

Tafseer Al-Baqarah (2: 226-227)

From the book, Introduction to the Tafseer of the Quran,

by the Ameer of Hizb ut Tahrir, eminent jurist and statesman, Ata Bin Khalil Abu Al-Rashtah:

﴿الَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ (226) وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ (227)﴾

“For those who swear not to have sexual relations with their wives is a waiting time of four months, but if they return [to normal relations] - then indeed, Allah is Forgiving and Merciful. (226) And if they decide on divorce - then indeed, Allah is Hearing and Merciful. (227)”

In these two verses, Allah (swt) clarifies another Shariah ruling, within the same context that we have mentioned previously. The ruling is about the swearing of not having sexual relationship with a wife, for more than four months. This is called ‘Eela (الإيلاء) oath of desertion). This ruling is different from that of other oaths that we have mentioned in the Tafsir of the previous verse. Here in this verse, it is about a man who swears not to have intercourse with his wife for four months, more or less. This entails the following:

First: If the swearing is not to have intercourse for four months or less than that, then it is not called ‘Eela.’ Instead the oath in this case is like a normal oath. If he violates the oath and has intercourse with his wife before the duration which he swore, he has broken the oath and he has to make expiation (kafaarah) for the breaking of an oath. If he does not have intercourse with her before the period he has specified in the oath, whilst the period is less than four months, then he has fulfilled the oath and there is no sin upon him. Zuhri reported that (once) the Messenger of Allah (saw) took an oath that he would not go to his wives for one month. Zuhri said that ‘Urwa narrated to him from ‘A’isha (ra) that she said, ‘When twenty-nine nights were over, which I had counted, the Messenger of Allah (saw) came to me (he came to me first of all). I said, “Messenger of Allah, you had taken an oath that you would not come to us for a month, whereas you have come after twenty-nine days which I have counted.” Whereupon he said, «إِنَّ الشَّهْرَ تِسْعٌ وَعِشْرُونَ» “The month may also consist of twenty-nine days.” [Muslim]

Secondly: Taking an oath not to have intercourse with his wife for more than four months. This oath is called ‘Eela’ in Shariah and it has Shariah rulings as clarified in these two noble verses. The rulings are as follows:

A- If he has intercourse with his wife before four months, he must make kafaarah for his oath alone.

B- If he continues without having intercourse with her, after the completion of the four-month duration, it must be taken account of and he is compelled to choose one of the two following options:

First option: He has to return to a former state (بِغْيَةٍ) i.e. returning to a state before the oath. It (in Quran فَاءُوا - meaning if they return to a former state) is a metaphor for intercourse. And so he has to make kafaarah (expiate) for his oath.

Second option: He has to divorce.

If he refuses one of these two options, then the ruler will pronounce the verdict of divorce.

What we have explained above comes from the indications of the two verses as follows: ﴿الَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ﴾ **“For those who swear not to have sexual relations with their wives”**. The word ‘Eela’ in origin is an oath that implies deficiency of the matter, upon which the oath is taken. Thus it means he either takes the oath upon evil or falls short from the goodness like the saying of Allah (swt), ﴿لَا يَأْلُونَكُمْ خَبَالًا﴾ **“They (disbelievers) will not fall short of ruining you”** [TMQ 3:118] and the saying of Allah (swt), ﴿وَلَا يَأْتَلِ أُولُو الْفَضْلِ﴾ **“And let not those of virtue among you and wealth swear not to give [aid] to their relatives and the needy”** [TMQ 24:22]. Thus the Shariah meaning for the word ‘Eela’ is an oath that prevents one from having intercourse with his wife.

﴿مِنْ نِسَائِهِمْ﴾ **“With their women”** i.e. with their wives. This indicates that ‘Eela’ is particular to wives and not to concubines.

﴿تَرْبِصُ أَرْبَعَةَ أَشْهُرٍ﴾ **“waiting time of four months,”** the word ‘تَرْبِصُ’ means to wait and abstain, i.e. he has only a four month time-limit, and after that he has to decide one of the two options mentioned above.

﴿فَإِنْ فَأَعُوا﴾ **“but if they return”** i.e. if they return to the previous state, which is mentioned as a metaphor of intercourse.

﴿وَإِنْ عَزَمُوا الطَّلَاقَ﴾ **“And if they decide on divorce.”** It is an indication that the wife is not divorced with the (mere) passage of time duration, unless her husband divorces her or the ruler pronounces the verdict of divorce.

As such, the meaning of the verse is as follows,

Those who make an oath not to have intercourse with their wives for more than four months, they have to do one of the two things, upon the passage of four months: Either they have to turn back and return to their previous state, as they were before, as a metaphor for having intercourse, and make kaffarah (expiation) for their oath, or they have to divorce their wives. If they refuse, the ruler will pronounce the verdict of divorce.

Allah (swt) concludes the two verses by saying: ﴿فَإِنْ فَأَعُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾ **“But if they return [to normal relations] - then indeed, Allah is Forgiving and Merciful,”** as what happens to them by the oath is harmful and detrimental to the women.

And the saying: ﴿وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ﴾ **“And if they decide on divorce - then indeed, Allah is Hearing and Merciful.”** Allah is All-Hearing of their ‘Eela’ that reaches to the level of Talaq and Allah is All-Knowing of their intention from their ‘Eela’ and so He rewards them what they deserve.