

Fatwa and Legal Reasoning on Inheritance in Temporary Marriage: A Critical Fiqh Analysis of Sayyid Murtaḍā's Legal Thought

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Abstract

The issue of inheritance in *nikāḥ al-munqatiʿ/mutʿah* (temporary marriage) has long occupied a significant position in both classical and contemporary Islamic jurisprudential discourse, generating diverse and often conflicting legal opinions (*āraʾ*) among Muslim jurists. Central to this debate is the question of whether spouses in a temporary marriage are entitled to mutual inheritance, given the contractual, time-bound, and non-permanent character of such unions. The dominant juristic view generally denies the existence of inheritance rights in *nikāḥ al-munqatiʿ* unless such rights are explicitly stipulated within the marriage contract. In contrast, a less widely adopted position—most notably attributed to Sayyid Murtaḍā—affirms the establishment of mutual inheritance between spouses in temporary marriage, provided that no contractual clause explicitly negates inheritance. This position has been both supported and criticized within the juristic tradition, largely due to divergent interpretations of scriptural evidence, contractual principles, and the legal consequences arising from the marriage relationship. This paper seeks to contribute to the ongoing scholarly debate by systematically examining the theoretical foundations of inheritance in temporary marriage through the analytical framework of the general theory of *ʿaqd al-nikāḥ* (the marriage contract). The study first identifies and critically maps four major juristic theories concerning inheritance in *nikāḥ al-munqatiʿ*, outlining their doctrinal bases and methodological assumptions. It then offers an in-depth analysis of Sayyid Murtaḍā's view, assessing its coherence and legal plausibility in light of the essential elements, objectives, and normative implications of marriage as a binding juridical institution. The study argues that Sayyid Murtaḍā's position aligns closely with the general contractual logic of marriage, particularly the presumption of shared marital rights and obligations unless explicitly excluded, thereby reinforcing its theoretical robustness and jurisprudential defensibility within Islamic family law.

Keywords: Temporary Marriage; Inheritance; Sayyid Murtaḍā; Marriage Contract (*ʿAqd al-Nikāḥ*).

Abstrak

Isu pewarisan dalam *nikāḥ al-munqatiʿ/mutʿah* (perkawinan kontrak) telah lama menempati posisi penting dalam diskursus fikih Islam, baik klasik maupun kontemporer, dan melahirkan beragam serta sering kali saling bertentangan pendapat hukum (*āraʾ*) di kalangan para ahli fikih Muslim. Pokok perdebatan ini berkisar pada pertanyaan apakah pasangan dalam perkawinan sementara berhak atas warisan timbal balik, mengingat sifat perkawinan tersebut yang bersifat kontraktual, berbatas waktu, dan tidak permanen. Pandangan fikih yang dominan pada umumnya menolak adanya hak waris dalam *nikāḥ al-munqatiʿ* kecuali jika hak tersebut secara tegas dicantumkan dalam akad perkawinan. Sebaliknya, pandangan lain yang kurang banyak dianut—dan secara

khusus dikaitkan dengan Sayyid Murtaḍā—menegaskan adanya pewarisan timbal balik antara pasangan dalam perkawinan sementara, sepanjang tidak terdapat klausul kontraktual yang secara eksplisit meniadakan hak waris. Pandangan ini telah memperoleh dukungan sekaligus kritik dalam tradisi fikih, terutama akibat perbedaan penafsiran terhadap dalil tekstual, prinsip-prinsip kontraktual, serta konsekuensi hukum yang timbul dari hubungan perkawinan. Artikel ini bertujuan untuk berkontribusi dalam perdebatan akademik yang sedang berlangsung dengan mengkaji secara sistematis landasan teoretis pewarisan dalam perkawinan sementara melalui kerangka analisis teori umum *‘aqd al-nikāh* (akad perkawinan). Kajian ini diawali dengan identifikasi dan pemetaan kritis terhadap empat teori fikih utama mengenai pewarisan dalam *nikāh al-munqati’*, disertai penjelasan dasar doktrinal dan asumsi metodologisnya. Selanjutnya, artikel ini menyajikan analisis mendalam terhadap pandangan Sayyid Murtaḍā dengan menilai koherensi internal dan kelayakan hukumnya berdasarkan unsur-unsur esensial, tujuan, serta implikasi normatif perkawinan sebagai institusi hukum yang mengikat. Studi ini berargumen bahwa pandangan Sayyid Murtaḍā memiliki kesesuaian yang kuat dengan logika kontraktual umum perkawinan, khususnya prinsip praduga adanya hak dan kewajiban bersama antar pasangan kecuali jika secara tegas dikecualikan, sehingga memperkuat keteguhan teoretis dan daya pertahanan yuridisnya dalam hukum keluarga Islam.

Kata kunci: Perkawinan Sementara; Warisan; Sayyid Murtaḍā; Perjanjian Perkawinan (*‘Aqd al-Nikāh*).

Introduction

The issue of inheritance (*mīrāth*) is one of the most important and fundamental topics in Islamic jurisprudence (Fiqh), consistently drawing the attention of jurists and legal scholars throughout history (Izzati et al., 2025). Temporary marriage (*‘Aqd al-Munqati’* or *Mut‘ah*), as one of the contracts in Islam (Margalit et al., 2018), holds a special place in Imami Fiqh, and its characteristic of being temporary and non-perpetual has raised numerous questions in private law and concerning the rights of the spouses, particularly in the domain of inheritance. To answer these questions, it seems necessary to refer to the general foundations and nature of the marriage contract and the conditions of inheritance (Valizadeh, Farzaneh; Abbassinia, Haniyeh; Motaghi, Zahra; Chaman, 2026). By considering these foundations, we can undertake a more precise analysis of the jurists' opinions regarding inheritance in temporary marriage.

Contemporary studies, such as the thesis titled "Spousal Inheritance in Permanent and Temporary Marriage," and articles including "A Fiqhi Review of the Condition of Mutual Inheritance in Temporary Marriage from the Perspective of Imami Fiqh," "Dower and Inheritance in Temporary Marriage," and "A Study on the Ruling of Spousal Inheritance in Temporary Marriage," have all addressed the jurisprudential and legal aspects of this issue. However, no research has yet undertaken a systematic analysis of Sayyid Murtaḍā's viewpoint in light of the general theory of the marriage contract.

In this context, examining the views of Imami jurists—especially Sayyid Murtaḍā ‘Alam al-Hudā on inheritance in temporary marriage (as one of the most controversial jurisprudential issues) can contribute to a better understanding of the rules of inheritance in this type of marriage. Sayyid Murtaḍā ‘Alam al-Hudā is a prominent Shi'a jurist and a pioneer of *Ijtihād* (independent reasoning), who presented innovative views in various jurisprudential

fields (Larijany, 2023). Nevertheless, it appears that his perspective on inheritance in temporary marriage has not been sufficiently reviewed and analyzed.

In legal scholarship, a “general theory” is typically formulated to explain a complex phenomenon by abstracting from scattered particulars and identifying stable principles capable of systematic application; within Islamic jurisprudence, this function is comparable to the Hanafi tradition of *al-Ashbāh wa al-Nazā'ir*, where jurists derive general maxims from diverse rulings and classify legal issues through patterns of affinity and analogy. Applied to family law, the “general theory of marriage (nikāḥ)” refers to the shared rules governing the nature, foundations, conditions, and legal effects of the marriage contract, including what elements are required for validity and what consequences flow from the marital bond (Khwānsārī Najafī, 1418). Classical jurists have disputed the legal character of permanent marriage, with some treating it as a compensatory (exchange-based) contract due to institutions such as *mahr* and *nafaqa* and the logic of reciprocal obligations (Ṭūsī, 1387), while others reject the commutative model and instead conceptualize marriage as devotional and worship-like, emphasizing its Sharī'a-grounded, prescriptive (*tawqīfī*) nature and the limited applicability of transactional doctrines such as contractual options (Anṣārī, 1426; Muḥaqqiq Karkhī, 1414; Ṣāḥib Jawāhir, 1362; 'Allāmah Ḥillī, 1414). A third position frames marriage as quasi-compensatory or a “middle ground” between worship and transaction (Khū'ī, n.d.; Tabrīzī, 1416), while a further view conceptualizes marriage as a partnership shaped by evolving social custom (Langarūdī, 1395; Mufīd, 1413). Synthesizing these approaches, a growing line of juristic reasoning treats marriage as a dual-aspect institution: simultaneously devotional—because its core status, dissolution, and key effects (such as affinity prohibitions and inheritance) are determined by the Lawgiver and cannot be expanded by ordinary contractual reasoning—and compensatory—because it also generates financial obligations and reciprocal entitlements through *mahr* and maintenance, thereby situating *nikāḥ* as a unique juridical contract whose normative consequences cannot be reduced to either pure worship or pure exchange.

The present research, employing an analytical and innovative approach, seeks to fill this research gap. By meticulously examining the works of Sayyid Murtaḍā 'Alam al-Hudā, the paper aims to extract and analyze his viewpoint on the entitlement of spouses to inheritance in temporary marriage. Furthermore, the jurisprudential evidence presented by him will be evaluated and compared with the views of other jurists.

Finally, by considering the general principles of Fiqh and the general theory of the marriage contract, we can answer the question: Are Sayyid Murtaḍā's arguments on this topic convincing and acceptable? The results of this study are expected to contribute to a better comprehension of the rules of inheritance in temporary marriage and to the development of jurisprudential knowledge in this field.

Methods

This study adopts a normative-juridical research design to examine the jurisprudential foundations of inheritance (*mīrāth*) in *nikāḥ al-munqaṭi' / mut'ah* (temporary marriage). Positioned within Islamic family law and legal theory, the research focuses on the internal structure of juristic reasoning rather than empirical social practices. The methodological approach is primarily analytical-comparative, enabling the study to map competing legal opinions and evaluate their underlying assumptions regarding the contractual and time-bound nature of temporary marriage.

The data are drawn from primary and secondary textual sources. Primary materials include classical juristic works discussing *mut'ah*, marital legal effects (*āthār*), and inheritance, with particular emphasis on the *Imāmī/Shī'ī* tradition where *mut'ah* is doctrinally recognized. The study specifically foregrounds the position attributed to Sayyid Murtaḍā, as a key jurist who affirms mutual inheritance in temporary marriage under certain conditions. Secondary sources consist of contemporary academic studies, legal commentaries, and modern scholarly discussions relevant to inheritance, contractual stipulation, and the general theory of marriage in Islamic jurisprudence.

Analytically, the study employs the general theory of *'aqd al-nikāḥ* as its main framework to assess whether inheritance should be treated as an automatic consequence of the marital bond or as a conditional right requiring explicit contractual stipulation. The analysis proceeds by (1) identifying and systematically mapping four major juristic theories on inheritance in *mut'ah*, (2) comparing their doctrinal bases and interpretive methods, and (3) conducting an in-depth evaluation of Sayyid Murtaḍā's view by testing its coherence against the essential elements, objectives, and normative implications of marriage as a binding juridical institution. Rigor is ensured through cross-text comparison, internal consistency testing, and conceptual clarification of key legal terms and principles.

Result and Discussion

The Nature of Temporary Marriage (*'Aqd al-Munqaṭi'*) and Its Implications for Inheritance

The marriage contract (*'aqd al-nikāḥ*) has historically functioned as one of the most significant social and legal institutions in human civilization. Yet an essential jurisprudential question remains: are all forms of marriage identical in their legal and religious effects? This question becomes particularly crucial when comparing temporary marriage (*nikāḥ al-munqaṭi' / mut'ah*) and permanent marriage (*nikāḥ dā'im*), especially regarding whether temporality alters core marital consequences such as inheritance.

Within *Imāmī* jurisprudence, the legitimacy of temporary marriage is an established principle accepted by the jurists of the school. Sayyid Murtaḍā even characterizes its permissibility as rationally necessary (Sayyid Murtaḍā, 1415), while Shaykh al-Mufīd reportedly listed approximately thirty early scholars who defended the legality of *mut'ah* (Muḥaqqiq Karkhī, 1413). A clearer understanding of the contractual and normative structure of temporary marriage is therefore necessary, particularly because many negative social

perceptions stem from treating *mut'ah* as a mere commercial arrangement rather than a legally recognized marital bond. Several jurists have shown, through close examination of jurisprudential texts and narrations (*riwāyāt*), that equating temporary marriage with financial transactions (*mu'āmalāt*) or commutative contracts (*'uqūd al-mu'āwaḍī*) constitutes a distortion of its juristic status.

Despite its legitimacy, jurists have differed over the nature of temporary marriage: some consider it fundamentally distinct from permanent marriage in its essence, while others treat it as a valid form of marriage whose distinctiveness lies primarily in time-bound stipulations. Classical sources mention various differences between the two contracts, yet closer scrutiny indicates that many of these distinctions are disputable in evidentiary strength and legal conclusiveness. In several cases, the alleged differences appear to arise not from an inherent divergence in the legal nature of the contract, but from contingent conditions that may be modified or waived. Consequently, using these distinctions as a basis for denying certain legal effects—particularly inheritance—requires careful methodological reconsideration.

One frequently cited distinction concerns Qur'ānic terminology: the dower in the temporary contract is associated with the terms *ajr/ujūr* ("reward/fee"), whereas permanent marriage is linked to expressions such as *al-farīḍah*, *al-niḥlah*, and *al-ṣidāq* (Muḥaqqiq Karkhī, 1413). Some jurists have used this lexical variation to argue that the legal status of mahr differs subtly between the two contracts. However, this argument remains inconclusive because the term *ajr* is itself semantically ambiguous and has been interpreted by jurists as referring to mahr rather than "fee" in a technical commercial sense (Khū'ī, 1418; Tūsī, 1387). Moreover, the Qur'ān also uses *ajr/ujūr* to describe the dower of the Prophet's wives (Q 33:50) and the dower in permanent marriage (Q 60:10; Q 4:25), indicating that the term in Qur'ānic legal language functions as a family-law technical term rather than a marker of commercial exchange.

A second argument concerns the rule that in temporary marriage, if the wife refrains from cohabitation for part of the stipulated term (*'adam al-tamkīn*), a proportional part of the dower may be waived. Some jurists interpret this as evidence that the contract is commutative (*mu'āwaḍah*) and structurally similar to a lease (*'aqd al-ijārah*), where payment corresponds to use; thus, non-compliance is analogized to non-use, leading to partial waiver (Ṣāhib Jawāhir, 1362). Yet this reasoning is vulnerable to the critique of false analogy (*qiyās ma'a al-fāriq*), since the partial waiver of *mahr* may plausibly stem from other legal and social considerations, including policy objectives and historical juristic development, rather than from the contract's inherent commutative nature (Ṭabāṭabā'ī Ḥakīm, 1416).

Another widely repeated distinction is that temporary marriage primarily aims at satisfying sexual desire and preserving chastity, whereas permanent marriage primarily aims at procreation and family formation. This claim is often reinforced by certain narrations that employ lease-like metaphors (*ijārah*) for *mut'ah*, which in turn is used to justify the strict

requirement of specifying *mahr* in temporary marriage: since exchange-based contracts require clarity of consideration (*ʿiwaḍayn*), failure to specify *mahr* in *mutʿah* nullifies the contract by juristic consensus. By contrast, specifying *mahr* is not a condition for validity in permanent marriage (Muḥaqqiq Dāmād, 1406; Muḥaqqiq Karkhī, 1414; Ṣāhib Jawāhir, 1362; Shahīd Thānī, 1413).

Nevertheless, the objectives-based distinction remains methodologically weak for at least two reasons. First, permanent marriage also pursues enjoyment (*istimtāʿ*) alongside procreation; therefore, reducing permanent marriage to procreation and temporary marriage to enjoyment is a one-dimensional and incomplete framing. Second, Sayyid Murtaḍā's interpretation of Q 4:24 demonstrates that the term *istimtāʿ* in Qurʾānic legal usage is not reducible to physical gratification (*ilthithādh*). He argues that although *istimtāʿ* and *tamattuʿ* linguistically denote pleasure, they became specialized in legal custom (*ʿurf sharʿī*) for this specific contract, similar to how terms like *zihār* acquire technical meanings in Sharīʿa discourse (Sayyid Murtaḍā, 1415). He further maintains that the Qurʾān's linkage of *mahr* obligation to *istimtāʿ* indicates the intended meaning is the contract itself rather than sexual intercourse, since *mahr* becomes binding upon the conclusion of the contract, not upon physical consummation. On this basis, the distinction between legal *istimtāʿ* (contract-based entitlement) and physical *ilthithādh* (sensual pleasure) becomes essential: even if legal *istimtāʿ* occurs without physical gratification, the *mahr* remains obligatory. This conceptual separation implies that the objective of temporary marriage cannot be confined solely to physical pleasure; rather, it encompasses a broader sphere of lawful relations, legal security, and the fulfillment of concrete needs beyond mere gratification.

Although the term *Mustaʿjarah* (leased woman) has been used in relation to temporary marriage, the nature of the relationship in *Nikāḥ al-Mutʿah* and its legal effects fundamentally differ from those of a lease (*Ijārah*) and exchange contracts (*ʿUqūd al-Muʿāwaḍātī*). This term is used as a figurative or permissible expression (*Musāmaḥah wa Majāz*), just as the word *Ishtarā* (bought) is used in narrations concerning permanent marriage, even though permanent marriage is not a sale (*Bayʿ*). In a lease, the subject of the transaction is the use of an object, whereas in marriage, the subject is the person herself. Furthermore, the rights and duties of the man and woman in marriage extend far beyond a lease relationship.

On the other hand, the presence or absence of a specific condition, although affecting some legal consequences of the contract, does not necessarily change the fundamental nature of the contract. Just as the condition of immediate possession (*Qabḍ*) of the commodity is essential for the validity of a futures contract (*Bayʿ Salam*), yet this condition does not change the essential nature of the sale, the obligatory nature of mentioning the dower in temporary marriage does not necessarily mean there is a fundamental difference between it and permanent marriage.

Stipulation of Dower in Permanent Marriage (Comparative Perspective)

In several Islamic legal schools (*madhāhib*), the stipulation of dower (*mahr*) in permanent marriage is also treated as a condition for the validity of the contract (*shart ṣiḥḥat al-'aqd*). Consequently, the Imāmī position—which generally permits the validity of permanent marriage even without explicitly specifying *mahr*—cannot be used as a decisive criterion for claiming a fundamental ontological difference between temporary and permanent marriage. In other words, differences in the requirement of *mahr* stipulation reflect juristic variation in contractual conditions, rather than an inherent divergence in the essence of marriage itself.

Although the term *tazwīj* (marriage) and its synonyms are employed as general legal expressions for both permanent and temporary marriage, shared terminology does not automatically entail that the two contracts are identical in essence (*māhiyyah*). Some jurists have argued that the difference between permanent and temporary marriage extends beyond duration and subsidiary stipulations. This line of reasoning is supported by statements attributed to jurists such as Abū al-Ṣalāḥ al-Ḥalabī and Shaykh al-Ṭūsī, who maintain that “*if the stipulated term is omitted, the contract converts into a permanent one.*” The use of the expression *yanqalib* (“converts/turns into”) is significant, as it implies that the initial contractual declaration (*inshā' al-awwalī*) does not intrinsically require permanence; otherwise, the term *yabqā* (“remains”) would have been more appropriate (Anṣārī, 1426).

By contrast, Ṣāḥib al-Jawāhir interprets a number of narrations (*nuṣūṣ*) as indicating that the only operative difference between permanent and temporary marriage is the specification of duration (Ṭabāṭabā'ī Ḥakīm, 1416). He argues that the condition of duration (*shart al-mudda*) in *mut'ah* is external to the essential meaning of *nikāḥ*; if it is not mentioned, the contract simply lacks that specific effect. Based on the principle that legal rulings do not apply to presumed (unexpressed) conditions, the omission of the term does not invalidate the contract, because the intention of marriage (*qaṣd al-nikāḥ*) remains intact (Ṣāḥib Jawāhir, 1362).

A second and widely supported viewpoint—affirmed by many prominent Shī'ī jurists—emphasizes the substantive unity of permanent and temporary marriage (Ibn Ḥamzah, 1408; Muḥaqqiq Ḥillī, 1408; Ṭabāṭabā'ī, 1418; Tabrīzī, 1416). This approach argues that the differences between the two contracts should be examined within the general principles of fiqh and contract theory, rather than being treated as evidence of two fundamentally distinct institutions. According to this unitary theory, both *mut'ah* and *nikāḥ dā'im* share the same juridical identity, while their divergence is primarily located in temporality and continuity.

Under this framework, both permanent and temporary marriage produce the same foundational rule: once the contract is validly concluded, the wife becomes the legal owner of the entire stipulated dower. Thus, ownership of *mahr* is established immediately upon contract formation, regardless of whether the marriage is time-bound or continuous (Arākī, 1414; Sayyid Murtaḍā, 1415; Ṭūsī, 1364; Zuḥaylī, 1422). Moreover, in both forms of marriage, the condition for the full stabilization (*istiqrār*) of the wife's entitlement to *mahr* is the

occurrence of *waṭʿ* (sexual intercourse) as a juristic reality, not the attainment of physical pleasure (*ladhdhah*). Any differences between permanent and temporary marriage concern only the manner or conditions through which this right is exercised, rather than its legal foundation (Fāḍil Lankarānī, 1421; Tabrīzī, 1416).

The general conditions governing the validity and enforceability of *mahr* are also largely identical in both contracts, including the requirement that the dower be legally owned (*mamlūk*), transferable, and determinate (*taʿyīn al-miqdār*). Accordingly, if the asset designated as *mahr* belongs to a third party, the marriage contract becomes void even if the owner later consents. This is because the subject matter of marriage is not property transfer, but the establishment of the marital bond (*rābiṭah al-zawjiyyah*). For this reason, rules typical of commutative contracts—such as the permissibility of unauthorized dealings (*fuḍūlī*) in sale (*bayʿ*) and lease (*ijārah*)—cannot be extended to marriage, where the primary legal object is the marital relationship rather than the exchange of property or benefit (Baḥrānī, 1405; Mīrzāy-i Qumī, 1427; Muḥaqqiq Karkhī, 1414; ʿAllāmah Ḥillī, 1413).

The characterization of the *mutʿah* spouse as *mustaʿjarah* (leased) is best understood as a figurative simile (*tashbīh majāzī*) used to simplify conceptual understanding, much like the term “sale” (*bayʿ*) has occasionally been used metaphorically for permanent marriage (Ḥurr ʿĀmilī, 1416). While the analogy highlights limited similarities—such as fixed duration and automatic expiry—it does not establish that *mutʿah* shares the essence of lease contracts (Mūsavī Khwānsārī, 1355; Tabrīzī, 1416). If *mutʿah* were truly a lease in nature, it would be valid through any expression indicating renting. Yet jurists agree that temporary marriage requires specific verbal formulas such as *mataʿtuki*, *zawwajtuki*, or *ankaḥtuki* (Makārem Shīrāzī, 1432; Mūsavī Khwānsārī, 1355). From a customary perspective (*ʿurf*), conceptualizing *mutʿah* as a pure exchange contract—where sexual capacity is treated as consideration in return for *mahr*—is also incompatible with prevailing moral and social norms (Mūsavī Khwānsārī, 1355). Hence, marriage is rationally and customarily distinct from lease, and this distinction is reflected in juristic practice: marriage is never concluded using lease terminology, nor is lease concluded using marriage terminology (Khomeinī, 1421).

Based on juristic texts addressing cases where the term is forgotten in *mutʿah*, the decisive distinguishing feature between the two contracts appears to be continuity versus temporality. Ṣāḥib al-Jawāhir articulates this clearly by asserting that duration is an external condition, and its omission does not invalidate the contract, because the intention of marriage remains present (Ṣāḥib Jawāhir, 1362). Therefore, the most defensible conclusion—grounded in both doctrinal and legal reasoning—is that permanent and temporary marriage share a unified substantive nature, while differing only in their temporal structure. Once this substantive unity is established, the subsequent question becomes unavoidable: what, then, is the true legal nature of marriage itself, and which marital effects should be treated as default consequences of the bond?

The Doctrine of Presumptive Inheritance Subject to Renunciation; Sayyid Murtaḍā's Model

As with all binding contracts, the validity of *nikāḥ* is contingent upon the intention and consent of the contracting parties. Consequently, if a marriage is concluded without proper authorization (*nikāḥ fuḍūlī*)—whether initiated by one party or by both—the contract is not void per se, but remains suspended (*mawqūf*) until ratified through subsequent permission. In this framework, legal efficacy is conditioned upon post-contractual approval rather than automatic invalidity (Shahīd Thānī, 1412).

Islamic jurisprudence treats legal capacity as a foundational condition for the enforceability of marriage. Capacity is generally assessed through three core criteria: puberty (*bulūgh*), intellect (*‘aql*), and maturity (*rushd*). Puberty functions primarily as a requirement for independent contractual agency, although guardianship may permit marriage on behalf of minors in limited circumstances. Intellect is indispensable, as marriage presupposes awareness of its meaning and consequences; thus, a person lacking mental competence cannot contract independently. Maturity, meanwhile, denotes the ability to evaluate benefit and harm in major life decisions and becomes particularly relevant in cases involving minors who reach puberty or individuals with limited competence (Shahīd Thānī, 1412).

Nikāḥ, like other binding contracts, requires an explicit offer and acceptance that clearly indicates marital intent and eliminates ambiguity. Classical jurists emphasize the necessity of verbal formulation, commonly expressed through terms such as *zawwajtuka* and *ankaḥtuka*, which are widely recognized in Arabic legal usage and also appear in Qur’anic discourse (e.g., Q. 33:37; 4:3). This requirement underscores the contractual structure of marriage as a juridical act rather than a merely social arrangement (Khawānsārī Najafī, 1418).

Lawful Conjugal Relations and Spousal Permissibility: The primary legal effect of marriage is the establishment of lawful conjugal relations between spouses. Jurists agree that marriage legitimizes sexual relations, subject to normative restrictions and conditions determined by Shari’a (Shahīd Thānī, 1412).

Maintenance (*Nafaqah*) in Permanent Marriage: In permanent marriage, the husband is legally obligated to provide maintenance, including food, clothing, housing, and customary necessities, contingent upon the wife’s fulfillment of marital obligations. Maintenance represents a core financial consequence of the marital bond (Shahīd Thānī, 1412).

Dower (*Mahr*) as an Immediate Financial Entitlement: Upon conclusion of *nikāḥ*, the wife acquires entitlement to *mahr*. Although full entitlement may in some cases depend on consummation, *mahr* remains a direct legal right generated by the contract itself. Classical jurists further recognize the wife’s ability to withhold conjugal duties until *mahr* is delivered, reinforcing its contractual character (Shahīd Thānī, 1412).

Waiting Period (*‘iddah*) upon Dissolution: A valid marriage produces legal consequences even after dissolution. One of the most important is the obligation of *‘iddah* following divorce or annulment. This institution serves as a mechanism for lineage preservation and legal order within family law (Shahīd Thānī, 1412).

Mutual Inheritance as a Default Consequence in Permanent Marriage: Within the general theory of marriage—primarily formulated through permanent *nikāḥ*—mutual inheritance is treated as a default legal consequence once the marriage contract is validly concluded. It does not require explicit contractual stipulation, and it remains operative even if one spouse dies during the wife's 'iddah. This indicates that inheritance is embedded in the normative architecture of the marital bond (Shahīd Thānī, 1412).

Marriage generates prohibitions based on affinity. Certain relatives become permanently forbidden for marriage due to the spousal bond (e.g., mother-in-law, step-relations), even without consummation. These prohibitions reflect the institutional status of marriage as a generator of legal kinship (Shahīd Thānī, 1412).

Both permanent and temporary marriage prohibit marrying two sisters simultaneously or sequentially while the first marriage remains valid. Jurists treat the second contract as invalid regardless of consummation, highlighting the continuity of normative restrictions across marriage forms (Khomeinī, 1421).

Taken together, these foundations support the conclusion that the general theory of *nikāḥ* conceptualizes marriage as a legally stable institution whose default consequences include mutual inheritance. Given the essential unity between permanent and temporary marriage in their constitutive elements, it becomes analytically plausible to argue that the legal effects of permanent marriage—including inheritance—should extend to temporary marriage unless a specific legal text indicates otherwise. This theoretical premise provides the conceptual basis for examining juristic disagreement on inheritance in *nikāḥ al-munqati'*.

Inheritance in temporary marriage (*nikāḥ mut'ah*) represents one of the most contested questions in Imāmī jurisprudence, producing multiple doctrinal positions shaped by differing interpretive approaches to Qur'anic generalities, transmitted reports, and contractual logic. While many jurists maintain that inheritance is fundamentally absent in *mut'ah*, others allow it under specific contractual stipulations, and a minority argues for its presumptive existence unless explicitly excluded. Among these views, the position attributed to Sayyid Murtaḍā is particularly significant because it reverses the dominant presumption: rather than treating non-inheritance as the default, he affirms inheritance unless the contract contains an explicit clause negating it (Sayyid Murtaḍā, n.d.). This makes his theory a pivotal reference point for tracing the genealogy of juristic disagreement and evaluating whether inheritance is better conceptualized as an intrinsic effect of marriage or as a negotiable contractual right. The following sections critically examine four principal Imāmī theories on inheritance in temporary marriage and assess their evidentiary foundations and internal coherence.

Based on the general theory of marriage and its foundational principles, it is possible to establish the validity of inheritance in temporary marriage (*mut'ah*). According to this theory, the right to inheritance is an intrinsic and inseparable consequence of a permanent marriage contract, automatically established for the spouses upon its conclusion. Since the

nature of both types of contracts—permanent and temporary—is essentially identical, with no fundamental differences in their legal elements, it logically follows that their shared substantive rulings and effects should apply to both.

Therefore, just as fundamental conditions such as the necessity of offer and acceptance, the correctness of the marriage formula in Arabic, and the legal capacity of the parties are considered essential elements of both types of marriage, the rule of inheritance should also be regarded as a consequence of both contracts due to this intrinsic unity. Consequently, from the perspective of the general theory of marriage, inheritance in temporary marriage is established by virtue of its shared nature with permanent marriage. However, due to the temporal character of *mut'a*, inheritance in this context is weaker than in permanent marriage and should be regarded as a right rather than an intrinsic ruling. In other words, inheritance in temporary marriage can be waived by mutual agreement or stipulation, whereas such waiver is not possible in permanent marriage.

Thus, drawing on the foundational principles of the general theory of marriage, one can explain the jurisprudential principle that inheritance in temporary marriage is not an obligatory or intrinsic ruling, but rather a conditional right that can be renounced by agreement of the parties.

Firstly: It appears that Sayyid Murtadha considers inheritance to be a necessary consequence of the general applicability of temporary marriage (*nikāḥ mut'ah*). By “necessary consequence of general applicability,” it is meant that the contract, by virtue of its generality, entails everything implied without any specific limitation or condition relating to attribute, time, or place—whether such limitation arises from customary practice or linguistic expression. The distinction lies in the nature of necessary consequences: intrinsic consequences cannot be separated or violated under any circumstances. Even if a condition explicitly contradicts them, it is ineffective, because such a condition would remove the contract from its essential subject, and once the primary subject becomes invalid, its consequences hold no value (Ibn Bābawayh, 1415; Marāghī, 1417).

Therefore, since inheritance is a necessary consequence of the generality of the contract, a condition aiming to negate inheritance is not considered contrary to the contract and is thus invalid (Ibn Barāj, 1406; Ibn Zuhrah, 1417). As previously noted, the fact that inheritance in temporary marriage is not an intrinsic necessity, but rather a right rather than a binding ruling, can be demonstrated through the general theory of marriage.

Secondly: The status of a woman as a wife in temporary marriage is not derived from the context of verse 6 of Surah al-Mu'minūn, which limits lawful sexual relations to *wives and those whom one's right hand possesses*, such that any objection could arise. Rather, this spousal status is inferred from the essential unity between permanent and temporary marriage. In other words, the nature of both types of marriage, as previously stated, is identical, and therefore a woman in either case is considered a wife (*zawjah*). Just as she is entitled to inheritance in permanent marriage, she also enjoys this right in temporary

marriage. Therefore, Fazel Ābī's objection that the verse on inheritance was revealed prior to the enactment of temporary marriage and does not refer to it specifically is not considered valid (Al-Ābī, 1417; Baḥrānī, 1405; Nūrī, 1382).

As mentioned, permanent marriage has a dual nature: it is considered an act of worship due to the marital bond and, simultaneously, a form of reciprocal arrangement because of the financial rights it entails. One of these financial rights is inheritance, and by analogy, this financial right must also apply in temporary marriage.

Thirdly: Since Sayyid Murtadha does not accept the legal authority (*ḥujjiyyah*) of solitary reports (*khabar wāḥid*), individual reports on this subject cannot override or restrict the generality of the Qur'anic verses on inheritance (Ibn Idrīs, 1410). The only point that could be raised against Sayyid Murtadha's view is that, according to some jurists, the first opinion has been presented as the prevalent view (*ra'y mashhūr*) (Ṣāḥib Jawāhir, 1362; Ṭūsī, 1407), which implies that Sayyid Murtadha's opinion is contrary to practical consensus.

The present study was designed to revisit the view of Sayyid Murtadha 'Ilm al-Huda on the issue of inheritance in temporary marriage (*mut'a*) through the lens of the general theory of marriage contracts (Beyhaqī Nishāpūrī Keydarī, 1374; Langarūdī, 1395) (Langarūdī, 1395). It sought to move beyond reductionist and narrowly focused interpretations, analyzing the matter within a broad, coherent framework grounded in the foundational principles of marital jurisprudence. The theoretical examination revealed that the general theory of marriage regards marriage as a dual-aspect contract: on one hand, it possesses a binding and prescriptive character in establishing the marital bond, and on the other, it entails multiple financial rights and obligations. These intertwined aspects define the essence of both permanent and temporary marriages and prevent reducing temporary marriage to a purely contractual or lease-like arrangement.

In light of this theory, it became evident that many of the distinctions cited in jurisprudence to demonstrate an essential difference between permanent and temporary marriage lack sufficient legal robustness. These differences generally pertain to conditions, stipulations, or specific legal consequences, rather than to the inherent nature of the contract itself. Consequently, the default position is the substantive unity of the two types of marriage, and any deviation from the effects of permanent marriage in temporary marriage requires specific and valid jurisprudential evidence.

Based on this foundation, the review of Twelver Shia jurists' opinions regarding inheritance in temporary marriage identified four main positions: absolute non-inheritance, absolute inheritance, inheritance conditional upon stipulation, and inheritance except where a condition of non-inheritance is specified. Among these, Sayyid Murtadha's view, which asserts the default existence of inheritance in temporary marriage while allowing its waiver through a stipulation of non-inheritance, demonstrates greater internal coherence and compatibility with the general theory of marriage. This position aligns, on the one hand, with the universal application of Qur'anic verses on inheritance and the substantive unity of

permanent and temporary marriage, and, on the other hand, distinguishes between a “right” and a “ruling”, thereby justifying the waiver of inheritance in temporary marriage as a renounceable right without considering it an inherent requirement of the contract.

Furthermore, given Sayyid Murtadha’s methodological principles—particularly the non-authority of solitary reports (*khbar wāḥid*) and the primacy of decisive Qur’anic and Prophetic sources—reports negating inheritance in temporary marriage cannot validly restrict the general applicability of the Qur’anic injunctions on inheritance. In cases of conflict, such reports are overridden. Hence, the divergence of this view from the dominant later juristic opinion does not indicate deviation but reflects a principled adherence to Sayyid Murtadha’s specific jurisprudential methodology, which is defensible within Twelver Shia jurisprudence.

The study concludes that, upon acceptance of the general theory of marriage and the substantive unity of permanent and temporary marriage, Sayyid Murtadha’s position regarding inheritance in *mut’ah* marriage is strengthened. In this framework, inheritance in temporary marriage is not an intrinsic and immutable ruling but a right arising from the marital bond, whose default is established yet can be waived through mutual agreement. This conclusion, in addition to providing theoretical coherence, opens the way for reconsideration of prevailing jurisprudential and legal interpretations of temporary marriage and its effects, particularly in the realm of spousal financial rights, and offers new avenues for future research in Twelver Shia family law.

Conclusion

This study concludes that the controversy over inheritance in *nikāḥ al-munqati’* / *mut’ah* is fundamentally rooted not only in divergent readings of scriptural evidence, but more decisively in competing assumptions about the contractual nature of marriage and the scope of its default legal effects. By systematically mapping four major juristic theories and assessing them through the analytical lens of the general theory of *‘aqd al-nikāḥ*, the article demonstrates that the dominant denial of inheritance—unless explicitly stipulated—depends on treating temporality as sufficient to suspend core marital consequences. In contrast, the position attributed to Sayyid Murtaḍā is shown to be jurisprudentially coherent and contractually plausible, since it aligns with the presumption that marriage generates mutual rights and obligations by default unless they are expressly excluded through valid contractual clauses. Accordingly, the study strengthens the theoretical defensibility of recognizing inheritance in temporary marriage under a presumption-based contractual model, while offering a structured framework for future scholarship on marital effects, legal presumptions, and contemporary family law debates in Islamic jurisprudence.

References

- Al-Ābī, Ḥasan ibn Abī Ṭālib. (1417). *Kashf al-Rumuz fī Sharḥ al-Mukhtaṣar al-Nāfi'* (3rd ed.). Daftar Intishārāt Islāmī.
- Anṣārī, M. ibn M. A. (1426). *Kitāb al-Nikāḥ*. Majma' al-Fikr al-Islāmī.
- Arākī, M. 'Alī. (1414). *Al-Khiyārāt*. Dār Rāh-e-Ḥaqq.
- Baḥrānī, Y. ibn A. (1405). *Ḥadā'iq al-Nāẓirah*. Daftar Intishārāt Islāmī.
- Beyhaqī Nishāpūrī Keydarī, M. ibn Ḥusayn. (1374). *Aṣbāḥ al-Shī'ah*. Mu'assasah Imām Ṣādiq.
- Fāḍil Lankarānī, M. (1421). *Tafṣīl al-Sharī'ah – al-Nikāḥ* (1st ed.). Markaz Fiqh al-A'imma al-Aṭḥār.
- Ḥurr 'Āmilī, M. ibn Ḥasan. (1416). *Wasā'il al-Shī'ah*. Mu'assasah Āl al-Bayt li-Iḥyā' al-Turāth.
- Ibn Bābawayh, M. ibn 'Alī. (1415). *Al-Muqni'*. Mu'assasah Imām Hādī.
- Ibn Barāj, 'Abd al-'Azīz ibn Naḥrīr. (1406). *Al-Muḥadhdhab fī al-Fiqh*. Daftar Intishārāt Islāmī.
- Ibn Ḥamzah, M. ibn 'Alī. (1408). *Al-Wasīlah ilā Nayl al-Faḍīlah*. Manshūrāt Maktabat Āyat Allāh al-'Aẓamā al-Marāshī al-Najafī.
- Ibn Idrīs, M. ibn A. (1410). *Al-Sarā'ir al-Ḥawī li-Taḥrīr al-Fatāwā*. Daftar Intishārāt Islāmī.
- Ibn Zuhrah, Ḥamzah ibn 'Alī. (1417). *Ghaniyat al-Naz' ilā 'Ilm al-Uṣūl wa al-Furū'*. Mu'assasah al-Imām Ṣādiq.
- Izzati, A., Muslim, M., Fauzi, M., & Khalida, L. (2025). Level of Understanding and Acceptance of Students towards E-Faraid: Implications for Al-Mirath Education and Digital Transformation of Inheritance Management. *International Journal of Research and Innovation in Social Science*, IX(2454), 7–11. <https://doi.org/10.47772/IJRISS.2025.92900002>
- Khomeinī, R. (1421). *Kitāb al-Bay'* (1st ed.). Mu'assasah Tanzīm wa Nashr Āthār Imām Khomeinī.
- Khū'ī, A. al-Q. (n.d.). *Kitāb al-Nikāḥ*. Dār al-Ta'āruf li-l-Maṭbū'āt.
- Khū'ī, A. al-Q. (1418). *Mawsū'ah al-Imām Khū'ī*. Mu'assasah Iḥyā' Āthār al-Imām Khū'ī.
- Khawānsārī Najafī, M. ibn M. (1418). *Munyat al-Ṭālib* (1st ed.). Mu'assasah al-Nashr al-Islāmī.
- Langarūdī, M. J. J. (1395). *Al-Farq* (7th ed.). Ganj Dānesh.
- Larijany, S. (2023). Women's Social Participation According to Ayatollah Mutahhari's Theory of Justice *. *Religious Inquiries*, 12(1), 7–19. <https://doi.org/10.22034/RI.2022.310283.1538>
- Makārem Shīrāzī, N. (1432). *Anwār al-Fiqhah fī Aḥkām al-'Itrah al-Ṭāhirah (Kitāb al-Nikāḥ)*. Dār al-Nashr.
- Marāghī, 'Abd al-Fattāḥ ibn 'Alī. (1417). *Al-Anāwīn al-Fiqhiyyah*. Daftar Intishārāt Islāmī.
- Margalit, Y., Lecturer, S., Marriage, T., Solution, P., Margalit, Y., Family, T. J., Law, B. F., & Law, C. (2018). temporary marriage : a comparison of the jewish and islamic conceptions. *Journal of Law and Religion*, 33(1), 89–107. <https://doi.org/10.1017/jlr.2018.12>
- Mīrzāy-i Qumī, A. al-Q. ibn M. Ḥasan. (1427). *Jāmi' al-Shatāt*. Kayhān.

- Mufīd, M. ibn M. (1413). *Al-Muqni'ah*. Kongrah Jahānī Hazārah Shaykh Mufīd.
- Muḥaqqiq Dāmād, M. (1406). *Qawā'id Fiqh* (12th ed.). Markaz Nashr 'Ulūm Islāmīyah.
- Muḥaqqiq Ḥillī, J. ibn Ḥasan. (1408). *Sharā'i' al-Islām*. Mu'assasah Ismā'īlīyān.
- Muḥaqqiq Karkhī, 'Alī ibn Ḥusayn. (1413). *Al-Mujaz fī al-Mut'ah* (1st ed.). Kongrah Jahānī Hazārah Shaykh Mufīd.
- Muḥaqqiq Karkhī, 'Alī ibn Ḥusayn. (1414). *Jāmi' al-Maqāṣid fī Sharḥ al-Qawā'id*. Mu'assasah Āl al-Bayt.
- Mūsavī Khwānsārī, A. (1355). *Jāmi' al-Madārik fī Sharḥ al-Mukhtaṣar al-Nāfi'* (2nd ed.). Maktabah al-Ṣadūq.
- Nūrī, Ḥusayn ibn Muḥammad Taqī. (1382). *Mustadrak al-Wasā'il*. Ismā'īlīyān.
- Ṣāhib Jawāhir, M. Ḥasan. (1362). *Jawāhir al-Kalām* (7th ed.). Dār Iḥyā' al-Turāth al-'Arabī.
- Sayyid Murtaḍā, 'Alī ibn Ḥusayn. (n.d.). *Rasā'il Sharīf*. Dār al-Qur'ān al-Karīm.
- Sayyid Murtaḍā, 'Alī ibn Ḥusayn. (1415). *Al-Intiṣār*. Daftar Intishārāt Islāmī.
- Shahīd Thānī, Z. al-D. ibn 'Alī. (1412). *Al-Rawḍah al-Bahiyyah fī Sharḥ al-Lum'ah al-Dimashqīyah* (1st ed.). Intishārāt Daftar Tabliḡhāt Islāmī.
- Shahīd Thānī, Z. al-D. ibn 'Alī. (1413). *Masālik al-Afhām ilā Tanqīḥ Sharā'i' al-Islām*. Mu'assasah al-Ma'ārif al-Islāmīyah.
- Ṭabāṭabā'ī Ḥakīm, M. ibn M. (1416). *Mustamsak al-'Urwah al-Wuthqā*. Mu'assasah Dār al-Tafsīr.
- Ṭabāṭabā'ī, 'Alī ibn Muḥammad 'Alī. (1418). *Riyāḍ al-Masā'il fī Taḥqīq al-Aḥkām bi-l-Dalā'il*. Mu'assasah Āl al-Bayt.
- Tabrīzī, J. S. (1416). *Niẓām al-Nikāḥ fī al-Sharī'ah al-Islāmīyah al-Gharā'*. Mu'assasah Imām Ṣādiq.
- Ṭūsī, M. ibn Ḥasan. (1364). *Tahdhīb al-Aḥkām*. Al-Maktabah al-Murtaḍawīyah.
- Ṭūsī, M. ibn Ḥasan. (1387). *Al-Mabsūṭ fī al-Fiqh* (3rd ed.). Al-Maktabah al-Murtaḍawīyah.
- Ṭūsī, M. ibn Ḥasan. (1407). *Al-Istibṣār*. Dār al-Kutub al-Islāmīyah.
- Valizadeh, Farzaneh; Abbassinia, Haniyeh; Motaghi, Zahra; Chaman, R. (2026). Images Download Cite Share Favorites Permissions Original Article Sexual and Reproductive Health Instrument for Temporary Marriage Wives: Development and Psychometric Properties. *Iranian Journal of Nursing and Midwifery Research*, 31(1), 17–20. https://doi.org/10.4103/ijnmr.ijnmr_165_22
- Zuḥaylī, W. ibn M. (1422). *Al-Tafsīr al-Wasīṭ*. Dār al-Fikr.
- 'Allāmah Ḥillī, Ḥasan ibn Yūsuf. (1413). *Mukhtalif al-Shī'ah*. Daftar Intishārāt Islāmī.
- 'Allāmah Ḥillī, Ḥasan ibn Yūsuf. (1414). *Tadhkirat al-Fuqahā'* (1st ed.). Mu'assasah Āl al-Bayt.