

From the Commentary of Ibn Kathir on *Quran 2 – The Heifer 221-237*

The Prohibition of marrying Mushrik Men and Women

Allah prohibited the believers from marrying Mushrik women who worship idols. Although the meaning is general and includes every Mushrik woman from among the idol worshippers and the People of the Scripture, Allah excluded the People of the Scripture from this ruling. Allah stated:

[مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِن قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أَجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ]

((Lawful to you in marriage) are chaste women from those who were given the Scripture (Jews and Christians) before your time when you have given their due dowry, desiring chastity (i.e., taking them in legal wedlock) not committing illegal sexual intercourse.) (5:5)

`Ali bin Abu Talhah said that Ibn `Abbas said about what Allah said:

[وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ]

(And do not marry Al-Mushrikat (female idolators) till they believe (worship Allah Alone).) "Allah has excluded the women of the People of the Scripture." This is also the explanation of Mujahid, `Ikrimah, Sa`id bin Jubayr, Makhul, Al-Hasan, Ad-Dahhak, Zayd bin Aslam and Ar-Rabi` bin Anas and others. Some scholars said that the Ayah is exclusively talking about idol worshippers and not the People of the Scripture, and this meaning is similar to the first meaning we mentioned. Allah knows best.

Abu Ja`far bin Jarir (At-Tabari) said, after mentioning that there is Ijma` that marrying women from the People of the Scripture is allowed, "Umar disliked this practice so that the Muslims do not refrain from marrying Muslim women, or for similar reasons." An authentic chain of narrators stated that Shaqiq said: Once Hudhayfah married a Jewish woman and `Umar wrote to him, "Divorce her." He wrote back, "Do you claim that she is not allowed for me so that I divorce her" He said, "No. But, I fear that you might marry the whores from among them." Ibn Jarir related that Zayd bin Wahb said that `Umar bin Khattab said, "The Muslim man marries the Christian woman, but the Christian man does not marry the Muslim woman." This Hadith has a stronger, authentic chain of narrators than the previous Hadith.

Ibn Abu Hatim said that Ibn `Umar disliked marrying the women from the People of the Scripture. He relied on his own explanation for the Ayah:

[وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ]

(And do not marry Al-Mushrikat (female idolators) till they believe (worship Allah Alone).)

Al-Bukhari also reported that Ibn `Umar said, "I do not know of a bigger Shirk than her saying that Jesus is her Lord!"

Allah said:

[وَلَا مَؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ]

(And indeed a slave woman who believes is better than a (free) Mushrikah (female idolators), even though she pleases you.)

It is recorded in the Two Sahihs that Abu Hurayrah narrated that the Prophet said:

«تُنكحُ المرأةُ لأربعٍ: لِمَالِهَا وَلِحَسَبِهَا وَلِجَمَالِهَا وَلِدِينِهَا، فَاظْفَرِ بِذَاتِ الدِّينِ، تَرِبَتْ يَدَاكَ»

(A woman is chosen for marriage for four reasons: her wealth, social status, beauty, and religion. So, marry the religious woman, may your hands be filled with sand (a statement of encouragement).)

Muslim reported this Hadith from Jabir. Muslim also reported that Ibn `Amr said that Allah's Messenger said:

«الدُّنْيَا مَتَاعٌ، وَخَيْرُ مَتَاعِ الدُّنْيَا الْمَرْأَةُ الصَّالِحَةُ»

(The life of this world is but a delight, and the best of the delights of this earthly life is the righteous wife.)

Allah then said:

[وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا]

(And give not (your daughters) in marriage to Al-Mushrikin till they believe (in Allah Alone).) meaning, do not marry Mushrik men to believing women. This statement is similar to Allah's statement:

[لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ]

(They are not lawful (wives) for them, nor are they lawful (husbands) for them.) (60:10)

Next, Allah said:

[وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ]

(...and verily, a believing servant is better than a (free) Mushrik (idolator), even though he pleases you.)

This Ayah indicates that a believing man, even an Abyssinian servant, is better than a Mushrik man, even if he was a rich master.

[أُولَئِكَ يَدْعُونَ إِلَى النَّارِ]

(Those (Al-Mushrikun) invite you to the Fire) meaning, associating and mingling with the disbelievers makes one love this life and prefer it over the Hereafter, leading to the severest repercussions. Allah said:

[وَاللَّهُ يَدْعُوا إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ]

(...but Allah invites (you) to Paradise and forgiveness by His leave) meaning, by His Law, commandments and prohibitions. Allah said:

[وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ]

(...and makes His Ayat clear to mankind that they may remember.)

[وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ قُلْ هُوَ أَذَىٰ فَاعْتَزِلُوا النِّسَاءَ فِي الْمَحِيضِ وَلَا تَقْرُبُوهُنَّ حَتَّىٰ يَطْهُرْنَ فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ إِنَّ اللَّهَ يُحِبُّ التَّوَّابِينَ وَيُحِبُّ الْمُتَطَهِّرِينَ - نِسَاءُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّىٰ شِئْتُمْ وَقَدِّمُوا لِأَنفُسِكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّكُمْ مُلْقَوُهُ وَبَشِّرِ الْمُؤْمِنِينَ]

(222. They ask you concerning menstruation. Say: "That is an Adha, therefore, keep away from women during menses and go not in unto them till they are purified." And when they have purified themselves, then go in unto them as Allah has ordained for you. Truly, Allah loves those who turn unto Him in repentance and loves those who purify themselves.) (223. Your wives are a tilth for you, so go to your tilth, when or how you will, and send (good deeds, or ask Allah to bestow upon you pious offspring) for your own selves beforehand. And fear Allah, and know that you are to meet Him (in the Hereafter), and give good tidings to the believers (O Muhammad).)

Sexual Intercourse with Menstruating Women is prohibited

Imam Ahmad recorded that Anas said that the Jews used to avoid their menstruating women, they would not eat, or even mingle with them in the house. The Companions of the Prophet asked about this matter and Allah revealed:

[وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ قُلْ هُوَ أَذَىٰ فَاعْتَزِلُوا النِّسَاءَ فِي الْمَحِيضِ وَلَا تَقْرُبُوهُنَّ حَتَّىٰ يَطْهُرْنَ]

(They ask you concerning menstruation. Say: "That is an Adha, therefore, keep away from women during menses and go not in unto them till they are purified.)

Allah's Messenger said:

«اصْنَعُوا كُلَّ شَيْءٍ إِلَّا النِّكَاحَ»

(Do everything you wish, except having sexual intercourse.)

When the Jews were told about the Prophet's statement, they said, "What is the matter with this man He would not hear of any of our practices, but would defy it." Then, Usayd bin Hudayr and `Abbad bin Bishr came and said, "O Messenger of Allah! The Jews said this and that, should we have sex with our women (meaning, during the menstruation period)" The face of Allah's Messenger changed color, until the Companions thought that he was angry with them. They left. Soon after, some milk was brought to Allah's Messenger as a gift, and he sent some of it for them to drink. They knew then that Allah's Messenger was not angry with them. Muslim also reported this Hadith. Allah said:

[فَاعْتَزِلُوا النِّسَاءَ فِي الْمَحِيضِ]

(. .therefore, keep away from women during menses.) meaning, avoid the sexual organ. The Prophet said:

«اصْنَعُوا كُلَّ شَيْءٍ إِلَّا النِّكَاحَ»

(Do anything you wish except having sexual intercourse.)

This is why most of the scholars said that it is allowed to fondle the wife, except for having sexual intercourse (when she is having her menses). Abu Dawud reported that `Ikrimah related to one of the Prophet's wives that she said that whenever the Prophet wanted to fondle (one of his wives) during her menses, he would cover her sexual organ with something.

Abu Ja'far bin Jarir related that Masruq went to `A'ishah and greeted her, and `A'ishah greeted him in return. Masruq said, "I wish to ask you about a matter, but I am shy." She replied, "I am your mother and you are my son." He said, "What can the man enjoy of his wife when she is having her menses" She said, "Everything except her sexual organ." This is also the opinion of Ibn `Abbas, Mujahid, Al-Hasan and `Ikrimah.

One is allowed to sleep next to his wife and to eat with her (when she is having her menses). `A'ishah said, "Allah's Messenger used to ask me to wash his hair while I was having the menses. He would lay on my lap and read the Qur'an while I was having the period." It is also reported in the Sahih that `A'ishah said, "While having the menses, I used to eat from a piece of meat and give it to the Prophet who would eat from the same place I ate from. I used to have sips of a drink and would then give the cup to the Prophet who would place his mouth where I placed my mouth."

It is also reported in the Two Sahihs that Maymunah bint Al-Harith Al-Hilaliyah said, "Whenever the Prophet wanted to fondle any of his wives during the periods (menses), he used to ask her to wear an Izar (a sheet covering the lower-half of the body)." These are the wordings collected by Al-Bukhari. Similar was reported from `A'ishah. In addition, Imam Ahmad, Abu Dawud, At-Tirmidhi and Ibn Majah reported that `Abdullah bin Sa'd Al-Ansari asked Allah's Messenger, "What am I allowed of my wife while she is having her menses" He said, "What is above the Izar (a sheet covering the lower-half of the body)." Hence, Allah's statement:

[وَلَا تَقْرُبُوهُنَّ حَتَّىٰ يَطْهُرْنَ]

(...and go not in unto them till they are purified.) explains His statement:

[فَاعْتَرِلُوا النِّسَاءَ فِي المَحِيضِ]

(...therefore, keep away from women during menses.)

Allah prohibited having sexual intercourse with the wife during menstruation, indicating that sexual intercourse is allowed otherwise.

Allah's statement:

[فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللّهُ]

(And when they have purified themselves, then go in unto them as Allah has ordained for you.) indicates that men should have sexual intercourse with their wives after they take a bath. The scholars agree that the woman is obliged to take a bath, or to perform Tayammum with sand, if she is unable to use water, before she is allowed to have sexual intercourse with her husband, after the monthly period ends. Ibn `Abbas said:

[حَتَّىٰ يَطْهُرْنَ]

"(till they are purified) means from blood, and,

[فَإِذَا تَطَهَّرْنَ]

(And when they have purified themselves) means with water." This is also the Tafsir of Mujahid, `Ikrimah, Al-Hasan, Muqatil bin Hayyan and Al-Layth bin Sa'd and others.

Anal Sex is prohibited

Allah said:

[مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ]

(...as Allah has ordained for you.) this refers to Al-Farj (the vagina), as Ibn `Abbas, Mujahid and other scholars have stated. Therefore, anal sex is prohibited, as we will further emphasize afterwards, Allah willing. Abu Razin, `Ikrimah and Ad-Dahhak and others said that:

[فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ]

(...then go in unto them as Allah has ordained for you.) means when they are pure, and not during the menses. Allah said afterwards:

[إِنَّ اللَّهَ يُحِبُّ التَّوَّابِينَ]

(Truly, Allah loves those who turn unto Him in repentance) from the sin even if it was repeated,

[وَيُحِبُّ الْمُتَطَهِّرِينَ]

(and loves those who purify themselves.) meaning, those who purify themselves from the impurity and the filth that include having sexual intercourse with the wife during the menses and anal sex.

The Reason behind revealing Allah's Statement: "Your Wives are a Tilth for You.

Allah said:

[نِسَاؤُكُمْ حَرْثٌ لَكُمْ]

(Your wives are a tilth for you,)

Ibn `Abbas commented, "Meaning the place of pregnancy." [Allah then said:]

[فَأْتُوا حَرْثَكُمْ أَيَّ شَيْتُمْ]

(...so go to your tilth, when or how you will,) meaning, wherever you wish from the front or from behind, as long as sex takes place in one valve (the female sexual organ), as the authentic Hadiths have indicated.

For instance, Al-Bukhari recorded that Ibn Al-Munkadir said that he heard Jabir say that the Jews used to claim that if one has sex with his wife from behind (in the vagina) the offspring would become cross-eyed. Then, this Ayah was revealed:

[نِسَاؤُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَيَّ شَيْتُمْ]

(Your wives are a tilth for you, so go to your tilth, when or how you will,)

Muslim and Abu Dawud also reported this Hadith.

Ibn Abu Hatim said that Muhammad bin Al-Munkadir narrated that Jabir bin `Abdullah told him that the Jews claimed to the Muslims that if one has sex with their wife from behind (in the vagina) their offspring will become cross-eyed. Allah revealed afterwards:

[نِسَاؤُكُمْ حَرْثٌ لَّكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ]

(Your wives are a tilth for you, so go to your tilth, when or how you will.)

Ibn Jurayj (one of the reporters of the Hadith) said that Allah's Messenger said:

«مُقْبِلَةً وَمُدْبِرَةً إِذَا كَانَ ذَلِكَ فِي الْفَرْجِ»

(From the front or from behind, as long as that occurs in the Farj (vagina).)

Imam Ahmad recorded that Ibn `Abbas said, "The Ayah,

[نِسَاؤُكُمْ حَرْثٌ لَّكُمْ]

(Your wives are a tilth for you) was revealed about some people from the Ansar who came to the Prophet and asked him (about having sex with the wife from behind). He said to them:

«أَتَيْهَا عَلَى كُلِّ حَالٍ إِذَا كَانَ فِي الْفَرْجِ»

(Have sex with her as you like as long as that occurs in the vagina.)

Imam Ahmad recorded that `Abdullah bin Sabit said: I went to Hafsa bint `Abdur-Rahman bin Abu Bakr and said, "I wish to ask you about something, but I am shy." She said, "Do not be shy, O my nephew." He said, "About having sex from behind with women." She said, "Umm Salamah told me that the Ansar used to refrain from having sex from behind (in the vagina). The Jews claimed that those who have sex with their women from behind would have offspring with crossed-eyes. When the Muhajirun came to Al-Madinah, they married Ansar women and had sex with them from behind. One of these women would not obey her husband and said, 'You will not do that until I go to Allah's Messenger (and ask him about this matter).' She went to Umm Salamah and told her the story. Umm Salamah said, 'Wait until Allah's Messenger comes.' When Allah's Messenger came, the Ansari woman was shy to ask him about this matter, so she left. Umm Salamah told Allah's Messenger the story and he said:

«ادْعِي الْأَنْصَارِيَّةَ»

(Summon the Ansari woman.)"

She was summoned and he recited this Ayah to her:

[نِسَاؤُكُمْ حَرْثٌ لَّكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ]

(Your wives are a tilth for you, so go to your tilth, when or how you will.) He added:

«صِمَامًا وَاحِدًا»

(Only in one valve (the vagina).)"

This Hadith was also collected by At-Tirmidhi who said, "Hasan."

An-Nasa'i reported that Ka'b bin `Alqamah said that Abu An-Nadr said that he asked Nafi', "The people are repeating the statement that you relate from Ibn `Umar that he allowed sex with women in their rear (anus)." He said, "They have said a lie about me. But let me tell you what really happened. Ibn `Umar was once reciting the Qur'an while I was with him and he reached the Ayah:

[نَسَاؤُكُمْ حَرْثٌ لَّكُمْ فَاتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ]

(Your wives are a tilth for you, so go to your tilth, when or how you will.) He then said, `O Nafi'! Do you know the story behind this Ayah' I said, `No.' He said, `We, the people of Quraysh, used to have sexual intercourse with our wives from the back (in the vagina). When we migrated to Al-Madinah and married some Ansari women, we wanted to do the same with them. They disliked it and made a big issue out of it. The Ansari women had followed the practice of the Jews who have sex with their women while they lay on their sides. Then, Allah revealed:

[نَسَاؤُكُمْ حَرْثٌ لَّكُمْ فَاتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ]

(Your wives are a tilth for you, so go to your tilth, when or how you will,)"

This has an authentic chain of narrators.

Imam Ahmad reported that Khuzaymah bin Thabit Al-Khatami narrated that Allah's Messenger said:

«لَا يَسْتَحْيِي اللَّهُ مِنَ الْحَقِّ ثَلَاثًا لَا تَأْتُوا النِّسَاءَ فِي أَعْجَازِهِنَّ»

(Allah does not shy from the truth - he said it thrice-, do not have anal sex with women.)

This Hadith was collected by An-Nasa'i and Ibn Majah.

Abu `Isa At-Tirmidhi and An-Nasa'i reported that Ibn `Abbas narrated that Allah's Messenger said:

«لَا يَنْظُرُ اللَّهُ إِلَى رَجُلٍ أَتَى رَجُلًا أَوْ امْرَأَةً فِي الدُّبُرِ»

(Allah does not look at a man who had anal sex with another man or a woman.)

At-Tirmidhi said, "Hasan Gharib." This is also the narration that Ibn Hibban collected in his Sahih, while Ibn Hazm stated that this is an authentic Hadith.

In addition, Imam Ahmad reported that `Ali bin Talaq said, "Allah's Messenger forbade anal sex with women, for Allah does not shy away from truth." Abu `Isa At-Tirmidhi also reported this Hadith and said, "Hasan".

Abu Muhammad `Abdullah bin `Abdur-Rahman Darimi reported in his Musnad that Sa'id bin Yasar Abu Hubab said: I said to Ibn `Umar, "What do you say about having sex with women in the rear" He said, "What does it mean" I said, "Anal sex." He said, "Does a Muslim do that" This Hadith has an authentic chain of narrators and is an explicit rejection of anal sex from Ibn `Umar.

Abu Bakr bin Ziyad Naysaburi reported that Isma'il bin Ruh said that he asked Malik bin Anas, "What do you say about having sex with women in the anus" He said, "You are not an Arab Does sex occur but in the place of pregnancy Do it only in the Farj (vagina)." I said, "O Abu `Abdullah! They say that you allow that practice." He said, "They utter a lie about me, they lie about me." This is Malik's firm stance on this subject. It is also the view of Sa'id bin Musayyib, Abu Salamah, `Ikrimah, Tawus, `Ata , Sa'id bin Jubayr, `Urwah bin Az-Zubayr, Mujahid bin Jabr, Al-Hasan and other scholars of the Salaf (the Companions and the following two generations

after them). They all, along with the majority of the scholars, harshly rebuked the practice of anal sex and many of them called this practice a Kufri.

Allah said:

[وَقَدِّمُوا لَأَنْفُسِكُمْ]

(...and send for your own selves beforehand.) meaning, by performing the acts of worship while refraining from whatever Allah has prohibited for you. This is why Allah said afterwards:

[وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّكُمْ مُلْقَوُهُ]

(And fear Allah, and know that you are to meet Him (in the Hereafter),)

meaning, He will hold you accountable for all of your deeds,

[وَبَشِّرِ الْمُؤْمِنِينَ]

(...and give good tidings to the believers (O Muhammad).) meaning, those who obey what Allah has commanded and refrain from what He has prohibited. Ibn Jarir reported that `Ata' said, or related it to Ibn `Abbas,

[وَقَدِّمُوا لَأَنْفُسِكُمْ]

(...and send for your own selves beforehand.) means, mention Allah's Name, by saying, 'Bismillah', before having sexual intercourse." Al-Bukhari also reported that Ibn `Abbas narrated that Allah's Messenger said:

«لَوْ أَنَّ أَحَدَكُمْ إِذَا أَرَادَ أَنْ يَأْتِيَ أَهْلَهُ قَالَ: بِاسْمِ اللَّهِ، اللَّهُمَّ جَنِّبْنَا الشَّيْطَانَ وَجَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا، فَإِنَّهُ إِنِ يَفْدَرَ بَيْنَهُمَا وَلَدٌ فِي ذَلِكَ، لَمْ يَضُرَّهُ الشَّيْطَانُ أَبَدًا»

(If anyone of you on having sexual relations with his wife said: 'In the Name of Allah. O Allah! Protect us from Satan and also protect what you bestow upon us (i.e., the coming offspring) from Satan,' and if it is destined that they should have a child then, Satan will never be able to harm him.)

[وَلَا تَجْعَلُوا اللَّهَ عُرْضَةً لِأَيْمَانِكُمْ أَنْ تَبَرُّوا وَتَتَّقُوا وَتُصْلِحُوا بَيْنَ النَّاسِ وَاللَّهُ سَمِيعٌ عَلِيمٌ - لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَكِنْ يُؤَاخِذُكُمْ بِمَا كَسَبْتُمْ قُلُوبُكُمْ وَاللَّهُ غَفُورٌ حَلِيمٌ]

(224. And make not Allah's (Name) an excuse in your oaths against doing good and acting piously, and making peace among mankind. And Allah is All-Hearer, All-Knower (i.e., do not swear much and if you have sworn against doing something good then give an expiation for the oath and do good).) (225. Allah will not call you to account for that which is unintentional in your oaths, but He will call you to account for that which your hearts have earned. And Allah is Oft-Forgiving, Most-Forbearing.)

The Prohibition of swearing to abandon a Good Deed

Allah commands, 'You should not implement your vows in Allah's Name to refrain from pious acts and severing the relations with the relatives, if you swear to abandon such causes.' Allah said in another Ayah:

[وَلَا يَأْتَلِ أُولُوا الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَنْ يُؤْتُوا أَوْلِيَ الْقُرْبَىٰ وَالْمَسْكِينِ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ وَلْيَعْفُوا
وَلْيَصْفَحُوا أَلَا تُحِبُّونَ أَنْ يَغْفِرَ اللَّهُ لَكُمْ]

(And let not those among you who are blessed with graces and wealth swear not to give (any sort of help) to their kinsmen, Al-Masakin (the poor), and those who left their homes for Allah's cause. Let them pardon and forgive. Do you not love that Allah should forgive you) (24:22)

Continuity in a sinful vow is more sinful than breaking it by expiation. Allah's Messenger said:

«وَاللَّهِ لَأَنْ يَلْجَأَ أَحَدُكُمْ بِيَمِينِهِ فِي أَهْلِهِ أَثَمٌ لَهُ عِنْدَ اللَّهِ مِنْ أَنْ يُعْطِيَ كَفَّارَتَهُ الَّتِي افْتَرَضَ اللَّهُ عَلَيْهِ»

(By Allah! It is more sinful to Allah that one of you implements his vow regarding (severing the relations with) his relatives than (breaking his promise and) paying the Kaffarah that Allah has required in such cases.)

This is how Muslim reported this Hadith and also Imam Ahmad.

`Ali bin Abu Talhah reported that Ibn `Abbas said that what Allah said:

[وَلَا تَجْعَلُوا اللَّهَ عُرْضَةً لِأَيْمَانِكُمْ]

(And make not Allah's (Name) an excuse in your oaths) means, "Do not vow to refrain from doing good works. (If you make such vow then) break it, pay the Kaffarah and do the good work." This was also said by Masruq, Ash-Sha'bi, Ibrahim An-Nakha'i, Mujahid, Tawus, Sa'id bin Jubayr, `Ata', `Ikrimah, Makhul, Az-Zuhri, Al-Hasan, Qatadah, Muqatil bin Hayyan, Ar-Rabi' bin Anas, Ad-Dahhak, `Ata' Al-Khurasani and As-Suddi.

Supporting this view, which is the majority view, is what is reported in the Two Sahihs that Abu Musa Al-Ash'ari narrated that Allah's Messenger said: .

«إِنِّي وَاللَّهِ إِنْ شَاءَ اللَّهُ، لَا أَحْلِفُ عَلَى يَمِينٍ فَأَرَىٰ غَيْرَهَا خَيْرًا مِنْهَا إِلَّا أَتَيْتُ الَّذِي هُوَ خَيْرٌ وَتَحَلَّلْتُهَا»

(By Allah! Allah willing, I will not vow to do a thing and then see a better act, but I would do what is better and break my vow.) Muslim reported that Abu Hurayrah said that Allah's Messenger said:

«مَنْ حَلَفَ عَلَى يَمِينٍ فَرَأَىٰ غَيْرَهَا خَيْرًا مِنْهَا فَلْيُكْفَرْ عَنْ يَمِينِهِ، وَلْيَفْعَلِ الَّذِي هُوَ خَيْرٌ»

(Whoever makes a vow and then finds what is better than his vow (should break his vow,) pay the Kaffarah and perform the better deed.)

The Laghw (Unintentional) Vows

Allah said:

[لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ]

(Allah will not call you to account for that which is unintentional in your oaths,)

This Ayah means, 'Allah does not punish or hold you accountable for the Laghw (unintentional) vows that you make.' The Laghw vows are unintentional and are just like the habitual statements that the tongue repeats, without really intending them. For instance, it is reported in the Two Sahihs that Abu Hurayrah narrated that Allah's Messenger said:

«مَنْ حَلَفَ فَقَالَ فِي حَلْفِهِ بِاللَّاتِ وَالْعُزَّى، فَلْيَقُلْ لَا إِلَهَ إِلَّا اللَّهُ»

(Whoever swore and (unintentionally) mentioned Al-Lat and Al-`Uzza (two idols) in his vow, should then say, 'There is no deity worthy of worship except Allah'.)

The Messenger said this statement to some new Muslims whose tongues were, before Islam, used to vowing by their idol Al-Lat. Therefore, the Prophet ordered them to intentionally recite the slogan of Ikhlas, just as they mentioned these words by mistake, so that it (the word of Ikhlas) may eradicate the word (of Shirk). This is why Allah said:

[وَلَكِنْ يُؤَاخِذُكُمْ بِمَا كَسَبَتْ قُلُوبُكُمْ]

(...but He will call you to account for that which your hearts have earned.) and in another Ayah:

[بِمَا عَقَّدْتُمُ الْأَيْمَانَ]

(...for your deliberate oaths) (5:89)

Abu Dawud reported under Chapter: 'The Laghw Vows' that `Ata' said that `A'ishah said that Allah's Messenger said:

«اللَّغْوُ فِي الْأَيْمَانِ هُوَ كَلَامُ الرَّجُلِ فِي بَيْتِهِ: كَلَّا وَاللَّهِ، وَبَلَى وَاللَّهِ»

(The Laghw in the vows includes what the man says in his house, such as, 'No, by Allah,' and, 'Yes, by Allah'.)

Ibn Abu Hatim reported that Ibn `Abbas said, "The Laghw vow includes vowing while angry."

He also reported that Ibn `Abbas said, "The Laghw vow includes vowing to prohibit what Allah has allowed, and this type does not require a Kaffarah (expiation)." Similar was said by Sa`id bin Jubayr.

In addition, Abu Dawud related under Chapter: 'Vowing while Angry' that Sa`id bin Musayyib said that two Ansari brothers both received inheritance and one of them asked that the inheritance be divided. His brother said, "If you ask me about dividing the inheritance again, then all of what I have will be spent on the Ka`bah's door." `Umar said to him, "The Ka`bah does not need your money. So break your vow, pay the Kaffarah and come to terms with your brother. I heard Allah's Messenger saying:

«لَا يَمِينَ عَلَيْكَ وَلَا نَذْرَ فِي مَعْصِيَةِ الرَّبِّ عَزَّ وَجَلَّ، وَفِي قَطِيعَةِ الرَّحِمِ، وَفِيمَا لَا تَمْلِكُ»

(Do not make a vow against yourself, nor to disobey the Lord, cut the relations of the womb or dispose of what you do not own.)"

Allah said:

[وَلَكِنْ يُؤَاخِذُكُمْ بِمَا كَسَبَتْ قُلُوبُكُمْ]

(...but He will call you to account for that which your hearts have earned,)

Ibn `Abbas, Mujahid and several others said that this Ayah means swearing about a matter while knowing that he is lying. Mujahid and others said this Ayah is similar to what Allah said:

[وَلَكِنْ يُؤَاخِذُكُمْ بِمَا عَقَّدْتُمُ الْأَيْمَانَ]

(...but He will punish you for your deliberate oaths.) (5:89) Allah said (2:225 above):

[وَاللَّهُ غَفُورٌ حَلِيمٌ]

(And Allah is Oft-Forgiving, Most-Forbearing.) meaning, He is Oft-Forgiving to His servants and Most Forbearing with them.

[لِلَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ - وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ]

(226. Those who take an oath not to have sexual relation with their wives must wait for four months, then if they return, verily, Allah is Oft-Forgiving, Most Merciful.) (227. And if they decide upon divorce, then Allah is All-Hearer, All-Knower.)

The Ila' and its Rulings

Ila' is a type of vow where a man swears not to sleep with his wife for a certain period, whether less or more than four months. If the vow of Ila' was for less than four months, the man has to wait for the vow's period to end and then is allowed to have sexual intercourse with his wife. She has to be patient and she cannot ask her husband, in this case, to end his vow before the end of its term. It is reported in the Two Sahihs that `A'ishah said that Allah's Messenger swore he would stay away from with his wives for a month. He then came down after twenty-nine days saying:

«الشَّهْرُ تِسْعٌ وَعِشْرُونَ»

(The (lunar) month is twenty-nine days.)

Similar was narrated by `Umar bin Al-Khattab and reported in the Two Sahihs. If the period of Ila' is for more than four months, the wife is allowed in this case to ask her husband, upon the end of the four months, to end the Ila' and have sexual relations with her. Otherwise, he should divorce her, by being forced to do so by the authorities if necessary, so that the wife is not harmed. Allah said:

[لِلَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ]

(Those who take an oath not to have sexual relations with their wives) meaning, swear not to have sexual relations with the wife. This Ayah indicates that the Ila' involves the wife and not a slave-women, as the majority of the scholars have agreed,

[تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ]

(...must wait for four months,) meaning, the husband waits for four months from the time of the vow and then ends the Ila' (if the vow was for four or more months) and is required to either return to his wife or divorce her. This is why Allah said next:

[فَإِنْ فَاءُوا]

(...then if they return,) meaning, to a normal relationship, having sexual intercourse with the wife. This is the Tafsir of Ibn `Abbas, Masruq, Ash-Sha`bi, Sa`id bin Jubayr and Ibn Jarir.

[فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ]

(...verily, Allah is Oft-Forgiving, Most Merciful.) with any shortcomings that occurred in the rights of the wife because of the vow of Ila'.

Allah said:

[وَإِنْ عَزَمُوا الطَّلَاقَ]

(And if they decide upon divorce,) indicating that divorce does not occur by merely passing the four month mark (during the Ila'). Malik reported from Nafi` that `Abdullah bin `Umar said, "If the man swears to Ila' from his wife, then divorce does not occur automatically even after the four months have passed. When he stops at the four months mark, he should either divorce or return." Al-Bukhari also reported this Hadith. Ibn Jarir reported that Suhayl bin Abu Salih said that his father said, "I asked twelve Companions about the man who does Ila' with his wife. They all stated that he does not have to do anything until the four months have passed and then has to either retain or divorce her." Ad-Daraqutni also reported this from Suhayl.

It is also reported from `Umar, `Uthman, `Ali, Abu Ad-Darda', `A'ishah, Ibn `Umar and Ibn `Abbas. This is also the opinion of Sa`id bin Musayyib, `Umar bin `Abdul-`Aziz, Mujahid, Tawus, Muhammad bin Ka`b and Al-Qasim.

[وَالْمُطَلَّقاتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنَنَّ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَبَعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ]

(228. And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs, if they believe in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable, but men have a degree (of responsibility) over them. And Allah is All-Mighty, All-Wise.)

The `Iddah (Waiting Period) of the Divorced Woman

This Ayah contains a command from Allah that the divorced woman, whose marriage was consummated and who still has menstruation periods, should wait for three (menstrual) periods (Quru') after the divorce and then remarry if she wishes.

The Meaning of Al-Quru

Ibn Jarir related that `Alqamah said: We were with `Umar bin Al-Khattab when a woman came and said, "My husband divorced me one or two periods ago. He then came back to me while I had prepared my water [for taking a bath], took off my clothes and closed my door." `Umar asked `Abdullah bin Mas`ud, "What do you think?" He said, "I think that she is still his wife, as long as she is not allowed to resume praying (i.e., until the third period ends before he takes her back)." `Umar said, "This is my opinion too." This is also the opinion of Abu Bakr As-Siddiq, `Umar, `Uthman, `Ali, Abu Ad-Darda', `Ubadah bin As-Samit, Anas bin Malik, Ibn Mas`ud, Mu`adh, Ubayy bin Ka`b, Abu Musa Al-Ash`ari and Ibn `Abbas. Furthermore, this is the opinion of Sa`id bin Musayyib, `Alqamah, Aswad, Ibrahim, Mujahid, `Ata', Tawus, Sa`id bin Jubayr, `Ikrimah, Muhammad bin Sirin, Al-Hasan, Qatadah, Ash-Sha`bi, Ar-Rabi`, Muqatil bin Hayyan, As-Suddi, Makhul, Ad-

Dahhak and `Ata' Al-Khurasani. They all stated that the Quru' is the menstruation period. What testifies to this is the Hadith that Abu Dawud and An-Nasa'i reported that Fatimah bint Abu Hubaiysh said that Allah's Messenger said to her:

«دَعِيَ الصَّلَاةَ أَيَّامَ أَقْرَائِكَ»

(Do not pray during your Aqra' (pl. for Quru', the menstruation period).)

If this Hadith was authentic, it would have been a clear proof that the Quru' is the menstruation period. However, one of the narrators of this Hadith, Al-Mundhir, is an unknown person (in Hadith terminology), as Abu Hatim has stated, although Ibn Hibban has mentioned Al-Mundhir in his book Ath-Thiqat.

A Woman's Statement about Menses and Purity is to be accepted

Allah said:

[وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ]

(...and it is not lawful for them to conceal what Allah has created in their wombs,) meaning, of pregnancy or menstruation periods. This is the Tafsir of Ibn `Abbas, Ibn `Umar, Mujahid, Ash-Sha`bi, Al-Hakam bin `Utaybah, Ar-Rabi` bin Anas, Ad-Dahhak and others.

Allah then said:

[إِنْ كُنَّ يُؤْمِنَنَّ بِاللَّهِ وَالْيَوْمِ الْآخِرِ]

(...if they believe in Allah and the Last Day.)

This Ayah warns women against hiding the truth (if they were pregnant or on their menses), indicating that they are the authority in such matters as they alone know such facts about themselves. Since verifying such matters is difficult, Allah left this decision with them. Yet, women were warned not to hide the truth in case they wish to end the `Iddah sooner, or later, according to their desires. Women were thus commanded to say the truth (if they were pregnant or on their menses), no more and no less.

The Husband has the Right to take back his Divorced Wife during the `Iddah (Waiting Period)

Allah said:

[وَبِعَوْلْتِهِنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا]

(And their husbands have the better right to take them back in that period, if they wish for reconciliation.)

Hence, the husband who divorces his wife can take her back, providing she is still in her `Iddah (time spent before a divorced woman or a widow can remarry) and that his aim, by taking her back, is righteous and for the purpose of bringing things back to normal. However, this ruling applies where the husband is eligible to take his divorced wife back. We should mention that (when this Ayah 2:228 was revealed), the ruling that made the divorce thrice and specified when the husband is ineligible to take his divorced wife back, had not been revealed yet. Previously, the man used to divorce his wife and then take her back even if he had divorced her a hundred separate times. Thereafter, Allah revealed the following Ayah (2:229) that made the divorce only thrice. So there was now a reversible divorce and an irreversible final divorce.

The Rights the Spouses have over Each Other

Allah said:

[وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ]

(And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable,)

This Ayah indicates that the wife has certain rights on her husband, just as he has certain rights on her, and each is obliged to give the other spouse his due rights. Muslim reported that Jabir said that Allah's Messenger said:

«فَاتَّقُوا اللَّهَ فِي النِّسَاءِ، فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ، وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ، وَلَكُمْ عَلَيْهِنَّ أَنْ لَا يُوطِئَنَّ فُرُوشَكُمْ أَحَدًا تَكْرَهُوهُ، فَإِنْ فَعَلَنَ ذَلِكَ فَاضْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرِحٍ، وَلَهُنَّ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ»

a(Fear Allah regarding your women, for you have taken them by Allah's covenant and were allowed to enjoy with them sexually by Allah's Words. You have the right on them that they do not allow anyone you dislike to sit on your mat. If they do that, then discipline them leniently. They have the right to be spent on and to be bought clothes in what is reasonable.)

Bahz bin Hakim said that Mu`awiyah bin Haydah Al-Qushayri related that his grandfather said, "O Messenger of Allah! What is the right the wife of one of us has" The Prophet said:

«أَنْ تُطْعِمَهَا إِذَا طَعِمْتَ، وَتَكْسُوَهَا إِذَا اكْتَسَيْتَ، وَلَا تَضْرِبَ الْوَجْهَ، وَلَا تُقْبِحَ، وَلَا تَهْجُرْ إِلَّا فِي الْبَيْتِ»

(To feed her when you eat, buy her clothes when you buy for yourself and to refrain from striking her on the face, cursing her or staying away from her except in the house.)

Waki` related that Ibn `Abbas said, "I like to take care of my appearance for my wife just as I like for her to take care of her appearance for me. This is because Allah says:

[وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ]

(And they (women) have rights similar (to those of their husbands) over them to what is reasonable.)" This statement is reported by Ibn Jarir and Ibn Abu Hatim.

The Virtue Men have over Women

Allah said:

[وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ]

(but men have a degree (of responsibility) over them.)

This Ayah indicates that men are in a more advantageous position than women physically as well as in their mannerism, status, obedience (of women to them), spending, taking care of the affairs and in general, in this life and in the Hereafter. Allah said (in another Ayah):

[الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ]

(Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means.) (4:34)

Allah's statement:

[وَاللَّهُ عَزِيزٌ حَكِيمٌ]

(And Allah is All-Mighty, All-Wise) means, He is Mighty in His punishment of those who disobey and defy His commands. He is Wise in what He commands, destines and legislates.

[الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ - فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدِ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ وَتِلْكَ حُدُودُ اللَّهِ يُبَيِّنُهَا لِقَوْمٍ يَعْلَمُونَ

(229. The divorce is twice, after that either you retain her on reasonable terms or release her with kindness. And it is not lawful for you (men) to take back (from your wives) any of what you gave them (the Mahr, bridal-money given by the husband to his wife at the time of marriage), except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g., to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back (the Mahr or a part of it). These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the wrongdoers.) (230. And if he has divorced her (the third time), then she is not lawful unto him thereafter until she has married another husband. Then, if the other husband divorces her, it is no sin on both of them that they reunite, provided they feel that they can keep the limits ordained by Allah. These are the limits of Allah, which He makes plain for the people who have knowledge.)

Divorce is Thrice

This honorable Ayah abrogated the previous practice in the beginning of Islam, when the man had the right to take back his divorced wife even if he had divorced her a hundred times, as long as she was still in her `Iddah (waiting period). This situation was harmful for the wife, and this is why Allah made the divorce thrice, where the husband is allowed to take back his wife after the first and the second divorce (as long as she is still in her `Iddah). The divorce becomes irrevocable after the third divorce, as Allah said:

[الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ]

(The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness.)

In his Sunan, Abu Dawud reported in Chapter: "Taking the Wife back after the third (Divorce) is an abrogated practice," that Ibn `Abbas commented on the Ayah:

[وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ]

(And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs,) (2:228) The man used to have the right to take back his wife even if he had divorced her thrice. Allah abrogated this and said:

[الطَّلَقُ مَرَّتَانِ]

(The divorce is twice.)

This Hadith was also collected by An-Nasa'i. Ibn Abu Hatim reported that `Urwah said that a man said to his wife, "I will neither divorce you nor take you back." She said, "How" He said, "I will divorce you and when your term of `Iddah nears its end, I will take you back." She went to Allah's Messenger and told him what happened, and Allah revealed:

[الطَّلَقُ مَرَّتَانِ]

(The divorce is twice.)

Ibn Jarir (At-Tabari) also reported this Hadith in his Tafsir.

Allah said:

[فَأَمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ]

(...after that, either you retain her on reasonable terms or release her with kindness.) meaning, 'If you divorce her once or twice, you have the choice to take her back, as long as she is still in her `Iddah, intending to be kind to her and to mend differences. Otherwise, await the end of her term of `Iddah, when the divorce becomes final, and let her go her own way in peace, without committing any harm or injustice against her.' `Ali bin Abu Talhah reported that Ibn `Abbas said, "When the man divorces his wife twice, let him fear Allah, regarding the third time. He should either keep her with him and treat her with kindness, or let her go her own way with kindness, without infringing upon any of her rights."

Taking back the Mahr (Dowry)

Allah said:

[وَلَا يَجِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا]

(And it is not lawful for you (men) to take back (from your wives) any of (the dowry) what you gave them,) meaning, you are not allowed to bother or pressure your wives to end this situation by giving you back the Mahr and any gifts that you have given them (in return for divorce). Similarly, Allah said:

[وَلَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبِينَةٍ]

(...and you should not treat them with harshness, that you may take away part of what you have given them, unless they commit open illegal sexual intercourse.) (4:19)

However, if the wife willingly gives back anything with a good heart, then Allah said regarding this situation:

[فَإِنْ طِبَّنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيئًا]

(...but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm.) (4:4)

Allowing Khul` and the Return of the Mahr in that Case

When the spouses have irreconcilable differences wherein the wife ignores the rights of the husband, dislikes him and becomes unable to live with him any longer, she is allowed to free herself (from married life) by giving him back what he had given her (in gifts and Mahr). There is no sin on her in this case nor on him if he accepts such offer. This is why Allah said:

[وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ]

(And it is not lawful for you (men) to take back (from your wives) any of what you gave them, except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g., to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back.)

Sometimes, the woman has no valid reason and she still asks for her marriage to be ended. In this case, Ibn Jarir reported that Thawban said that Allah's Messenger said:

«أَيُّمَا امْرَأَةٍ سَأَلَتْ زَوْجَهَا طَلَاقًا فِي غَيْرِ مَا بَأْسٍ، فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ»

(Any woman who asks her husband for divorce without justification, then the scent of Paradise will be forbidden for her.)

At-Tirmidhi recorded this Hadith and stated that it is Hasan.

Ibn Jarir said that the Ayah (2:229) was revealed about Thabit bin Qays bin Shammās and his wife Habibah bint `Abdullah bin Ubayy bin Salul. In his Muwatta', Imam Malik reported that Habibah bint Sahl Al-Ansariyah was married to Thabit bin Qays bin Shammās and that Allah's Messenger once went to the Fajr (Dawn) prayer and found Habibah bint Sahl by his door in the dark. Allah's Messenger said, "Who is this" She said, "I am Habibah bint Sahl, O Messenger of Allah!" He said, "What is the matter" She said, "I and Thabit bin Qays", meaning, (she can no longer be with) her husband. When her husband Thabit bin Qays came, Allah's Messenger said to him:

«هَذِهِ حَبِيبَةُ بِنْتِ سَهْلٍ قَدْ ذَكَرْتُ مَا شَاءَ اللَّهُ أَنْ تَذْكُرُ»

(This is Habibah bint Sahl, she said what Allah has permitted her to say.)

Habibah also said, "O Messenger of Allah! I still have everything he gave me." Allah's Messenger said:

«خُذْ مِنْهَا»

(Take it from her.) So, he took it from her and she remained in her family's house."

This was reported by Ahmad, Abu Dawud and An-Nasai.

Al-Bukhari reported that Ibn `Abbas said that the wife of Thabit bin Qays bin Shammās came to the Prophet and said, "O Messenger of Allah! I do not criticize his religion or mannerism. But I hate committing Kufr in Islam (by ignoring his rights on her)." Allah's Messenger said:

«أَتُرَدِّينَ عَلَيْهِ حَدِيْقَتَهُ»

؟

(Will you give him back his garden)

She said, "Yes." Allah's Messenger said:

«أَقْبَلِ الْحَدِيْقَةَ وَطَلَّقْهَا تَطْلِيْقَةً»

(Take back the garden and divorce her once.)

An-Nasa'i also recorded it.

The `Iddah (Waiting Period) for the Khul'

At-Tirmidhi reported that Rubayi` bint Mu`awwidh bin `Afra' got a Khul` during the time of Allah's Messenger and the Prophet ordered her to wait for one menstruation period for `Iddah.

Transgressing the set limits of Allah is an Injustice

Allah said:

[تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ]

(These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the wrongdoers.)

This means that the laws that Allah has legislated are His set limits, so do not transgress them. An authentic Hadith states:

«إِنَّ اللَّهَ حَدَّ حُدُودًا فَلَا تَعْتَدُوهَا، وَفَرَضَ فَرَائِضَ فَلَا تُضَيِّعُوهَا، وَحَرَّمَ مَحَارِمَ فَلَا تَنْتَهِكُوهَا، وَسَكَتَ عَنْ أَشْيَاءَ رَحْمَةً لَكُمْ مِنْ غَيْرِ نَسْيَانٍ فَلَا تَسْأَلُوا عَنْهَا»

(Allah has set some limits, so do not transgress them; and commanded some commands, so do not ignore them; and made some things unlawful, so do not commit them. He has also left some matters (without rulings) as a mercy with you, not because He has forgotten them, so do not ask about them.)

Pronouncing Three Divorces at the same Time is Unlawful

The last Ayah we mentioned was used as evidence to prove that it is not allowed to pronounce three divorces at one time. What further proves this ruling is that Mahmud bin Labid has stated - as An-Nasa'i recorded - that Allah's Messenger was told about a man who pronounced three divorces on his wife at one time, so the Prophet stood up while angry and said:

«أَيْلَعِبُ بِكِتَابِ اللَّهِ وَأَنَا بَيْنَ أَظْهُرِكُمْ»

؟

(The Book of Allah is being made the subject of jest while I am still amongst you)

A man then stood up and said, "Should I kill that man, O Messenger of Allah"

The Wife cannot be taken back after the Third Divorce

Allah said:

[فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ]

(And if he has divorced her (the third time), then she is not lawful for him thereafter until she has married another husband.)

This Ayah indicates that if the man divorces his wife for the third time after he divorced her twice, then she will no longer be allowed for marriage to him. Allah said:

[حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ]

(...until she has married another husband.) meaning, until she legally marries another man. For instance, if she has sexual intercourse with any man, even her master (if she was a servant), she would still be ineligible for marriage for her ex-husband (who divorced her thrice), because whomever she had sexual relations with was not her legal husband. If she marries a man without consummating the marriage, she will not be eligible for her ex-husband. Muslim reported that `A'ishah said that Allah's Messenger was asked about a woman who marries a man who thereafter divorces her (thrice). She then marries another man and he divorces her before he has sexual relations with her, would she be allowed for her first husband Allah's Messenger said:

«لَا، حَتَّى يَذُوقَ عُسَيْلَتَهَا»

(No, until he enjoys her `Usaylah (sexual relation).) Al-Bukhari also reported this Hadith.

Imam Ahmad recorded that `A'ishah said, "The wife of Rifa`ah Al-Qurazi came while I and Abu Bakr were with the Prophet and she said, 'I was Rifa`ah's wife, but he divorced me and it was an irrevocable divorce. Then I married `Abdur-Rahman bin Az-Zubayr, but his sexual organ is minute like a string.' She then took a small string of her garment (to resemble how small his sexual organ was). Khalid bin Sa`id bin Al-`As, who was next to the door and was not yet allowed in, said, 'O Abu Bakr! Why do you not forbid this (woman) from what she is revealing frankly before the Prophet' The Prophet merely smiled. Then, Allah's Messenger asked her:

«كَأَنَّكَ تُرِيدِينَ أَنْ تَرْجِعِي إِلَى رِفَاعَةَ، لَا، حَتَّى تَذُوقِي عُسَيْلَتَهُ، وَيَذُوقَ عُسَيْلَتِكَ»

(Do you want to remarry Rifa`ah You cannot unless you experience his `Usaylah and he experiences your `Usaylah (i.e., had a complete sexual relation with your present husband).)"

Al-Bukhari, Muslim, and An-Nasa'i also recorded this Hadith. Muslim's wording is "Rifa`ah divorced his wife for the third and final time."

The word `Usaylah mentioned in the Hadith means sexual intercourse. Imam Ahmad and An-Nasa'i reported that `A'ishah said that Allah's Messenger said:

«أَلَا إِنَّ الْعُسَيْلَةَ الْجَمَاعَ»

(`Usaylah is sexual intercourse.)

The Curse on the Participants of Tahlil/Halalah

The reason for the woman (who was divorced thrice) to marry another man must be that the man desires her and has the intention of having an extended married life with her. These are the legal goals and aims behind marriage. If the reason behind the second marriage was to make the woman eligible for her ex-husband again, then this is the Tahlil that the Hadiths have cursed and criticized. In addition, when the reason behind this marriage (if it was Tahlil) is announced in the contract, it would make the contract invalid according to the majority of the scholars.

Imam Ahmad reported that `Abdullah bin Mas`ud said, "Allah's Messenger cursed the one who does Tahlil, the one in whose favor it is done, those who eat Riba (usury) and those who feed it (pay the usury)." At-Tirmidhi and An-Nasa'i reported this Hadith and At-Tirmidhi said, "This Hadith is Hasan." He said, "This is what is acted upon according to people of knowledge among the Companions, among whom are `Umar, `Uthman and Ibn `Umar. It was also the saying of the scholars of Fiqh among the Tabi`in (second generation of Islam). And it has been reported from `Ali, Ibn Mas`ud and Ibn `Abbas".

In his Mustadrak, Al-Hakim reported that Nafi` said: "A man came to Ibn `Umar and asked him about a man who divorced his wife three times. Then, his brother married her to make Tahlil for his brother, without the brother knowing this fact. He then asked, "Is she allowed for the first (husband)" He said, "No, unless it is a marriage that involves desire. We used to consider this an act of adultery during the time of Allah's Messenger ." Al-Hakim said, "This Hadith has a Sahih chain although they (Al-Bukhari and Muslim) did not record it." The wording of this Hadith indicates that the ruling came from the Prophet . Abu Bakr bin Abu Shaybah, Al-Jawzjani, Harb Al-Kirmani and Abu Bakr Al-Athram said that Qabisah bin Jabir said that `Umar said, "If the participants to Tahlil are brought to me, I will have them stoned."

When does a Woman who was divorced Three Times become Eligible for Her First Husband

Allah said:

[فَإِنْ طَلَّقَهَا]

(And if he has divorced her) meaning, the second husband after he had complete sexual relations with her,

[فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا]

(it is no sin on both of them that they reunite) meaning, the wife and her first husband,

[إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ]

(provided they feel that they can keep the limits ordained by Allah.) meaning, they live together honorably. Mujahid said, "If they are convinced that the aim behind their marriage is honorable." Next, Allah said:

[وَتِلْكَ حُدُودُ اللَّهِ]

(These are the limits of Allah,) His commandments and legislation,

[يُبَيِّنُهَا]

(He makes plain)

[لِقَوْمٍ يَعْلَمُونَ]

(for the people who have knowledge.)

[وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا
وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوعًا وَادْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ
الْكِتَابِ وَالْحِكْمَةِ يَعِظُكُمْ بِهِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ]

(231. And when you have divorced women and they have fulfilled the term of their prescribed period, either take them back on a reasonable basis or set them free on a reasonable basis. But do not take them back to hurt them, and whoever does that, then he has wronged himself. And treat not the verses (Laws) of Allah in jest, but remember Allah's favors on you (i.e., Islam), and that which He has sent down to you of the Book (i.e., the Qur'an) and Al-Hikmah (the Prophet's Sunnah - legal ways - Islamic jurisprudence) whereby He instructs you. And fear Allah, and know that Allah is All-Aware of everything).

Being Kind to the Divorced Wife

This is a command from Allah to men that when one of them divorces his wife with a reversible divorce, he should treat her kindly. So when her term of `Iddah (waiting period) nears its end, he either takes her back in a way that is better, including having witnesses that he has taken her back, and he lives with her with kindness. Or, he should release her after her `Iddah finishes and then kindly asks her to depart from his house, without disputing, fighting with her or using foul words. Allah then said:

[وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا]

(But do not take them back to hurt them,)

Ibn `Abbas, Mujahid, Masruq, Al-Hasan, Qatadah, Ad-Dahhak, Ar-Rabi` and Muqatil bin Hayyan said that a man used to divorce his wife, and when her `Iddah came near its end, he would take her back to harm her and to stop her from marrying someone else. He then divorced her and she would begin her `Iddah and when her `Iddah term neared its end, he would take her back again, so that the term of `Iddah would be prolonged for her. After that, Allah prohibited this practice. Allah has also threatened those who indulge in such practices, when He said;

[وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ]

(...and whoever does that, then he has wronged himself.) meaning, by defying Allah's commandments. Allah then said:

[وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوعًا]

(And treat not the verses (Laws) of Allah in a jest,)

Ibn Jarir said that Abu Musa (Al-Ash`ari) narrated that Allah's Messenger once became angry at the Ash`ari tribe. Abu Musa went to him and said, "O Messenger of Allah! Are you angry with the Ash`ariyyin" The Prophet said:

«يَقُولُ أَحَدُكُمْ: قَدْ طَلَّقْتُ، قَدْ رَاجَعْتُ، لَيْسَ هَذَا طَلَّاقُ الْمُسْلِمِينَ، طَلَّقُوا الْمَرْأَةَ فِي قُبُلِ عِدَّتِهَا»

(One of you says, 'I divorced her' -then says- 'I took her back!' This is not the appropriate way Muslims conduct divorce. Divorce the woman when she has fulfilled the term of the prescribed period.)

Masruq said that the Ayah refers to the man who harms his wife by divorcing her and then taking her back, so that the `Iddah term is prolonged for her. Al-Hasan, Qatadah, `Ata' Al-Khurasani, Ar-Rabi` and Muqatil bin Hayyan said, "He is the man who divorces his wife and says, 'I was joking.' Or he frees a servant or gets married and says, 'I was only joking.' Allah revealed:

[وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوًا]

(And treat not the verses (Laws) of Allah in a jest,)

Then such men were made to bear the consequences of their actions.

Allah then said:

[وَأذْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ]

(. .but remember Allah's favors on you,) meaning, by His sending His Messenger with the right guidance and clear signs to you:

[وَمَا أَنْزَلَ عَلَيْكُمْ مِّنَ الْكِتَابِ وَالْحِكْمَةِ]

(...and that which He has sent down to you of the Book (i.e., the Qur'an) and Al-Hikmah) meaning the Sunnah,

[يَعِظُكُمْ بِهِ]

(...whereby He instructs you.) meaning, commands you, forbids you and threatens you for transgressing His prohibitions. Allah said:

[وَاتَّقُوا اللَّهَ]

(And fear Allah) meaning, concerning what you perform and what you avoid,

[وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ]

(and know that Allah is All-Aware of everything.) none of your secret or public affairs ever escapes His knowledge, and He will treat you accordingly.

[وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَّغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ أَزْكَى لَكُمْ وَأَطْهَرُ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ]

(232. And when you have divorced women and they have fulfilled the term of their prescribed period, do not prevent them from marrying their (former) husbands, if they mutually agree on reasonable basis. This (instruction) is an admonition for him among you who believes in Allah and the Last Day. That is more virtuous and purer for you. Allah knows and you know not.)

The Wali (Guardian) of the Divorced Woman should not prevent Her from going back to Her Husband

`Ali bin Abu Talhah reported that Ibn `Abbas said, "This Ayah was revealed about the man who divorces his wife once or twice and her `Iddah finishes. He later thinks about taking her back in marriage and the woman also wishes that, yet, her family prevents her from remarrying him. Hence, Allah prohibited her family from preventing her." Masruq, Ibrahim An-Nakha`i, Az-Zuhri and Ad-Dahhak stated that this is the reason behind revealing the Ayah (2:232). These statements clearly conform to the apparent meaning of the Ayah.

There is no Marriage without a Wali (for the Woman)

The Ayah (2:232) also indicates that the woman is not permitted to give herself in marriage. Rather, she requires a Wali (guardian such as her father, brother, adult son, and so forth) to give her away in marriage, as Ibn Jarir and At-Tirmidhi have stated when they mentioned this Ayah. Also, a Hadith states that:

«لَا تُزَوِّجُ الْمَرْأَةَ الْمَرْأَةَ، وَلَا تُزَوِّجُ الْمَرْأَةَ نَفْسَهَا، فَإِنَّ الزَّانِيَةَ هِيَ الَّتِي تُزَوِّجُ نَفْسَهَا»

(The woman does not give another woman away for marriage and the woman does not give herself away in marriage, for only the adulteress gives herself away for marriage.)

Another Hadith states:

«لَا نِكَاحَ إِلَّا بِوَلِيِّ مُرْشِدٍ وَشَاهِدَيْ عَدْلٍ»

(No marriage is valid except with the participation of a mature Wali and two trustworthy witnesses.)

The Reason behind revealing the Ayah (2:232)

It was reported that this Ayah was revealed about Ma`qil bin Yasar Al-Muzani and his sister. Al-Bukhari reported in his Sahih, when he mentioned the Tafsir of this Ayah (2:232), that the husband of the sister of Ma`qil bin Yasar divorced her. He waited until her `Iddah finished and then asked to remarry her, but Ma`qil refused. Then, this Ayah was sent down:

[فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ]

(...do not prevent them from marrying their (former) husbands.)

Abu Dawud, At-Tirmidhi, Ibn Abu Hatim, Ibn Jarir and Ibn Marduwyah and Al-Bayhaqi reported this Hadith from Al-Hasan from Ma`qil bin Yasar. At-Tirmidhi rendered this Hadith authentic and in his narration, Ma`qil bin Yasar gave his sister in marriage for a Muslim man during the time of Allah's Messenger . She remained with him for a while and he divorced her once and did not take her back until her `Iddah finished. They then wanted to get back with each other and he came to ask her for marriage. Ma`qil said to him, "O ungrateful one! I honored you and married her to you but you divorced her. By Allah! She will never be returned to you." But Allah knew his need for his wife and her need for her husband and He revealed:

[وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ]

(And when you have divorced women and they have fulfilled the term of their prescribed period,) until He said:

[وَأَنْتُمْ لَا تَعْلَمُونَ]

(...and you know not.)

When Ma`qil heard the Ayah, he said, "I hear and obey my Lord." He then summoned the man and said, "I will honor you and let you remarry (my sister)." Ibn Marduwyah added (that Ma`qil said), "And will pay (the expiation) for breaking my vow."

Allah said:

[ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ]

(This (instruction) is an admonition for him among you who believes in Allah and the Last Day.) meaning, prohibiting you from preventing the women from marrying their ex-husbands, if they both agree to it,

[مَنْ كَانَ مِنْكُمْ]

(among you) O people,

[يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ]

(who believes in Allah and the Last Day.) meaning, believes in Allah's commandments and fears His warnings and the torment in the Hereafter. Allah said:

[ذَلِكَ أَرْكَى لَكُمْ وَأَطْهَرُ]

(That is more virtuous and purer for you.) meaning, obeying Allah's Law by returning the women to their ex-husbands, and abandoning your displeasure, is purer and cleaner for your hearts,

[وَاللَّهُ يَعْلَمُ]

(Allah knows) the benefits you gain from what He commands and what He forbids.

[وَأَنْتُمْ لَا تَعْلَمُونَ]

(and you know not) the benefits in what you do or what you refrain from doing.

[وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ بَوْلِهَا وَلَا مَوْلُودٌ لَهُ بَوْلِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ]

n(233. The mothers should suckle their children for two whole years, (that is) for those (parents) who desire to complete the term of suckling, but the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis. No person shall have a burden laid on him greater than he can bear. No mother shall be treated unfairly on account of her child, nor father on account of his child. And on the (father's) heir is incumbent the like of that (which was incumbent on the father). If they both decide on weaning, by mutual consent, and after due consultation, there is no sin on them. And if you decide on a foster suckling-mother for

your children, there is no sin on you, provided you pay (the mother) what you agreed (to give her) on a reasonable basis. And fear Allah and know that Allah is All-Seer of what you do.)

The Suckling Period is only Two Years

This is a direction from Allah to the mothers to suckle their infants through the complete term of suckling, which is two years. Hence, suckling after two years is not included in this address. Allah said:

[لَمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ]

(...who desire to complete the term of suckling,)

Therefore, the suckling that establishes Tahrim (prohibition, i.e., one cannot marry his mother or sister from suckling) is what occurs before the two years end. If the infant is suckled only after two years of age, then no Tahrim will be established. At-Tirmidhi under Chapter: 'Suckling establishes Tahrim within the first two years,' reported that Umm Salamah narrated that Allah's Messenger said:

«لَا يَحْرُمُ مِنَ الرَّضَاعِ إِلَّا مَا فَتَقَ الْأُمْعَاءَ فِي الثَّدْيِ وَكَانَ قَبْلَ الْفِطَامِ»

(Suckling establishes Tahrim if it is on the breast and before Fitam (before weaning, i.e., before the end of the first two years).)

At-Tirmidhi said, "This Hadith is Hasan Sahih. The majority of the people of knowledge among the Companions of Allah's Messenger and others acted upon this, that is that suckling establishes Tahrim (prohibition in marriage) before the end of the two years and that whatever occurs after that does not establish Tahrim". At-Tirmidhi is alone in recording this Hadith and the narrators in its chain meet the criteria of the Sahihayn. The Prophet's statement:

«إِلَّا مَا كَانَ فِي الثَّدْيِ»

(On the breast) refers to the organ of suckling before the two years. Imam Ahmad reported a Hadith in which Al-Bara' bin `Azib narrated, "When Ibrahim, the Prophet's son, died, the Prophet said:

«إِنَّ ابْنِي مَاتَ فِي الثَّدْيِ، إِنَّ لَهُ مُرَضِعًا فِي الْجَنَّةِ»

(My son has died on the breast and he has someone to suckle him in Paradise.)

Furthermore, Ad-Daraqutni related that Ibn `Abbas said that Allah's Messenger said:

«لَا يَحْرُمُ مِنَ الرَّضَاعِ إِلَّا مَا كَانَ فِي الْحَوَائِنِ»

(Suckling establishes Tahrim only within the (first) two years.)

Imam Malik reported this Hadith from Thawr bin Zayd who narrated that Ibn `Abbas related it to the Prophet . Ad-Darawardi reported this Hadith from Thawr who narrated it from `Ikrimah who narrated it from Ibn `Abbas. In this narration, which is more authentic, he added:

«وَمَا كَانَ بَعْدَ الْحَوَائِنِ فَلَيْسَ بِشَيْءٍ»

(Whatever occurs after the two years is not considered.)

Suckling beyond the Two Years

It is reported in the Sahih that `A'ishah thought that if a woman gives her milk to an older person (meaning beyond the age of two years) then this will establish Tahrim. This is also the opinion of `Ata' bin Abu Rabah and Layth bin Sa'd. Hence, `A'ishah thought that it is permissible to suckle the man whom the woman needs to be allowed in her house. She used as evidence the Hadith of Salim, the freed slave of Abu Hudhayfah, where the Prophet ordered Abu Hudhayfah's wife to give some of her milk to Salim, although he was a man, and ever since then, he used to enter her house freely. However, the rest of the Prophet's wives did not agree with this opinion and thought that this was only a special case. This is also the opinion of the majority of the scholars.

Suckling for Monetary Compensation

Allah said:

[وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ]

(...but the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis.) meaning, the father of the baby is obliged to provide for the expenses of the mother and to buy her clothes, in reasonable amounts usually used by similar women in that area, without extravagance or stinginess. The father spends within his means in this case. Allah said in another Ayah:

[لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَّا آتَاهَا سَيِّجَعُلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا]

(Let the rich man spend according to his means; and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him. Allah will grant after hardship, ease.) (65:7)

Ad-Dahhak commented, "If the husband divorces his wife, with whom he had a child, and she suckles that child, he is required to provide for the mother's expenses and clothes within reason."

No Darar (Harm) or Dirar (Revenge)

Allah said:

[لَا تُضَارُّ وَالِدَةً بِوَلَدِهَا]

(No mother shall be treated unfairly on account of her child,) meaning, the mother should not decline to rear her child to harm its father. The mother does not have the right to refrain from suckling the child after giving birth, unless she suckles him/her the milk that is necessary for his/her survival. Later on, she is allowed to give up custody of the child as long as she does not do that intending to harm the father. In addition, the father is not allowed to take the child from his mother to harm the mother. This is why Allah said:

[وَلَا مَوْلُودٌ لَهُ بِوَلَدِهِ]

(...nor father on account of his child.) meaning, by taking the child from its mother intending to harm the mother. This is the Tafsir of Mujahid, Qatadah, Ad-Dahhak, Az-Zuhri, As-Suddi, Ath-Thawri and Ibn Zayd, and others on this Ayah.

Allah then said:

[وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ]

(And on the (father's) heir is incumbent the like of that (which was incumbent on the father).) meaning, by refraining from harming the relative (of the father, i.e., his infant), as Mujahid, Ash-Sha`bi and Ad-Dahhak stated. It was also reported that (the Ayah requires) the inheritor (of the father) to spend on the mother of the child, just as the father was spending, and to preserve her rights and refrain from harming her, according to the Tafsir of the majority of the scholars. We should state that Ibn Jarir has explained this subject in detail in his Tafsir and that he also stated that suckling the child after the second year might harm the child's body and mind. Sufyan Ath-Thawri narrated that `Alqamah asked a woman who was suckling her child after the second year ended, not to do that.

Fitam (weaning) occurs by Mutual Consent

Allah said:

[فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا]

(If they both decide on weaning, by mutual consent, and after due consultation, there is no sin on them.)

This Ayah indicates that if the father and the mother decide on the Fitam (weaning) before the two years (of suckling) end, and for a benefit that they duly discuss and agree upon, then there is no sin in this case. So, the Ayah indicates that one parent is not allowed to make this kind of decision without duly consulting the other parent, as stated by Ath-Thawri. The method of mutual consultation protects the child's interests. It is also a mercy from Allah to His servants, for He has legislated the best method for parents to rear their children, and His legislation guides and directs the parents and the children to success. Similarly, Allah said in Surat At-Talaq (chapter 65 in the Qur'an):

[فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أَجُورَهُنَّ وَأْتَمِرُوا بَيْنَكُمْ بِمَعْرُوفٍ وَإِنْ تَعَاَسَرْتُم فَاسْتَزِيعُ لَهُ أُخْرَى]

(Then if they give suck to the children for you, give them their due payment, and let each of you accept the advice of the other in a just way. But if you make difficulties for one another, then some other woman may give suck for him (the father of the child).) (65:6)

Allah then said:

[وَإِنْ أَرَدْتُمْ أَنْ تَسْتَزِيعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ]

(And if you decide on a foster suckling-mother for your children, there is no sin on you, provided you pay (the mother) what you agreed (to give her) on a reasonable basis.) meaning, if the mother and the father both agree that the father assumes custody of the child due to a circumstance that compels her or allows him to do so, then there is no sin in this case. Hence, the mother is allowed to give up the child and the father is allowed to assume custody of the child. The father should kindly give the mother her expenses for the previous period (during which she reared and suckled the child), and he should seek other women to suckle his child for monetary compensation. Thereafter, Allah said:

[وَاتَّقُوا اللَّهَ]

(And fear Allah) meaning, in all of your affairs,

[وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ]

(And know that Allah is All-Seer of what you do.) meaning, none of your affairs or speech escapes His perfect Watch.

[وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ]

(234. And those of you who die and leave wives behind them, they (the wives) shall wait (as regards their marriage) for four months and ten days, then when they have fulfilled their term, there is no sin on you if they (the wives) dispose of themselves in a (just and) honorable manner (i.e., they can marry). And Allah is well-acquainted with what you do.)

The `Iddah (Waiting Period) of the Widow

This Ayah contains a command from Allah to the wives whose husbands die, that they should observe a period of `Iddah of four months and ten nights, including the cases where the marriage was consummated or otherwise, according to the consensus (of the scholars).

The proof that this ruling includes the case where the marriage was not consummated is included in the general meaning of the Ayah. In a narration recorded by Imam Ahmad and the compilers of the Sunan, which At-Tirmidhi graded Sahih, Ibn Mas`ud was asked about a man who married a woman, but he died before consummating the marriage. He also did not appoint a Mahr (dowry) for her. They kept asking Ibn Mas`ud about this subject until he said, "I shall give you my own opinion, and if it is correct then it is from Allah, while if it is wrong it is because of my error and because of (the evil efforts of) Satan. In this case, Allah and His Messenger are innocent of my opinion. She has her full Mahr." In another narration, Ibn Mas`ud said, "She has a similar Mahr to that of the women of her status, without stinginess or extravagance." He then continued, "She has to spend the `Iddah and has a right to the inheritance." Ma`qil bin Yasar Ashja`i then stood up and said, "I heard Allah's Messenger issue a similar judgment for the benefit of Barwa` bint Washiq." `Abdullah bin Mas`ud became very delighted upon hearing this statement. In another narration, several men from Ashja` (tribe) stood up and said, "We testify that Allah's Messenger issued a similar ruling for the benefit of Barwa` bint Washiq."

As for the case of the widow whose husband dies while she is pregnant, her term of `Iddah ends when she gives birth, even if it occurs an instant (after her husband dies). This ruling is taken from Allah's statement:

[وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ]

(And for those who are pregnant, their `Iddah is until they lay down their burden.) (65:4)

There is also a Hadith from Subay`ah Al-Aslamiyah in the Two Sahihs, through various chains of narration. Her husband, Sa`d bin Khawlah, died while she was pregnant and she gave birth only a few nights after his death. When she finished her Nifas (postnatal period), she beautified herself for those who might seek to engage her (for marriage). Then, Abu Sanabil bin Ba`kak came to her and said, "Why do I see you beautified yourself, do you wish to marry By Allah! You will not marry until the four months and ten nights have passed." Subay`ah said, "When he said that to me, I collected my garments when night fell and went to Allah's Messenger and asked him about this matter. He said that my `Iddah had finished when I gave birth and allowed me to get married if I wished."

The Wisdom behind legislating the `Iddah

Sa`id bin Musayyib and Abu Al-`Aliyah stated that the wisdom behind making the `Iddah of the widow four months and ten nights is that the womb might contain a fetus. When the woman waits for this period, it will become evident if she is pregnant. Similarly, there is a Hadith in the Two Sahihs narrated by Ibn Mas`ud stating:

«إِنَّ خَلْقَ أَحَدِكُمْ يُجْمَعُ فِي بَطْنِ أُمِّهِ أَرْبَعِينَ يَوْمًا نُطْفَةً، ثُمَّ يَكُونُ عَلَقَةً مِثْلَ ذَلِكَ، ثُمَّ يَكُونُ مُضْغَةً مِثْلَ ذَلِكَ، ثُمَّ يُبْعَثُ إِلَيْهِ الْمَلَكُ فَيَنْفُخُ فِيهِ الرُّوحَ»

((The creation of) a human being is put together in the womb of his mother in forty days in the form of a seed, and next he becomes a clot of thick blood for a similar period, and next a morsel of flesh for a similar period. Then, Allah sends an angel who is ordered to breathe life unto the fetus.)

So, these are four months and ten more days to be sure, as some months are less (than thirty days), and the fetus will then start to show signs of life after the soul has been breathed into it. Allah knows best.

The `Iddah of the Slave Mother whose Master dies

We should state here that the `Iddah of the slave mother is the same in the case of death, as the `Iddah of the free woman. Imam Ahmad reported that `Amr bin Al-`As said, "Do not confuse the Sunnah of our Prophet for us. The `Iddah of the mother, who is also a servant, when her master dies, is four months and ten nights."

Mourning is required during the `Iddah of Death

Allah said:

[فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ]

(...then when they have fulfilled their term, there is no sin on you if they (the wives) dispose of themselves in a (just and) honorable manner (i.e., they can marry). And Allah is well-acquainted with what you do.)

This Ayah indicates that mourning for the dead husband is required until the `Iddah is finished. It is also reported in the Two Sahihs that Umm Habibah and Zaynab bint Jahsh narrated that Allah's Messenger said:

«لَا يَحِلُّ لِمَرْأَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أَنْ تُحَدِّثَ عَلَى مَيِّتٍ فَوْقَ ثَلَاثِ، إِلَّا عَلَى زَوْجٍ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا»

(It is not lawful for a woman who believes in Allah and the Last Day to mourn for more than three days for any dead person except her husband, for whom she mourns for four months and ten days.)

It is reported in the Two Sahihs that Umm Salamah said that a woman said, "O Messenger of Allah! My daughter's husband died and she is complaining about her eye, should we administer kohl in her eye" He said, "No," several times upon repeating this question. He then said:

«إِنَّمَا هِيَ أَرْبَعَةُ أَشْهُرٍ وَعَشْرٌ، وَقَدْ كَانَتْ إِحْدَاكُنَّ فِي الْجَاهِلِيَّةِ تَمُكُّ سَنَةً»

(It is four months and ten (nights)! During the Jahiliyyah, one of you would mourn for an entire year.)

Zaynab the daughter of Umm Salamah said (about the pre-Islamic era of ignorance), "When the woman's husband died, she would go into seclusion and would wear the worst clothes she has. She would refrain from wearing perfume or any adornments until a year passed. She would then come out of seclusion and would be given dung that she would throw. Then an animal would be brought out, a donkey, a sheep, or a bird. Then some blood would be drained from it, usually resulting in its death."

In short, the mourning required from a wife whose husband dies, includes not using beautification aids, such as wearing perfume and the clothes and jewelry that encourage the men to seek marriage from the woman. All widows must observe this period of mourning whether they are young, old, free, servant, Muslim or disbeliever, as the general meaning of the Ayah indicates.

Allah also said:

[فَإِذَا بَلَغْنَ أَجَلَهُنَّ]

(...then when they have fulfilled their term) meaning, when the `Iddah finishes, according to Ad-Dahhak and Ar-Rabi` bin Anas.

[فَلَا جُنَاحَ عَلَيْكُمْ]

(there is no sin on you) Az-Zuhri said, "Meaning her Wali (guardian)."

[فِيمَا فَعَلْنَ]

(if they (the wives) dispose) meaning, the women whose `Iddah has finished. Al-`Awfi said that Ibn `Abbas said, "If the woman is divorced or if her husband dies and then her `Iddah term ends, there is no sin that she beautifies herself, so that she becomes ready for marriage proposals. This is the way `that is just and honorable'." It was reported that Muqatil bin Hayyan gave the same explanation. Ibn Jurayj related that Mujahid said:

[فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ]

(...there is no sin on you if they (the wives) dispose of themselves in a just and honorable manner.) "refers to allowed and pure (honorable) marriage." It was also reported that Al-Hasan, Az-Zuhri and As-Suddi said the same.

[وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنُتُمْ فِي أَنْفُسِكُمْ عَلِيمَ اللَّهِ أَنَّكُمْ سَتَذَكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ]

(235. And there is no sin on you if you make a hint of betrothal or conceal it in yourself, Allah knows that you will remember them, but do not make a promise (of contract) with them in secret except that you speak an honorable saying. And do not be determined on the marriage bond until the term prescribed is fulfilled. And know that Allah knows what is in your minds, so fear Him. And know that Allah is Oft-Forgiving, Most Forbearing.)

Mentioning Marriage indirectly during the `Iddah

Allah said:

[وَلَا جُنَاحَ عَلَيْكُمْ]

(And there is no sin on you) meaning, to indirectly mention marriage to the widow during the term of `Iddah for her deceased husband. Ath-Thawri, Shu`bah and Jarir stated that Ibn `Abbas said:

[وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ]

(And there is no sin on you if you make a hint of betrothal) "means saying, 'I want to marry and I am looking for a woman whose qualities are such and such,' thus talking to her in general terms in a way that is better." In

another narration (by Ibn `Abbas), "Saying, 'I wish that Allah endows me with a wife,' but he should not make a direct marriage proposal." Al-Bukhari reported that Ibn `Abbas said that the Ayah:

[وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ]

(And there is no sin on you if you make a hint of betrothal) means, "The man could say, 'I wish to marry,' 'I desire a wife,' or, 'I wish I could find a good wife.'" Mujahid, Tawus, `Ikrimah, Sa`id bin Jubayr, Ibrahim An-Nakha`i, Ash-Sha`bi, Al-Hasan, Qatadah, Az-Zuhri, Yazid bin Qusayt, Muqatil bin Hayyan and Al-Qasim bin Muhammad and several others among the Salaf and the Imams said that one is allowed to mention marriage indirectly to the woman whose husband died. It is also allowed to indirectly mention marriage to a woman who had gone through final, irrevocable divorce. The Prophet ordered Fatimah bint Qays to remain in the house of Ibn Umm Maktum for `Iddah when her husband Abu `Amr bin Hafs divorced her for the third time. He said to her:

«فَإِذَا حَلَّتْ فَادِينِي»

(Inform me when your `Iddah term ends.)

When she finished the `Iddah, Usamah bin Zayd, the Prophet's freed slave asked to marry her, and the Prophet married her to him. As for the divorced wife (not irrevocably divorced), there is no disagreement that it is not allowed for other than her husband to mention marriage proposals to her directly or indirectly (before the `Iddah finishes). Allah knows best.

Allah said:

[أَوْ أَكْتُمْتُمْ فِي أَنْفُسِكُمْ]

(...or conceal it in yourself,) meaning, if you hide the intention of seeking marriage with them. Similarly, Allah said:

[وَرَبُّكَ يَعْلَمُ مَا تُكِنُّ صُدُورُهُمْ وَمَا يُعْلِنُونَ]

(And your Lord knows what their breasts conceal, and what they reveal) (28:69) and:

[وَأَنَا أَعْلَمُ بِمَا أَخْفَيْتُمْ وَمَا أَعْلَيْتُمْ]

(...while I am All-Aware of what you conceal and what you reveal.) (60: 1) So, Allah said here:

[عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُونَهُنَّ]

(Allah knows that you will remember them) meaning, in your hearts, so He made it easy for you. Allah then said:

[وَلَكِنَّ لَّا تُؤَاعِدُوهُنَّ سِرًّا]

(...but do not make a promise (of contract) with them in secret)

`Ali bin Abu Talhah reported that Ibn `Abbas said that

[وَلَكِنْ لَا تُوَاعِدُوهُنَّ سِرًّا]

(but do not make a promise (of contract) with them in secret) means do not say to her, "I am in love (with you)," or, "Promise me you will not marry someone else (after the `Iddah finishes)," and so forth. Sa`id bin Jubayr, Ash-Sha`bi, `Ikrimah, Abu Ad-Duha, Ad-Dahhak, Az-Zuhri, Mujahid and Ath-Thawri said that it (meaning of the Ayah) means taking the woman's promise not to marry someone else.

Afterwards, Allah said:

[إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا]

(...except that you speak an honorable saying.)

Ibn `Abbas, Mujahid, Sa`id bin Jubayr, As-Suddi, Ath-Thawri and Ibn Zayd said that the Ayah means to indirectly refer to marriage, such as saying, "I desire someone like you." Muhammad bin Sirin said: I asked `Ubaydah about the meaning of Allah's statement:

[إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا]

(...except that you speak an honorable saying.) He said, "He says to her Wali, `Do not give her away (in marriage) until you inform me first.'" This statement was narrated by Ibn Abu Hatim.

Allah then said:

[وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ]

(And do not be determined on the marriage bond until the term prescribed is fulfilled.) meaning, do not make marriage contracts before the `Iddah finishes. Ibn `Abbas, Mujahid, Ash-Sha`bi, Qatadah, Ar-Rabi` bin Anas, Abu Malik, Zayd bin Aslam, Muqatil bin Hayyan, Az-Zuhri, `Ata' Al-Khurasani, As-Suddi, Ath-Thawri and Ad-Dahhak said that:

[حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ]

(until the term prescribed is fulfilled.) means, `Do not consummate the marriage before the `Iddah term finishes.' The scholars agree that marriage contracts during the `Iddah are invalid.

Allah then said:

[وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ]

(And know that Allah knows what is in your minds, so fear Him.) warning the men against the ideas they conceal in their hearts about women, directing them to think good about them rather than the evil, and Allah would not let them despair of His mercy, as He said:

[وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ]

(And know that Allah is Oft-Forgiving, Most Forbearing.)

[لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً وَمَتَّعُوهُنَّ عَلَى الْمَوْسِعِ قَدْرَهُ وَعَلَى الْمُقْتِرِ قَدْرَهُ مَتَّعًا بِالْمَعْرُوفِ حَقًّا عَلَى الْمُحْسِنِينَ]

(236. There is no sin on you, if you divorce women while yet you have not touched them, nor appointed for them their due (dowry). But give them a Mut`ah (a suitable gift, the rich according to his means, and the poor according to his means, a gift of reasonable amount is a duty on the doers of good.)

Divorce before consummating the Marriage

Allah allowed divorce after the marriage contract and before consummating the marriage. Ibn `Abbas, Tawus, Ibrahim and Al-Hasan Al-Basri said that `touched' (mentioned in the Ayah) means sexual intercourse. The husband is allowed to divorce his wife before consummating the marriage or giving the dowry if it was deferred.

The Mut`ah (Gift) at the time of Divorce

Allah commands the husband to give the wife (whom he divorces before consummating the marriage) a gift of a reasonable amount, the rich according to his means and the poor according to his means, to compensate her for her loss. Al-Bukhari reported in his Sahih that Sahl bin Sa`d and Abu Usayd said that Allah's Messenger married Umaymah bint Sharahil. When she was brought to the Prophet he extended his hand to her, but she did not like that. The Prophet then ordered Abu Usayd to provide provisions for her along with a gift of two garments.

[وَإِنْ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنَصْفُ مَا فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوَ الَّذِي بِيَدِهِ عَقْدَةُ النِّكَاحِ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ]

(237. And if you divorce them before you have touched (had a sexual relation with) them, and you have appointed for them their due (dowry), then pay half of that, unless they (the women) agree to remit it, or he (the husband), in whose hands is the marriage tie, agrees to remit it. And to remit is nearer to At-Taqwa (piety, righteousness). And do not forget liberality between yourselves. Truly, Allah is All-Seer of what you do.)

The Wife gets half of Her Mahr if She is divorced before the Marriage is consummated

This honorable Ayah is not a continuation of the Mut`ah (gift) that was mentioned in the previous Ayah (i.e., divorce before the marriage is consummated). This Ayah (2:237) requires the husband to relinquish half of the appointed Mahr if he divorces his wife before the marriage is consummated. If it was discussing any other type of gift, then it would have been mentioned that way, especially when this Ayah follows the previous Ayah related to this subject. Allah knows best. Giving away half of the bridal-money in this case is the agreed practice according to the scholars. So, the husband pays half of the appointed Mahr if he divorces his wife before consummating the marriage.

Allah then said:

[إِلَّا أَنْ يَعْفُونَ]

(unless they (the women) agree to remit it,) meaning, the wife forfeits the dowry and relieves the husband from further financial responsibility. As-Suddi said that Abu Salih mentioned that Ibn `Abbas commented on Allah's statement:

[إِلَّا أَنْ يَعْفُونَ]

(unless they (the women) agree to remit it,) "Unless the wife forfeits her right. "Furthermore, Imam Abu Muhammad bin Abu Hatim said that it was reported that Shurayh, Sa'id bin Musayyib, `Ikrimah, Mujahid, Ash-Sha'bi, Al-Hasan, Nafi', Qatadah, Jabir bin Zayd, `Ata' Al-Khurasani, Ad-Dahhak, Az-Zuhri, Muqatil bin Hayyan, Ibn Sirin, Ar-Rabi' bin Anas and As-Suddi said similarly.

Allah then said:

[أَوْ يَعْفُوا الَّذِي بِيَدِهِ عَقْدَةُ النِّكَاحِ]

(...or he (the husband), in whose hands is the marriage tie, agrees to remit it.)

Ibn Abu Hatim reported that `Amr bin Shu'ayb said that his grandfather narrated that the Prophet said:

«وَلِيُّ عَقْدَةِ النِّكَاحِ الزَّوْجُ»

(The husband is he who has the marriage tie.)

Ibn Marduwyah also reported this Hadith, and it is the view chosen by Ibn Jarir. The Hadith states that the husband is the person who really holds the marriage tie in his hand, as it is up to him to go on with the marriage or end it. On the other hand, the Wali of the wife is not allowed to give away any of her rightful dues without her permission, especially the dowry.

Allah then stated:

[وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى]

(And to remit it is nearer to At-Taqwa (piety, righteousness).)

Ibn Jarir said, "Some scholars said that this statement is directed at both men and women." Ibn `Abbas said:

[وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى]

(And to remit it is nearer to At-Taqwa (piety, righteousness).) indicates that the one who forgives, is nearer to At-Taqwa (piety)." A similar statement was made by Ash-Sha'bi and several other scholars.

Mujahid, An-Nakha'i, Ad-Dahhak, Muqatil bin Hayyan, Ar-Rabi' bin Anas and Thawri stated that `liberality' mentioned in the Ayah refers to the woman giving away her half Mahr, or the man giving away the full Mahr. This is why Allah said here:

[وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ]

(And do not forget liberality between yourselves.) meaning, kindness (or generosity), as Sa'id has stated. Allah said:

[إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ]

(Truly, Allah is All-Seer of what you do.) meaning, none of your affairs ever escapes His perfect Watch, and He will reward each according to his deeds.