



Volume 6, Number 5

March 11, 2012

## **Temporary Marriage in Islam: Exploitative or Liberating?**

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The status of women in the Muslim Middle East is in flux. A considerable portion are increasingly educated and focused on their careers, but at the same time, they remain constrained, varying in degrees, by traditional cultural and religious norms. Women played an active role in the uprisings which cascaded across the Arab world this past year. But the electoral successes of Islamist parties in Egyptian, Tunisian and Moroccan parliamentary elections suggest that guaranteeing the rights already attained and expanding them further will be no simple matter. Even as women gained increased economic and educational freedom and played a greater role in public life in recent years, their bodies and their sexuality remained largely regulated by social norms and religious doctrine. But this too is in flux, as exemplified by the increasingly popular practices of *'urfī* ["customary law"], *misyar* ["travel"], and *mut'a* ["pleasure"] marriages.

To be sure, however, these non-permanent and often secret marriages are often a source of severe oppression, and not sexual freedom. A woman's experience of such a marriage depends, to a great extent, on her class and age, and whether the union results in pregnancy.

*Mut'a* (or "pleasure") marriage is a Shi'a practice in which the couple agrees to marry for a predetermined amount of time, which can range from a few minutes to many years. When the contract is up, the marriage is dissolved. *Mut'a* marriages do not confer most of the rights and obligations that regular marriages do. The husband is not required to provide a home, financial support or alimony to his temporary wife and she is not required to act as his housekeeper or ask his permission to leave her house. While couples in temporary marriages are allowed to live together, they often do not: wives

usually continue to live in their family homes and their husbands visit them. In permanent marriages, Islam sanctions contraception for both men and women as long as their respective spouses agree. In *mut'a* marriages, either spouse can use contraception with or without consent. Children conceived in a *mut'a* union have the same rights as the children of permanently married or divorced parents: they are legitimate, can take their father's name, receive inheritance, and child support. As in most Muslim marriages, the *mahr* (a gift, usually money, from the groom to the bride) is agreed upon in advance. The bride is encouraged, but not required, to ask her male guardian (father or paternal grandfather) to consent to her marriage.<sup>1</sup> Therefore, the marriage can be — and often is — kept secret.

*Misyar* and *'urfi* marriages are Sunni practices similar to *mut'a*. The essential difference between the Sunni and Shi'a forms is that *misyar* and *'urfi* marriages cannot have a predetermined expiration date. Although they could theoretically last until death, they usually end in divorce or abandonment. Further, if the bride is a virgin, she must have her guardian's consent, and there must be at least two witnesses to the marriage. However, to maintain secrecy, brides often do not seek consent and many weddings go unwitnessed.<sup>2</sup>

The practice of temporary marriage dates to pre-Islamic times. According to Sunni scholars, the Prophet Muhammad outlawed *mut'a* marriage but permitted *misyar* marriages for men traveling on business or pilgrimage, and during military campaigns. Shi'i scholars believe that *mut'a* marriage was permitted by the Prophet and outlawed by the second caliph 'Umar, whom they consider illegitimate.<sup>3</sup> For both sects, non-permanent marriages are devised to avoid fornication and adultery, crimes punishable by lashings and stoning, respectively.

In modern times, *mut'a* and *misyar* marriages have been used as loopholes for prostitution and human trafficking, and as a religiously legitimate way for married men to have affairs, often with much younger women and girls. In a common manifestation of non-permanent marriage, poor families effectively sell their daughters to wealthy visiting foreign men in order to obtain the *mahr*. At the end of their visits, the men simply abandon their brides, who become unmarriageable once they have lost their virginity. In a *misyar* marriage, if the husband abandons his wife without divorcing her, she cannot legally remarry, whereas he can take up to four permanent wives and as many *misyar* wives as he wants. There are also cases of poor families selling daughters to pimps, who marry them temporarily in order to travel with them legally. Poor women and girls forced into *mut'a* and *misyar* marriages because of coercion and economic hardship are the most negatively affected by the institution.<sup>4</sup> They are often uneducated and unaware of their rights; reproductive healthcare may be unavailable; and they do not have the means to sue their husbands for divorce and child support. Many women,

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<sup>1</sup> The Official Website of Grand Ayatollah al-Uzzma Seyyid Ali al-Sistani, [www.sistani.org](http://www.sistani.org).

<sup>2</sup> Yolande Knell, "The perils of young Egyptians' secret marriages," BBC News, January 19, 2010.

<sup>3</sup> "*Mut'a*," Encyclopedia of Islam, Brill.

<sup>4</sup> "Egypt: Fatwa on Misyar Marriage," Women Living Under Muslim Laws, <http://www.wluml.org/node/5187>.

particularly in the Gulf, and feminists throughout the region, staunchly oppose non-permanent marriage because it violates the rights of the women and girls who are forced into it, and it is detrimental to the permanent wives of the men who use *misyar* and *mut'a* marriage to have affairs.<sup>5</sup>

From a very different angle, *misyar*, *'urfi* and *mut'a* marriages have become increasingly popular among young middle class single people<sup>6</sup> who cannot afford or aren't prepared for permanent marriage, but want to engage in legitimate sexual relationships. <sup>7</sup> Tradition dictates that suitors provide a home and substantial *mahr* for the women they want to marry permanently; due to inflation and low wages, middle and lower class Egyptians are forced to put off permanent marriage for longer. And as more middle class women earn university degrees and enter the workforce, they become more financially independent, interested in their careers, and more particular about their suitors.<sup>8</sup>

For these women, the experience of non-permanent marriage is very different from that of poor women forced into marriage. On the whole, non-permanent marriage is considered shameful for women — though not for men — because feminine virtue (virginity) determines marriageability and enables payment of an appropriate *mahr* in permanent marriage, and is a symbol of family honor. When the non-permanent marriage of an upper- or middle class woman ends, she can have her hymen surgically restored, and if the affair was kept secret, her family may find a suitor to marry her permanently.<sup>9</sup> Upper- and middle class Egyptian women also have access to abortion, which is sanctioned in Islam in the first trimester if the pregnancy threatens the health of the mother, for example, due to medical complications, or if she might be the target of an honor killing.<sup>10</sup>

In a widely publicized Egyptian case, Hind el-Hinnawi, 27, a costume designer, had an *'urfi* marriage with a famous (married) actor, Ahmed el-Fishawy. When Hinnawi became pregnant and refused to have an abortion, Fishawy destroyed their marriage contract — the only evidence of their legal union. Hinnawi gave birth, sued Fishawy for child support, and requested a DNA test, which proved his paternity. She not only gained child support, but also established a legal precedent. While Hinnawi has faced social stigma, she has been in a much better position than most younger, poorer *'urfi* wives: she has a career and financial independence, she is educated, and her parents (an economist and a psychology professor) supported her in the case. Egyptian filmmaker Attiyat el-Abnoudi said, "The importance of this case is that it is

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<sup>5</sup> Hassan Fakhri, "Misyar marriage enrages Gulf women," Middle East Online, April 25, 2006, <http://www.middle-east-online.com/english/?id=16308>; Syed Naez Ahmad, "A proposal Saudis can't refuse," The Guardian, August 16, 2009.

<sup>6</sup> There is no official data on this phenomenon, but by some estimates, as many as one-fifth of Egyptian university students engage in *'urfi* marriages. (Mohamed Mahmoud, "Egyptian university students increasingly choose *'urfi* marriage," Al-Shorfa.com, December 29, 2009.)

<sup>7</sup> Jeffrey Fleishman, "In Egypt, not wed to custom," *LA Times*, November 7, 2007; Daniel Williams, "Letter from the Middle East: Between matrimony and something else," *The New York Times*, November 4, 2007.

<sup>8</sup> Jeffrey Fleishman, *ibid.*

<sup>9</sup> Neil MacFarquhar, "Paternity Suit Against TV Star Scandalizes Egyptians," *The New York Times*, January 26, 2005.

<sup>10</sup> MacFarquhar, "Paternity Suit."

out in the open. The whole society has to question whether it is only her, or whether the society is changing. Young people want to make love without getting married."<sup>11</sup> As the practice becomes more widespread and cases like Hinnawi's surface, *'urfi* marriage could eventually gain some social acceptance as a legitimate way to have a relationship and express one's sexuality.

Non-permanent marriages are also practiced by some women over 30 who are divorced, widowed or spinsters, who have little chance of finding permanent marriages, and may even prefer not having a permanent live-in husband controlling their lives. For example, Robabeh, 55, an Iranian widow, concluded a *mut'a* marriage with a man 25 years her junior. He introduced himself, they chatted, and when she expressed a desire to make a pilgrimage to Syria, he promised to take her. He proposed a *mut'a* marriage, so that they could travel together legally, with the *mahr* being the trip. Although she kept it a secret, she considered the arrangement a blessing.<sup>12</sup> Other unmarried, financially independent women choose non-permanent marriage when they cannot leave their homes because of family obligations. For mature, independent women, non-permanent marriage can enable them to enjoy sexual intimacy without sacrificing autonomy. A woman's economic independence and maturity can balance the power dynamic in such relationships.

Although temporary marriage is religiously sanctioned, it remains socially stigmatized. Many feminists and religious conservatives alike oppose it because it is considered to encourage prostitution, the exploitation of women, and the erosion of family values. In many cases of *mut'a* and *misyar* marriage, women and girls are exploited horribly. During the Algerian civil strife in the 1990s, radical jihadi veterans of the war in Afghanistan even employed the *mut'a* mechanism to sanction rape (notwithstanding that they were Sunnis, whose theologians abhor the practice).<sup>13</sup> From a very different perspective, increasing numbers of independent, consenting Middle Eastern Muslims use temporary marriage to take control of their own bodies, express their sexuality, and circumvent social injunctions against pre-marital and extra-marital sex. When used in this way, non-permanent marriage is not exploitative. As this issue enters the public discourse, and as women like Hind el-Hinnawi defend their rights, non-permanent marriage may just become a tool for increased personal and sexual freedom for both sexes.

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<sup>11</sup> MacFarquhar, "Paternity Suit."

<sup>12</sup> Nadya Labi, "Married for a Minute," *Mother Jones*, March/April 2010.

<sup>13</sup> Bruce Maddy-Weitzman and Meir Litvak, "Islamism and the State in North Africa," in *Revolutionaries and Reformers*, Barry Rubin, Ed., (Albany, NY: SUNY Press, 2003), p. 82.

**The Moshe Dayan Center publishes TEL AVIV NOTES, an analytical update on current affairs in the Middle East, on the 10th and 26th of every month, as well as occasional Special Editions.**

**TEL AVIV NOTES is published with the support of the V. Sorell Foundation.**

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