348783 - Is mut`ah marriage valid if it is done with a guardian and witnesses?

the question

I read an article on the Internet by someone who claims to be a Sunni, then I realised that the specious argument is of Shi`i origin. He said that `Umar ibn al-Khattab (may Allah be pleased with him) used to approve of mut`ah if it was witnessed by people of good character, and he quoted as evidence the report, “What is the matter with men who do mut`ah but do not bring witnesses of good character or disclose it? No one does that but I will carry out the hadd punishment on him.” Of course, it is a weak report with an unknown narrator. He also quoted as evidence a report from the *Musannaf* of `Abd ar-Razzaq, quoting only the part that is pertinent to the issue: It was narrated from Ibn Jurayj, from `Ata’, who said: The first one from whom I heard about mut`ah was Safwan ibn Ya`la. He said: he told me, from Ya`la: `Amr ibn Hurayth did mut`ah marriage with a woman, whose name Jabir told me but I forgot it. The woman became pregnant, and news of that reached `Umar, so he summoned her and asked her about that and she said: Yes [it is true]. `Umar said: Who did he ask to witness it? `Ata’ said: I do not know. She said: My mother or her guardian. He said: Why not anyone other than these two? He said: He was afraid that it might be immoral. This is an authentic chain of narrators, because Ibn Jurayj did not narrate ambiguously from `Ata’. Here we see that `Umar ibn al-Khattab questioned the one who witnessed this marriage, and he did not denounce them for that. Does this indicate that he allowed mut`ah marriage if there were witnesses? But what contradicts this report is what was narrated from `Umar himself that he said – as it was narrated from Ibn `Umar that he said: When `Umar ibn al-Khattab (may Allah be pleased with him) became caliph, he addressed the people and said: Indeed the Messenger of Allah (blessings and peace of Allah be upon him) gave us permission to engage in mut`ah three times, then he prohibited it. By Allah, I will not find out that anyone engages in mut`ah when he is married or previously married but I shall stone him, unless he brings four people to witness that the Messenger of Allah permitted it after he prohibited it. It is also contradicted by what Saburah ibn Ma`bad the Companion, and another Companion who was his

cousin, did during the conquest of Makkah, and they did not mention any guardian or witnesses. My question is: is mut`ah marriage permissible if it is witnessed by people of good character, because he did not object according to the report in *Musannaf `Abd ar-Razzaq*, but he only asked about witnesses? What is the explanation of his words “He was afraid that it might be immoral”?

Summary of answer

Mut`ah marriage is temporary marriage; it is prohibited and invalid according to the majority of scholars, and it was narrated that there was consensus on its being prohibited, whether it is done with or without a guardian and witnesses.

Detailed answer

Praise be to Allah.

Ruling on mut`ah marriage

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Ibn Qudamah (may Allah have mercy on him) said in *al-Mughni*, 7/178: Mut`ah marriage is not permissible. What is meant by mut`ah marriage is marrying a woman for a specific period, such as saying: I give you my daughter in marriage for one month, or for one year, or until Hajj ends, or until the pilgrim returns, and so on, whether the time period is known or unknown. This is an invalid marriage, as was stated by Ahmad, who said: Mut`ah marriage is prohibited… This is the view of most of the Companions and jurists, and those from whom it was narrated that it is prohibited include `Umar, `Ali, Ibn `Umar, Ibn Mas`ud and Ibn az-Zubayr. Ibn `Abd al-Barr (may Allah have mercy on him) said: Malik, the scholars of Madinah, Abu Hanifah, the scholars of Iraq, al-Awza`i among the scholars of Syria, al-Layth among the scholars of Egypt, ash-Shafa`i and all other scholars of hadith are of the view that mut`ah is prohibited. End quote.

How to understand the report of `Umar that is mentioned in the question

With regard to the report of `Umar (may Allah be pleased with him), it was narrated by `Abd ar-Razzaq in al-Musannaf, 14021, from Ya`la, that Mu`awiyah engaged in a mut`ah marriage with a woman in at-Ta'if, but she objected to that. We went to Ibn `Abbas and some of us told him about that, and he said to him: Fine. But I did not feel at ease with the answer until Jabir ibn `Abdillah came. We went to him in his house, and the people asked him about some things, then they told him about that mut`ah and he said: Yes, we did mut`ah at the time of the Messenger of Allah (blessings and peace of Allah be upon him) and Abu Bakr and `Umar until, at the end of `Umar's caliphate, `Amr ibn Hurayth did mut`ah with a woman, whose name Jabir told me but I forgot it. The woman became pregnant, and news of that reached ` Umar, so he summoned her and asked her about that and she said: Yes [it is true]. `Umar said: Who did he ask to witness it? `Ata' said: I do not know. She said: My mother or her guardian. He said: Why not anyone other than these two? He said: He was afraid that it might be immoral.

In *at-Tamhid*, 10/114, Ibn `Abd al-Barr attributed it to `Abd ar-Razzaq with the wording: She said: My mother and her son, or her brother and her son. He said: Why not anyone other than these two? And he forbade that.

Muslim, 1405, narrated that Abu'z-Zubayr said: I heard Jabir ibn `Abdillah say: We used to engage in mut`ah in return for a handful of dates or flour, for several days, at the time of the Messenger of Allah (blessings and peace of Allah be upon him) and Abu Bakr, until `Umar forbade it as is indicated by the case of `Amr ibn Hurayth.

What appears to be the case is that `Umar asked about witnesses to find out whether it was zina or a mut`ah marriage. This is indicated by the fact that he said: He was afraid that it might be immoral, meaning mischief.

When it became clear that it was a mut`ah marriage, he forbade it.

Regarding the words “Why not someone other than these two?” They indicate that a woman cannot be a witness to a marriage.

It does not indicate that mut`ah may be permitted if there were witnesses or two men witness it, rather that question was asked to distinguish mut`ah from zina, and to teach people what is stipulated in a valid marriage, namely that it should be witnessed by men.

For more information, please see the answer to question no. 20738.

And Allah knows best.