



A Jurisprudential and Legal Analysis of the Applicability of the Obligation to Grant *Mut'at al-Ṭalāq* to Divorced Women

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Introduction

Verse 241 of Surah al-Baqarah establishes a financial entitlement for divorced women known in Islamic jurisprudence as *Mut'at al-Ṭalāq* (divorce consolation):

"For divorced women there shall be a provision made with fairness—a duty upon the righteous." (Qur'an 2:241)

Together with other jurisprudential sources, this verse has given rise to the institution of *Mut'at al-Ṭalāq* as one of the financial rights of divorced women within the Islamic legal system. While Muslim jurists generally agree on the legitimacy of this entitlement, they disagree over the scope of its applicability. The principal question is whether the obligation to provide *Mut'at al-Ṭalāq* applies to all divorced women or is confined to a particular category.

The prevailing opinion among Imamiyyah jurists limits this obligation to a woman whose marriage was not consummated and whose marriage contract did not specify a *mahr* (dower). This article first presents the jurisprudential foundations of the dominant view and then critically evaluates its underlying arguments. Subsequently, it advances an alternative interpretation according to which the obligation extends to all divorced women without exception. Finally, relying on jurisprudential and legal reasoning, the study proposes recognizing *Mut'at al-Ṭalāq* as an independent legal institution within Iran's Family Protection Law in order to strengthen the financial protection afforded to divorced women.

Given the increasing incidence of divorce and its economic consequences in contemporary Iranian society, providing financial support for divorced

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women has become an issue of considerable legal and social importance. The Qur'an emphasizes the principle of *sarāḥ jamīl* (graceful and dignified separation), requiring that divorce be accompanied by justice, fairness, and respect. One manifestation of this principle is the payment of financial compensation to the divorced wife. From this perspective, *Mut'at al-Ṭalāq* constitutes a legislative mechanism designed to alleviate the economic hardship resulting from divorce.

Although Iran's legislative reforms concerning divorce, particularly the amendments adopted in 1992 and the Family Protection Law of 2012, significantly improved the financial rights of women based on Islamic jurisprudence, substantial legal deficiencies remain. Accordingly, further legislative reform appears necessary.

Literature Review

The legal institution of *Mut'at al-Ṭalāq* has attracted increasing scholarly attention in recent decades. Important contributions include the studies of Mehdi Mehrizi, Zahra Kazemi and Ezzat al-Sadat Mirkhani, and, most comprehensively, the advanced jurisprudential lectures of Grand Ayatollah Sayyid Musa Shubayri Zanjani. Although previous studies generally argue for extending *Mut'at al-Ṭalāq* to all divorced women, they have not provided sufficiently persuasive jurisprudential arguments to challenge the prevailing doctrine or to establish an adequate legal basis for legislative reform. Building upon Ayatollah Shubayri Zanjani's jurisprudential analyses, the present study develops a more comprehensive critique of the dominant view.

Research Method

This study employs an analytical-critical approach. Drawing upon library-based sources, it first examines the jurisprudential foundations of the prevailing opinion concerning *Mut'at al-Ṭalāq*. These arguments are then subjected to critical evaluation. Finally, the preferred interpretation is presented and substantiated through textual, jurisprudential, rational, and legal evidence while highlighting its practical implications for Iranian family law.

Findings

The principal findings of the study are as follows:

1. The jurisprudential evidence relied upon by the dominant opinion—including Qur'anic verses, traditions (*hadith*), and the alleged scholarly



consensus (*ijmā'*)—is open to serious criticism. A textual reading of the relevant Qur'anic verses, independent of the traditions, supports the obligatory payment of *Mut'at al-Ṭalāq* to all divorced women. Moreover, the traditions themselves do not necessarily exclude women whose marriages were consummated; rather, they indicate that such women may be entitled simultaneously to both *mahr* and *Mut'at al-Ṭalāq*. Furthermore, the claimed consensus lacks validity because early Imamiyyah jurists held opposing opinions.

2. Consequently, the jurisprudential foundations of the prevailing doctrine are significantly weakened.
3. The combined evidence derived from the Qur'an, traditions, the practice of the Imams, and rational legal reasoning demonstrates that the obligation to provide *Mut'at al-Ṭalāq* cannot properly be regarded as merely recommended, exceptional, restricted, abrogated, or subject to implied qualifications. Instead, it should be understood as a mandatory financial entitlement for all divorced women.
4. Accordingly, a comprehensive jurisprudential analysis supports interpreting the obligation to provide *Mut'at al-Ṭalāq* as applicable to every divorced woman.

Conclusion

Mut'at al-Ṭalāq represents a financial institution established within Islamic law as a post-divorce benefit intended to protect divorced women from the economic consequences of marital dissolution. The central issue addressed in this study concerns whether the legal obligation applies universally to all divorced women or only to a limited category.

Employing an analytical-critical methodology, this article challenges the dominant jurisprudential opinion, which restricts the obligation to women whose marriages were neither consummated nor accompanied by a stipulated *mahr*. Instead, it argues that the obligation extends to all divorced women. Based on this conclusion, the study proposes incorporating *Mut'at al-Ṭalāq* as an independent legal institution within Iran's Family Protection Law. Such reform could strengthen women's financial security following divorce, reduce excessive reliance on high *mahr* claims, and provide courts with a more equitable mechanism for determining post-divorce financial support. The amount of *Mut'at al-Ṭalāq* should be determined by the competent judicial authority in accordance with Islamic principles of justice, taking into account the financial



circumstances of both spouses, prevailing social customs, and the husband's financial capacity.

Keywords: *Mut'at al-Ṭalāq*; Divorce Consolation; Divorced Women; Islamic Jurisprudence; Family Law; Mahr; Qur'an 2:241.