

Tafseer Al-Baqarah (2: 231-232)

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:

﴿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 لِعَهْتِ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ الْكِتَابِ وَالْحِكْمَةِ يَعِظُكُمْ بِهِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ (231) وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا 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 divorce women and they have [nearly] fulfilled their term, either retain them according to acceptable terms or release them according to acceptable terms, and do not keep them, intending harm, to transgress [against them]. And whoever does that has certainly wronged himself. And do not take the verses of Allah in jest. And remember the favor of Allah upon you and what has been revealed to you of the Book and wisdom by which He instructs you. And fear Allah and know that Allah is Knowing of all things. (231) And when you divorce women and they have fulfilled their terms, do not prevent them from remarrying their [former] husbands if they agree among themselves on an acceptable basis. That is instructed to whoever of you believes in Allah and the Last Day. That is better for you and purer, and Allah knows and you know not. (232)”

Allah (swt) clarifies in these two verses the following:

1- When a man divorces his wife for the first or second time, when her waiting period is about to end, he has only two options. He must either take her back, retaining her under his custody with kindness, with a hope to have a good companionship and good cohabitation with his wife. Or he must leave her until she finishes her waiting period, whereby she retains control of herself and there will be a beautiful freedom, without any restriction or inconvenience.

Allah (swt) prohibits the husband from retaining his wife in order to cause harm to her, by taking her back without having a desire for it. Instead, he takes her back only to lengthen her inconvenience, preventing her to finish her waiting period and to control herself. This is in order to force her to give up some of her rights over her husband so that he divorces her. Accordingly, the husband will be an oppressor of himself by exposing himself to the punishment of Allah (swt) in the Hereafter. He does so by revealing his evil character to the people, by violating the rights of his wife and harming her.

Then Allah (swt) warns the husbands of playing with the verses and rulings of Allah, by misusing the right of taking back which Allah (swt) has given them. He (swt) warns against holding on to wives to harm them and not to cohabit with them with kindness and love.

Allah (swt) reminds us of His blessings bestowed upon us, in His Noble Quran and the Sunnah of the Messenger of Allah (saw) so that we thank Allah (swt) for that and abide by His Shariah, whilst we consider and learn the verses and the rulings of Allah (swt).

Then Allah (swt) concludes the noble verse with a command to be pious, so we fear Allah in everything we do or say. Nothing is hidden from Allah (swt) and He, ﴿بِكُلِّ شَيْءٍ عَلِيمٌ﴾ “is **Knowing of all things**”. This has a warning for those who deviate from the Shariah of Allah in cohabitating with their spouses.

﴿فَبَلَغْنَ أَجَلَهُنَّ﴾ **“When they have reached their term”** i.e. at the end of their waiting period.

This is because the word ‘الأجل’ ‘the term’ originally refers to all the duration, as comes in the six Sahihs. Also it originally refers to the last part of the duration, as transmitted by Al-Azhari. That is, the word has multiple meanings and the intended meaning is restricted by the Qareena (indication). Here the Qareena is ﴿فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ﴾ **“Retain them according to acceptable terms”** which indicates the last part of the waiting period. This is because the husband can only retain his wife during the waiting period. If the period ends, he does not possess the right to retain herself.

And the meaning of the saying, ﴿فَبَلَغْنَ أَجَلَهُنَّ﴾ **“when they have reached their term”** is: It is at the end of their waiting period and it is right before it ends.

﴿فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرَخُوهُنَّ بِمَعْرُوفٍ﴾ **“either retain them according to acceptable terms or release them according to acceptable terms.”** i.e. when their waiting period is about to end, you either have to retain and hold them back or leave them to complete their waiting period. Accordingly, you set them free and so they possess control over themselves.

All these are related to the revocable divorce: Talaq (Talaq Raja’ee) as Allah (swt) says, ﴿الطَّلَاقُ مَرَّتَانِ﴾ **“Divorce is twice.”** [TMQ 2:229] i.e. it is the divorce where it is permissible for the husband to take her back during the waiting period.

﴿وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا﴾ **“and do not keep them, with the intention of harm, to transgress [against them]”** i.e. retaining them with the intention of harming them. It is when the husband does not want his wife. Instead, he wants to prolong her waiting period without releasing until she is forced to give up some of her rights. In such a case, he has transgressed against the rights of his wife.

﴿ضِرَارًا﴾ **“causing harm”** i.e. prolonging her waiting period without releasing is a harm to her.

﴿لِّتَعْتَدُوا﴾ **“in order for you to transgress [against them].”** i.e. in order for you to force them to exempt you from their rights in exchange for you divorcing them and releasing them.

﴿وَاذْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ﴾ **“And remember the favor of Allah upon you”** i.e. Islam (favor) and so thank Allah (swt) for that and abide to the Sharia of Allah.

﴿وَمَا أَنزَلَ عَلَيْكُمْ مِنَ الْكِتَابِ وَالْحِكْمَةِ﴾ **“and (remember) what has been revealed to you of the Book and wisdom”** i.e. what has been revealed to you in terms of Noble Quran and Prophetic Sunnah. The saying is in conjunction to what is clarified before ﴿نِعْمَتَ اللَّهِ﴾ **“The favor of Allah”**.

2. In the second verse ﴿وَإِذَا طَلَقْتُمُ النِّسَاءَ فَلَبَسْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ﴾ **“And when you divorce women and they have fulfilled their term, do not prevent them from remarrying their [former] husbands.”** Allah (swt) here clarifies another ruling which is related to the divorced wives, when they complete the waiting period.

In the first verse, there is a clarification on not retaining wives by husbands with an intention to harm the wives, by transgression against the rights of the wives, by forcing the wives to waive their rights.

In this verse, Allah (swt) clarifies another ruling, which is that when the divorced wives complete their waiting period, their previous husbands can propose and marry them with a new contract, as well as ‘mahr.’ This is after the first or second Talaq. In such a situation, Allah (swt) commands their guardians (Awliya) not to prevent such a marriage. This is as

long as the man and the divorcee woman want that, with a sincere desire that is apparent to the protectors, within the etiquette of Islam.

Then, Allah (swt) clarifies that the consent of this marriage is a greater blessing and benefit. It is far from the sins and doubts accompanied with the non-consenting marriage.

Allah (swt) concludes the noble verse by saying: The true realities of the matters are known only by Allah (swt). A person may love a thing whose result might be evil, whereas he may hate a thing whose result might be good. The guardians may think that there is a goodness or an evil in the marriage. However, the consequence may be opposite to what they think. Allah (swt) is the only One Who knows the realities of all the matters, their consequences, their goodness and evil. Thus following the Shariah of Allah is an obligation, which is absolutely a goodness. Allah (swt) says, ﴿وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ﴾ **"Allah knows and you know not."**

﴿وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَّغْنَ أَجَلَهُنَّ﴾ **"And when you divorce women and they have fulfilled their term,"** i.e. when they complete their waiting period. This is due to the Qareena (indication), ﴿فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ﴾ **"do not prevent them from remarrying their [former] husbands."** This is because the husband possesses the right of retaining his wife during the waiting period without any reluctance. This is also because the word 'إعسال' in the saying means to prevent, which means the saying ﴿أَجَلَهُنَّ﴾ **'Their term.'** It originally means the completion of the duration. The root of the word (العضل/ Al-Adhl) means to imprison and confine. And the meaning is, 'when you divorce the wives and if they complete their waiting period, then do not prevent them from marrying the ones who have divorced them, once or twice.'

﴿إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ﴾ **"If they agree amongst themselves on an acceptable basis"** i.e. if they have sincere desire to return to one another with a new marriage and when such desire is apparent over them, on an acceptable basis i.e. within the limits of the etiquettes of Islam.

﴿ذَلِكَ أَرْزَى لَكُمْ وَأَطْهَرُ﴾ **"That is better for you and purer,"** i.e. the consent of the guardians upon marrying the divorced women to her previous husband as long as he and she want that. This matter is more blessing and beneficial and far from sins and suspicion.

Bukhari reported the reason for the revelation of this noble verse: Ma'qil bin Yasaar said: "I had a sister and I was asked to give her in marriage. My cousin came to me and I married her to him. He then divorced her one revocable divorce. He abandoned her till her waiting period passed. When I was asked to give her in marriage, he again came to me and asked her in marriage. Thereupon I said to him "No, by Allah, I will never marry her to you." Then the following verse was revealed about my case, **"And when you have divorced women and they reach their term, place not difficulties in the way of their marrying their husbands."** So I expiated for my oath, and married her off to him" [Al-Bukhari: 4165, Al-Tirmidhi: 2907, Abu Dawood: 1878].

In another narration, it says: "So when Ma'qil heard that he said, 'I heard my Lord and obey.' Then he called for him and said, 'I marry you, and honor you.'" [Al-Durr Al-Manthur: 2/685].

And the verse is general in its subject. It includes both the one regarding whom the verse was revealed and others. Accordingly, the verse is according to the known usuli principle: (العبرة بعموم اللفظ لا بخصوص السبب) **"Consideration is granted to the Generality of the Language, not to the Specificity of the Reason for Revelation."**