



MOT'A

MOT'A (lit. “pleasure”), in Islamic law the word used as a technical term in the sense of a marriage contracted for a definite period of time. It is a complex Shi'ite institution with which historically much cultural and moral ambivalence has been associated. Since the Revolution of 1979, it has become more commonplace in Iran and has attracted further debate.

In origin, Mot'a was a pre-Islamic Arab custom. According to a number of traditions, the second caliph, 'Omar (r. 634-44), outlawed the custom of mot'a marriage, regarding it as a form of fornication, thus implying that its practitioners could face stoning. The Shi'ites have systematically contested the caliph's ruling, which they argue lacks legitimacy in the face of the Qur'anic reference to the practice (4.24) and also point to the absence of any unambiguous prophetic Hadith banning it (Amini, VI, pp. 129, 198-240; Ṭabāṭabā'i, 1985, p. 227; Haeri, 1989, pp. 61 ff.). Although strongly opposed by the Sunnite ulema, some Sunnites still practice mot'a (Snouck Hurgronje, pp. 12-13). A recent ruling (*fatwā*) by Shaikh 'Abdul-Majid Zendāni, president of the Jāme'at al-imān (al-Eman University) in Yemen, regarding the permissibility of “married friendship,” as opposed to “boyfriend-girlfriend relationship” among Muslims living in the West, set off a storm of protest from the al-Azhar, but many young Muslim men and women living in the West, as well as many who live in the Arab countries, received the ruling warmly (Internet Source 1).

In its original form, mot'a was an Arab custom of “temporary alliance” between a woman and a man, often a stranger who was seeking the protection



of her tribe. He would receive a “spear and a tent” as means of incorporating him into the group through political and affinal ties (Smith, 1903, p. 35). Because the woman lived among her own tribe, she maintained close ties with her kin and continued to enjoy their support. Children born of such unions traced descent through their mother’s lineage and would remain with her tribe, regardless of the father’s continued residency among his wife’s tribesmen (ibid.).

Rules and procedures regarding mot’a developed piecemeal during the period of transition following the advent of Islam. It was gradually conceptualized and given legal boundaries that defined it within the framework of a contract of lease and in relation to permanent and slave forms of marriage (Schacht, p. 419). Its present form is the outcome of frequent dialogues and debates among Shi’ite authorities, the most prominent of whom was the sixth Imam, Ja’far al-Şādeq (d. 765) as well as among subsequent authorities and scholars including Ṭusi, pp. 497-502; Moḥaqqueq Ḥelli, pp. 515-28; Kāşef-al-Ġeṭā’, pp. 372-92; Komeyni (Khomeyni), 1977, pp. 2421-31; Moṭahhari, 1974, p. 21-54; Ġāzanfari, II, pp. 126-34 (Levy I, pp. 131-90; Fayzee, pp. 117-21; Murata, 1974, 1987; Haeri, 1989, p. 51).

Temporary marriage is an institution in which the relationship between the sexes, marriage, sexuality, morality, religious rules, secular laws, and cultural practices converge. It is primarily an urban phenomenon, popularly believed to be more prevalent around the pilgrimage shrines of Mashad and Qom in Iran, though the pattern may be changing because of the Islamic regime’s encouraging attitude. It is a custom that puts religion and popular culture at odds. Despite its legal and religious legitimacy, it has been culturally marginalized and stigmatized in Persia, and contemptuously dismissed as legalized prostitution by the more secular and modernized Iranian middle classes. Its practitioners often keep their temporary marriages secret, even after the Revolution of 1979, and the regime’s attempt to rehabilitate the institution (Haeri, 1989, pp. 6, 196).

Doctrinally, the Shi’ite jurists (Ṭusi, pp. 497-502; Moḥaqqueq Ḥelli, pp. 515-28) distinguish temporary marriage from permanent marriage (*nekāḥ*) in that the objective of mot’ais sexual enjoyment, while *nekāḥ* is primarily for procreation. Temporary marriage (*ezdewāj-e mowaqqat*) is a contract (*‘aqd*), in which a man and an unmarried woman decide how long they want to be married to each other, and how much money is to be given to the temporary wife, who is usually called a *şīġa* in Persian. The length of a temporary

marriage varies and can be as brief as an hour or stipulated as long as ninety-nine years. Traditionally, a temporary marriage does not require witnesses or registration, though taking witnesses is recommended (Ṭusi, p. 498). At present, however, the Islamic regime in Iran requires it to be registered, presumably to ascertain the legality of a woman's claim in case she may be pregnant, and also to prevent its exploitation for "immoral" and "illicit" purposes. Unlike in the case of permanent marriages, a temporary wife, even if pregnant, is not legally entitled to financial support (*nafaqa*) above and beyond the bride-price *mahr*, or *ajr* "reward," (the term used in the Qur'an 4.24 in reference to *mot'a*) as stipulated in the marriage contract. Children born of temporary marriages are considered legitimate, and have equal status in law with their siblings born of permanent marriages. This is the Shi'ite rationale regarding the legal uniqueness of temporary marriage, which, in their view, distinguishes it ideologically from prostitution, despite their obvious similarities (Ṭusi, pp. 497-502; Moḥaqeq Helli, p. 524; Kāṣef-al-Ġeṭā', pp. 254-81; Ṭabāṭabā'i, 1985; Moṭahhari, 1974, p. 38; Komeyni, 1977, pp. 482-85, 491-93; Levy, I, p. 166.)

At the end of the specified period, the temporary marriage automatically ends without any divorce ceremony. "He who gets involved in a temporary marriage, is like he who rents [a room in] an inn or a hotel during his sojourn. There is no doubt that from the beginning he knows his residence is temporary" (Qā'emi, p. 304). Irrespective of the length of a temporary marriage, women must observe a period of celibacy (*'edda*) to allow for the identification of a child's legitimate father. The *'edda* of temporary marriage is, however, shorter than the similar period required for permanent marriage. It is two menstrual cycles for women who menstruate regularly, and forty-five days for women who should menstruate but cannot (Komeyni, 1977, p. 510). Temporary spouses do not legally inherit from each other, though they may negotiate such a condition in their contract. Their children, however, do inherit from both parents. In addition to the legitimate four wives, a Shi'ite man may simultaneously contract as many temporary marriages as he wishes, and may renew them as many times as desired, granted that certain conditions are met. A Shi'ite woman can only be married to one person at a time, be it temporary or permanent.

When a contract of temporary marriage is made, the couple assume a minimal number of reciprocal rights and obligations toward each other: the husband gains the right of usufruct of the object of lease, that is, the woman's sexuality,



and the temporary wife receives the bride-price. A temporary wife's social and legal responsibilities toward her temporary husband are less restrictive than those of a permanent wife. Historically, women's autonomy and independence have been highly contentious issues in Muslim societies, and, legally, a marriage's social structure limits and constraints women's individuality and autonomy. In case of temporary marriage, however, a temporary wife has greater legal freedom and personal autonomy, although the exact extent is a matter of debate among Shi'ite scholars. These include the right to maintain outside interests, to leave the household without her husband's permission, or even take a job. The temporary husband is to enjoy her company, that is, he has the right of usufruct but not of "ownership," as it is in the case of permanent marriage (Haeri, 1989, pp. 64-72).

Although the specified purpose of temporary marriage is sexual gratification for the man, the contemporary religious language that describes it emphasizes its conjugal aspect, thereby suggesting that *mot'a* or *ṣiġa* is simply a form of marriage with a built-in time limit. Outside of religious circles, virtually everyone in Persia uses the term *ṣiġa* instead of *mot'a*, although, properly speaking, *ṣiġa* refers to the form in which the wishes of both parties are spelled out. This term is also used rather pejoratively in colloquial parlance in reference to a woman who is temporarily married. Despite the Shi'ite ulema's systematic insistence that the difference between the two forms of marriage is just a matter of the time limit, and despite the Islamic regime's persistent attempts to minimize the fundamental legal, ethical, and cultural differences between a temporary and a permanent marriage, popular culture seems to have retained its skepticism on the issue. Whereas in a contract of permanent marriage a woman is referred to as wife (*zawja*), she is called *ṣiġa* in a contract of temporary marriage. Furthermore, while through marriage a woman gains further social prestige and greater financial rights, the same cannot be said of a *ṣiġa*.

Two distinct types of *ṣiġa* exist in Persia: sexual and nonsexual (*ṣiġa-yemaḥramiyat*). The latter, contracted for easy social interaction, may be roughly translated as lawful gender association and anthropologically categorized as fictive kinship (Haeri, 1989, pp. 75-102). Given the religious requirement for the segregation of the sexes, rules for association and avoidance of genders (*maḥram* or *nāmaḥram*) pose practical problems and moral dilemmas for men and women caught in various networks of relationships and associations in which the two sexes have to encounter each

other frequently. Through an elaborate fictitious replication of kinship relations, nonsexual *ṣiġa* provides culturally meaningful solutions to everyday dilemmas posed by the law of segregation of the sexes in the more traditional families in Persia.

A nonsexual *ṣiġais* one in which the temporary spouses agree to enjoy each other's company without having sexual intercourse. The possibility of specifying such a condition in the contract allows the institution greater scope for ambiguity, while rendering it a more conveniently malleable institution in Persian society. A nonsexual *ṣiġamay* take place between two consenting adults, an adult and a child, children, or even infants (arranged by their parents in the latter cases). The purpose of this form of *ṣiġa* is to remove the legal distance between a man and a woman by creating a fictive marital relation between them or an affinal kinship between their respective immediate families. Having thus acquired a number of legalized male affines, the women may unveil themselves in their presence. This affinity allows men and women to come together through a relationship similar, for example, to that between father-in-law and daughter-in-law, or between mother-in-law and son-in-law. Significantly, the affinal relation remains valid for life, though the marital relation may be terminated by the end of the specified time, which could be as short as a few hours. This ingenious stratagem enables the sexes to circumvent the law, to cross the forbidden boundaries of sexual segregation legitimately, and to interact unencumbered by the requirement of segregation and veiling, without committing a sin or acting improperly (Haeri, 1989, pp. 89-90).

Some of the most innovative, yet culturally problematic, interpretations of temporary marriage are advanced by some contemporary Shi'ite scholars in Iran. Shortly after the Revolution, the Islamic regime embarked on an intensive campaign to revitalize temporary marriage, shifting its strategy from defending *ṣiġa* as a legitimate form of marriage to that of upholding it as "one of the ingenious laws of Islam" (Moṭahhari, 1981, p. 52), especially tailored to the demands of a modern society. The officially formulated position is now that the concept of temporary marriage is one of the most advanced and farsighted aspects of Islamic thought, indicating Islamic understanding of the nature of human sexuality. The argument is mainly aimed at young adults as opposed to the middle-aged population, who have been traditionally the most frequent practitioners of *ṣiġa*. The new concept of temporary marriage is widely disseminated to the public through forums such as mosques and



religious gatherings, as well as in school textbooks, newspapers, books, radio, and television. While criticizing the “decadent” Western style of “free” or “loose” male-female relationships, temporary marriage is reintroduced as its equivalent, but with the difference that the latter is morally superior, since it is buttressed by both the law and religion.

The most widely known and popularly discussed variation of mot'a in Persia today is the so-called trial marriage (*ezdewāj-e āzmāyeši*), proposed by Mortazā Moṭahhari (d. 1981), who defined it as an agreement between young men and women to marry with or without sexual intercourse, for a specified time period (1974, pp. 24-25). Improvising on the theme of nonsexual *ṣiḡa*, Moṭahhari and many other ulema have offered a radical interpretation of the mot'a custom in the form of trial marriage, which, in their view, is appropriate for and adaptable to the requirements of a modern society and allows a young couple to marry temporarily while safeguarding the woman's virginity (Haeri, 1992). Moṭahhari stresses that the Islamic law had the foresight to provide some fourteen centuries ago a legal and moral solution for its youth without inflicting upon them a period of forced “asceticism” or abandoning them to the chaos of “sexual communism” (Moṭahhari, 1981, p. 54; Haeri, 1989, pp. 96-97).

In its latest metamorphosis, temporary marriage is again re-conceptualized as the central feature of the so-called Houses of Purity (*Kānahā-ye 'afāf*). In the summer of 2000, a bill was introduced to the parliament, which purported to offer a solution to the growing problem of prostitution in the major cities of Iran by finding a way to channel the sexual urges of individuals to the right path. The bill's objective was to establish supervisory committees, to which temporary partners could resort and obtain for a fee the permission to use one of the designated hostels, (i.e., the Houses mentioned above) for a specified period. The rationale was that the partners would legally marry and therefore stay within morally and religiously prescribed boundaries. Thus they would be saved from committing the grave sin of prostitution, or even worse, that of adultery, both of which are categorized as serious crimes in the penal code of the Islamic Republic. The immediate and vociferous public outrage over this proposal forced its proponents to withdraw the bill instantly and to disown it publicly. The identity of the sponsors of this bill was never revealed.

The practice and custom of temporary marriage have survived many vicissitudes in Persia in its centuries-long life. They will most probably continue to survive, whether secretly or overtly, but always marginally, as long as there are areas of individual and social needs that they can address

and accommodate.

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