasulullah.

According to Ibn Hazm: "Ibn Mas'ud, Mu'awiya, Abu Sa'eed (al-Khudri), Ibn 'Abbas, Salama and Ma'bad, the sons of Umayya bin Khalaf, Jabir (bin 'Abdullah al-'Ansaari), and 'Amr bin Huraith continued, after the death of the Prophet, to consider it (i.e. Mut'ah) lawful. Moreover, Jabir reported, regarding all the Companions, that they continued to uphold its lawfulness during the time of the Prophet and of Abu Bakr and almost till the end of 'Umar's caliphate." then he (i.e. Ibn

Hazm) adds, "Among the Successors of the Companions, Tawoos, Sa'eed bin Jubair, 'Ataa', and the rest of the Makkan jurists believed in its permissibility."

(*alMuntaqaa min Akhbaar al-Mustafa'*, edited by Muhammad Hamid al-Faqqi, 2 volumes, Cairo: alMaktabat al-Tijariyya, 1931 edition, volume 2, page 520.)

According to Ibn Hazm, this group of Sahaba deemed Mut'ah to be halaal, Abdullah ibn Masud, Mu'awiya ibn Abu Sufyan, Abu Saeed, Ibn Abbas, Saleema, Mujeed, Umro bin Harees, Jabir bin Abdullah, Asma binte Abu Bakr.

(Fathul Bari Volume 9 page 172, Bab ul Nikah)

Abdul Razzaq from ibn Juraij who said: Abdullah ibn Uthman ibn Khutaim said: "There was a lovely ascetic Iraqi woman in Mecca who had a son called Abu Umaiya. Sa'eed ibn Jubair was frequently going to her house. I said: O Aba Abdullah you go to this woman's house so many times. He said I have married with the nikah of Mut'ah. He said that I heard Sa'eed (meaning Sa'eed ibn Jubair) say to him: Mut'ah is as lawful as drinking water"

(Ref: Al-Musannaf, by Abdul Razzaq al-Sana'ni, volume 7, page 496, chapter al-Mut'ah.)

As for Asma bint Abubakr(It is well known that she contracted Mut'ah. I am again quoting hadiths regarding her):

1)Allamah Ibn Hajr Asqalani in 'Talkhees al Haseer fi Takhreej al Hadeeth al Rafa al Kabeera' Volume 3 page 159 (printed Cairo) narrates as follows:

A large group amongst the pious Salaf deemed Mut'ah halaal after the death of Rasulullah (s), Imam Nasai narrated from Muslim Qarai that we went before Asma bint Abu Bakr and we asked her about Mut'ah with women, she said I performed this Mut'ah during the lifetime of Rasulullah

(Talkhees al Haseer fi Takhreej al Hadeeth al Rafa al Kabeera Volume 3 page 159)[Sahih]

2) *"We gathered before Asma Binte Abu Bakr and asked her about Mut'ah with women. She said: During the lifetime of Rasulullah(s) I personally contracted Mut'ah". (saheeh)*

(Musnad Abu Daood al Tayalsee Volume 7, Page 227 (printed in Hyderabad))

3) *Amongst the Sahaba exist a group that after the demise of Rasul(s) believed in the legitimacy of Mut'ah and Imam of Ahlul Sunnah Nasai narrated from Asma Bint Abu Bakr, "We practised Mut'ah during the life of Rasulullah(s)."*

(Tafseer al-Mazhari, Surah an-Nisa, Page 74) (Saheeh)

Indeed, both of Abu Bakr's daughters believed that Mut'ah was halaal.

One group amongst the Salaf believed that Mut'ah was halaal. Ibn Abbas, Ayesha are included in this group.

(Sharh Sahih Muslim Nawawi, Volume 1 p. 102 on Nikah Mut'ah)

So the master Muhadditha, Ummul mu'mineen, Aysha(R.A) herself believed that Mut'ah was halal. Is there anymore discussion even needed?

Abubakr As-siddiq(R.A) and his enter family believed in the validity of Mut'ah.

(its already established in earlier hadiths that Abubakr(R.A) believed in the validity of Mut'ah and permitted Mut'ah during his reign)

Hadith pertaining to Mu'awiya(R.A) contracting Mut'ah:

"Mu'awiya contracted Mut'ah with a woman from Taif and this narration carries a sahih chain.

When Mu'awiya arrived in Taif, he performed Mut'ah with an unnamed slave belonging to Banu Hazrmee called Ma'ana, Jabir states that remained alive throughout Mu'awiya's reign, and he gave her yearly stipends every year".

(Fathul Bari Volume 9 pages143-144)

(Musanaf Abdul Razaq Volume 7 p 499)

So, what exactly are the arguments of the opponents of Mut'ah?

Allah and the Prophet permitted Mut'ah.

Abubakr permitted Mut'ah.

Omar permitted Mut'ah.

Othman permitted Mut'ah.

Ali permitted Mut'ah.

Ibn Abbas permitted Mut'ah.

Asma permitted Mut'ah.

Ummul mu'mineen Aysha permitted Mut'ah.

Mu'awiya permitted Mut'ah.

It's an 'Ijma

Yet, Mut'ah is still a no-no for these people. Just because a wrong opinion is transmitted doesn't mean it has to be held onto. After clear evidence is established through Qur'an, Sunnah and Ijma' of Sahabah, it is ridiculous and blasphemous to still prohibit what Allah made halal.

"O you who believe! Make not unlawful the good things(Tayyibat) which Allah has made lawful to you, and transgress not. Verily, Allah does not like the transgressors." (Qur'an 5:87)

Its Allah who Himself revealed His Verse through the Eternal, Uncreated Qur'an against those who deliberately forbid what he made permissible.

And this Ayah was also regarding Mut'ah marriage.

List of Prominent Companions who believed in the Validity of Mut'ah

- 1) Ibn Abbas(R.A)
- 2) Abdullah ibn Mas'ood (R.A)
- 3) Jabir ibn Abdullah(R.A)
- 4) Abubakr(R.A)
- 5) 'Umar(R.A)
- 6) 'Uthman(R.A)
- 7) 'Ali(R.A)
- 8) Asma bint Abubakr(R.A)
- 9) Aysha(R.A)
- 10) Abu Sa'eed Al-Khudri(R.A)
- 11)Mu'awiya(R.A)
- 12) Salama bin Al-Akwa'(R.A)
- 13) Sa'eed ibn Jubair(R.A)

And there are no opinions from the companions that strongly rejected Mut'ah with certainty. Only 3 opinions, were the earlier opinions of 'Umar,'Ali and Ibn Zubayr. Which they later changed.

So there's Ijma of the Sahaba that Mut'ah is valid.

Why then did a misconception arose after first century over this common practice in Muslim Ummah? It was because many of the followers of the Imams of the 4 schools erred when they were surfing through fiqhi positions. They too were confused like most of the Sunni laymen and scholarship of today. So to be on the safe side, they thought they could ban it. And it's also because, the Hadith of Khaybar became so famous that they falsely thought that Mut'ah was eternally abrogated since then. When in reality it was a temporary halt. And they took all the temporary halts on Mut'ah as permanent bans. However, in this book, it is established through Qur'an and Sunnah that Mut'ah is a valid contract and an integral part of sharia.

Chapter-11

CONCLUSION

Through this work, I have proved the validity of Mut'ah through the Qur'an, the Sunnah and the Ijma' of the Sahaba. Mut'ah is often pushed as a Sunni-Shia issue. It is not. Mut'ah is a valid contract in the Fiqh of Ahlul Sunna.

There is a Verse in Qur'an which sanctions Mut'ah and another Verse which affirms it. The hadiths that speak of temporary bans on Mut'ah were revealed only before both the Verses. Either way, an Ayah in Qur'an can only be abrogated by another Ayah in Qur'an according to the mainstream authentic position of Ahlul Sunna.

As Ali(R.A) stated Mut'ah is blessing/concession from the Most Merciful. Just as The Most Merciful blessed Ummat Muhammadiyya with special concessions like Tayammum, Joining Prayers, Combining Prayers, etc.

Rejection of this blessing is equivalent of rejecting His Mercy.

This doesn't mean that you have to do Mut'ah, but rather acknowledge that Mut'ah is a concession blessed to the Ummah of Muhammad by Allah.

Also, sexual feelings are in our human nature. Islam gives no value to a celibate, monastic lifestyle.

And if a person fears Zina, and is unable to control himself through fasting, Mut'ah helps him/her to refrain from zina.

This is the case of hundreds of millions of youth and teens of today's world who study overseas, have to travel a lot, are unable to marry, etc. Only Allah knows their problems and frustrations.

Can we all condemn them to a far greater evil of zina, porn addiction, masturbation or prostitution?

Mut'ah also is a solution to many of the problems facing in the 21st century.

Some people do exploit Mut'ah as fronts for brothels, prostitution, pilgrimage sex, etc.

However, I have stated the all guidelines of Mut'ah in the Fiqh of Ahlul Sunna,(in section Legal Jurisprudence of Mut'ah in the Fiqh of Ahlul Sunna) which closes all the openings for exploitation by sons of Iblees amongst human beings.

We have also seen Nikah itself being used as fronts for prostitution and abuse. And we have the innovated haram practices of Triple talaq, Nikah halala, etc which rampantly exploits women.

And also note that, contracting Nikah with a prior agreement to divorce is permitted by Shafi'i ,Hanafi and Maliki schools. Mut'ah too is just a similar contract.

I, as a follower of Imam Shafi'i in fiqh and Imam Maturidi in aqeeda, appeal to all open-minded, fair-minded people of Sunni community, scholars and laymen alike, rich and poor alike, young and old alike, men and women alike, to rethink their position on Mut'ah and accept the Divine Blessings of Allah given to Ummat Muhammadiyya as concessions.

May Allah bless us all.

I seek forgiveness from Allah for any mistakes I made in this endeavor.

I submit this work to Almighty Allah.

آمين