



The Assembly of Muslim Jurists of America  
20th Annual Imams' Conference

United States– Houston

# Examination of contemporary gender interactions and pre-marital constraints

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) not represent AMJA.



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## INTRODUCTION

In the name of Allah, the Most Gracious, the Most Merciful. May His peace and mercy be upon Prophet Mohammad (PBUH), who is His servant and messenger. He conveyed the message from his Lord and fully communicated it. He clarified the laws of our religion in all aspects of life to the extent that the people of the book envied us for his clarification. May Allah's blessings and peace be upon him, his family, his companions, and those who follow his guidance until the Day of Judgment.

The Assembly of Muslim Jurists in America (AMJA) has assigned me the task of drafting a paper that provides clear guidelines and parameters for communication between genders and families before marriage. Specifically, I have been asked to focus on the following topics:

- a) Prohibition of Cohabitation/Pre-marital relationships in Islam
- b) General guidelines for interaction between the two genders
- c) Guidelines & limitations of communication between prospective spouses
- d) Communication guidelines after the engagement
- e) Contemporary social media and marriage apps issues

When I initially approached this task, I was acutely aware of its complexity. Not only are there many other esteemed scholars in AMJA who are more qualified than me, but the topic itself is often filled with intense emotions, making an impartial investigation into the truth challenging. The potential risks of an unbalanced understanding of these parameters or their application are significant, leading to either improper leniency or excessive strictness, depending on the political and philosophical worldview or position the individual has adopted.

However, after praying Salah-ul-Istikhara and seeking advice from my teachers and mentors, including Shaikh Hatem Al-Haj, I decided to write this paper with Allah's permission.

I also want to note that almost eight years ago, I published a book on an identical topic: "Principles of Men-Women Interaction in Islam," which was reviewed by many, including Shaikh Hatem. I will be drawing upon some of the information from that book. I will try my best to reach a synthesis on this hyper-polarized topic without departing from tradition or traditional methodology.

I had originally planned to write separate papers in English and Arabic. However, I am consolidating them into a single English paper due to time constraints. I will include Arabic footnotes containing the insights of earlier scholars on this topic.

The upcoming paper will be organized into three chapters. The first chapter will provide a brief overview of general guidelines for interactions between men and women. The second chapter will explore specific guidelines related to interactions within the context of marriage. The final chapter will critically analyze contemporary issues relevant to this subject matter, followed by the conclusion.

Dear AMJA attendee, I kindly request that you thoroughly review the entire paper, including the conclusion, before drawing any conclusions. This topic is highly contentious, potentially controversial, and often divisive, leading to accusations of being too permissive or overly restrictive.

It is essential to emphasize that the content of this paper should not be considered the final verdict on any topic unless it is based on a verse from the Quran, an authentic hadith, or a clear consensus of scholars. I urge my brothers and sisters to carefully consider any ambiguous statements and to seek forgiveness for any mistakes and shortcomings on the author's part. I also ask my beloved readers to overlook any errors and uncertainties and to adhere only to what aligns with the teachings and intent of the lawgiver. سبحانه وتعالى.

## CHAPTER 1: GENERAL GUIDELINES FOR GENDER INTERACTION:

### Prohibition of cohabitation before marriage:

Before delving into the Islamic prohibition of cohabitation, let's examine the state of affairs in our modern Western society. Sometimes, it is necessary to witness the ugliness of indecency to appreciate the beauty of decency.

More than 50% of children in 2021 were born out of wedlock in European countries.<sup>1</sup> In the same year, almost 40% of the US population was born out of wedlock.<sup>2</sup>

In the modern and secular West, the category of "religion" is seen as a private matter that is separate from public life, including issues about sexuality. In this context, God and his guidance have been excluded not just from the public sphere but also from discussions about sexuality. This exclusion led to sexual disenchantment and sexual revolution in the West during the 1960s.<sup>3</sup> Today, sexuality is no longer guided by religious principles, and sex is not confined to family. In a large segment of Western society, sexuality is primarily linked to consent and choice, and the shame and stigma previously associated with illegitimate and unmarried parents have become part of the broader discourse on personal choice within Western, secular, and liberal cultures.

As a result, the family system is breaking apart, leading to a rise in fatherless households, affecting nearly 18 million children in the United States alone.<sup>4</sup> Divorce rates and infidelity<sup>5</sup> are also exceedingly high. والله المستعان

Now, comparing that to Islamic values, there exists a consensus among Islamic scholars regarding the prohibition of fornication and adultery (Zina).<sup>6</sup>

Furthermore, according to scholars of the Higher Objectives (مقاصد) of Islamic Law,<sup>7</sup> it is recognized that the primary objective of Islamic law is to preserve and safeguard the five essentials, namely: 1) Religion, 2) Life, 3) Lineage, 4) Property, and 5) Intellect.<sup>8</sup>

Preservation of lineage (النسل أو النسب) is linked to sexual discipline, which is regulated through divine laws regarding marriage, prohibition of zina, and punishment for those who do not observe divine sexual discipline.<sup>9</sup>

<sup>1</sup> Out of Wedlock Births by Country 2024 (worldpopulationreview.com) and Over half of children in England and Wales now born to unmarried parents (manchester.ac.uk)

<sup>2</sup> FastStats - Unmarried Childbearing (cdc.gov)

<sup>3</sup> Louis Perry, The Case Against Sexual Revolution, page 10-16

<sup>4</sup> Father Absence Statistics (fatherhood.org)

<sup>5</sup> Infidelity Statistics (2023): How Much Cheating is Going On? - Hack Spirit

<sup>6</sup> وقد أجمع أهل العلم على تحريمه فلم يحل في ملة قط. ولذا كان حده أشد الحدود؛ لأنه جنائية على الأعراس والأنساب، كما جاء في حاشية الجمل على المنهج 5 / 128، المعنى لابن قدامة 8 / 156، مطالب أولي النهى 6 / 172، تفسير القرطبي 10 / 253

<sup>7</sup> تكلم إمام المقاصد أبو إسحاق الشاطبي عن طرق التي تُكشف مقاصد الشارع وضوابطها التي تعرف بها مقصد الشارع في كتابه "المواقفات"، 3\132-136

<sup>8</sup> قال الغزالي: ومقصود الشرع من الخلق خمسة: وهو أن يحفظ عليهم دينهم ونفسهم وعقلهم ونسلهم ومالهم، فكل ما يتضمن حفظ هذه الأصول الخمسة فهو مصلحة، وكل ما يفوت هذه الأصول فهو مضد ومفسد ودفعها مصلحة في كتابه المستصفى، ص 174، (هذه الأصول أصول مصلحة عند الغزالي)، قال الرازي: "إذ كان لمصلحة تتعلق بالدين أو لمصلحة تتعلق بالآخرة... أما التي في محل الضرورة فيه التي تتضمن حفظ مقصود من المقاصد الخمسة، وهي حفظ النفس المال النسب والدين والعقل" في كتابه المحصول في علم أصول الفقه، 5\160، وقال الأمدى: فإن كان من قبيل المقاصد الضرورية فأما أن يكون أصلاً، أو لا يكون أصلاً. فإن كان أصلاً فهو الراجع إلى المقاصد الخمسة التي لم تخل من رعايتها ملة من الممل، ولا شريعة من الشرائع وهي حفظ الدين والنفس والعقل والنسل والمال... في كتابه الأحكام في أصول الأحكام، 3\300، وقال الغز بن عبد السلام: "الشرائع على تحريم الدماء الأضباع والأموال والأعراض..." في كتابه قواعد الأحكام في مصالح الأنام، 1\7، وانظر: الشاطبي، الواقفات، 2\8، 1\29، وابن عاشور، مقاصد الشريعة، ص 51، 63، 78

<sup>9</sup> الواقفات، 3\48

## Link between Gender interaction guidelines and Islamic law's objective of preserving Lineage:

The author conveys that understanding gender interaction in isolation is insufficient. Instead, it should be seen in the broader context, as gender interaction is just one tool for achieving a larger objective of Shariah'.

The guidelines given by Allah (SWT) to create a society that preserves Lineage include the following:

a) The Quran, Hadith, and Ijma' emphasize the prohibition of sex outside of marriage (Zina) on numerous occasions and encourage marriage.<sup>10</sup>

b) Guidelines for gender interaction and clothing are designed to promote healthy societies and family values while discouraging casual relationships.<sup>11</sup>

c) Islam facilitates the process of marriage, divorce, and remarriage for divorcees to facilitate healthy sexual relationships.<sup>12</sup>

d) Islamic law offers guidelines for intimacy within the framework of family-centered values, linking sex with reproduction and family and viewing it as an act of worship under divine guidance while prohibiting monasticism (رهبانية).<sup>13</sup>

e) Despite these proactive measures, if anyone engages in a casual sexual relationship, the Islamic Judiciary system enforces severe criminal punishment as prescribed by Islamic legislation to uphold the higher objectives of building a society based on these principles.<sup>14</sup>

## What is the ruling of Men-Women interaction?

What is the ruling of Men-Women interaction who are non-mahrams to each other? Multiple factors must be considered when determining the appropriate interactions between men and women.

Broad generalizations about all interactions should be avoided, as they can be harmful.

Interactions between men and women are categorized into five declaratory rulings (hukm taklifiyyah): forbidden (haram) under certain circumstances, discouraged (Makrooh) under different conditions, permissible (Mubah) in some instances, recommended (Mundub) in certain cases, and, at times, obligatory (Wajib).

Its ruling will depend on two broad categories:

### a) general and constant principles for interaction between genders:

- Intention dictates every action.
- 1st Guideline: Maintain a Respectful Gaze.
- 2nd Guideline: Purposeful & Professional Conversation.
- 3rd Guideline: Avoid Physical Contact.

<sup>10</sup> ابن قدامة، المغني، (بيروت، دار الكتب العلمية)، 446\6 والدسوقي، حاشية الدسوقي على الشرح الكبير، 215\2، والسرخسي، المبسوط، 193\4 والنووي، المنهاج، 203\4، الشاطبي، الموافقات، 132\1

This paper will highlight this particular aspect.

<sup>11</sup> جابر، محمود صالح، سد الذرائع الزنا للمحافظة على النسل، ص 32

<sup>12</sup> قال ابن حجر في شرح الحديث (فمن رغب عن سنتي فليس مني): ويتزوج لكسر الشهوة، وإعفاف النفس وتكثير النسل، فتح الباري، 105\9

<sup>13</sup> العالم، المقاصد العامة للشريعة الإسلامية، ص 394 والغزالي، الإحياء، 27\4، ابن حجر، فتح الباري، 105\9-118، الرازي، مفتاح الغيب، 416\15، القرطبي، 263\17

<sup>14</sup> كان حده أشد الحدود؛ لأنه جنائية على الأعراض والأنساب. وهو من جملة الكليات الخمس، وهي حفظ النفس والدين والنسب والعقل والمال، انظر: الموسوعة الفقهية الكويتية، 20\24

- 4th Guideline: Refrain from Meeting in Private.

**b) variant factors for gender interaction should be considered, including:**

- consideration of the individual's age, attractiveness, and the nature of the gathering.
- Assessment of local cultural and social norms (عرف), provided they do not conflict with Shariah.
- Understanding the need 'حاجة' - Distinguishing between casual conversation and necessity.
- Understanding the principle سد الذرائع – Blocking the means leading to evil.

Conducting a thorough assessment of these factors while considering the higher objectives of Islamic law (مقاصد), particularly in preserving lineage without compromising traditional principles, makes it possible to determine the permissibility, recommendation, obligation, disapproval, or prohibition of interactions between individuals of the opposite gender.

**a) General and Constant principles for interaction between genders:**

Establishing general guidelines for gender interactions between men and women is imperative to facilitate a comprehensive discussion on communication parameters for pre- and post-engagement acquaintanceship.

Islam took proactive measures to prevent an individual from distractions and ultimately from fornication. As such, Islam mandated several social laws that served as proactive steps or guidelines for interaction.

**Everything Comes Down to Intention:**

Everything starts with our intention, as the Prophet (ﷺ) said:

*"Our actions will be judged based on our intentions."*<sup>15</sup>

None of the subsequent interaction guidelines will be fruitful if our intentions are not pure.

**1<sup>st</sup> Guideline: Respectful Gaze**

**1) From the Quran perspective:**

Allah (Swt) said:

قُلْ لِلْمُؤْمِنِينَ بَغَضُوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ

*"Tell the believing men to lower their gaze (from looking at forbidden things) and protect their private parts (from illegal sexual acts, etc.). That is purer for them. Verily, Allah is All-Aware of what they do."* - Surat An-Nur, Ayah 30

وَقُلْ لِلْمُؤْمِنَاتِ بَغُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهُنَّ...

*"Tell the believing women to lower their gaze (from looking at forbidden things) and protect their private parts (from illegal sexual acts, etc.) and not to show off from their adornment except only that which is apparent.."* - Surat An-Nur, Ayah 31

The verses above instruct both believing men and women to lower their gazes. It is crucial to determine the implication of entirely avoiding visual interaction and whether these verses require

<sup>15</sup> أخرجه البخاري في صحيحه، كتاب بدء الوحي ، ج1، ص6، رقم1

consistent unconditional lowering of the gaze. In the above-mentioned verses, we observe that Allah urges the believing community to exercise restraint in their gaze, using the word "من" (from).

(... يَعْصُوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ...)

"Lower **from** their gazes and protect their privates." - Surat An-Nur, Ayah 30

The word "من" is used for a fraction of or 'a part of' according to most Tafsir scholars.<sup>16</sup>

It is not reasonable to keep our gaze lowered at all times. Instead, we should lower our gaze whenever we see something inappropriate, as defined by the Shariah. Perhaps even more interesting is that Allah (SWT) did not use this style when He told the believers to protect their privates. For example, He did not say:

وَيَحْفَظُوا مِنْ فُرُوجِهِمْ ...

"And protect some of their privates."

He said that we have to protect our privates entirely rather than partially. This is evident because He did not use the preposition مِنْ (**from**).

Similarly, the intention behind the phrase "lower from your gaze" is not necessarily to keep your gaze lowered at all times but to avoid looking at inappropriate things.

## 2) From the Hadith perspective:

Many hadiths have discussed this topic. The Prophet (ﷺ) said, "The Zina of the eye is a glance, the Zina of the tongue is speaking, and the Zina of the mind is wishing and hoping. Then the private part either acts upon this or it does not."<sup>17</sup>

Imam Al-Bukhari included this hadeeth in a chapter entitled: "Zina of faculties other than the private part"<sup>18</sup>. Zina is not always associated with the private part but may involve other faculties, such as the eyes.<sup>19</sup>

One more hadith in which Prophet Muhammad (ﷺ) instructed his companions to avoid staring inappropriately at individuals of the opposite gender. A companion, Jareer Bin Abdullah asked the Prophet (ﷺ):

"سَأَلْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ نَظَرِ الْفَجَاءَةِ فَأَمَرَنِي أَنْ أَصْرِفَ بَصَرِي"<sup>20</sup>

"I asked the Prophet (D) about an accidental glance, and he told me to avert my gaze."

This hadith illustrates that we should not look at individuals of the opposite gender without good reason. However, in the case of genuine need, it is permissible, as will be mentioned later in this chapter.<sup>21</sup>

There is plenty of textual evidence, so let's examine how classical scholars interpreted all the

<sup>16</sup>قال الإمام القرطبي: "من للتبويض، لأن من النظر ما يباح"... في تفسيره، ج 12، ص 202 - 203

وتفسير الرازي، ج 23، ص 361

<sup>17</sup> أخرجه البخاري في صحيحه، "فَرْنَا الْعَيْنَ النَّظْرَ..." حديث رقم 5889، 26\11

<sup>18</sup> باب: زنا الجوارح دون الفرج

<sup>19</sup> ابن حجر، فتح الباري، 26\11

<sup>20</sup> أخرجه مسلم في صحيحه، كتاب الآداب، باب نظر الفجاءة، ج 3، ص 1699، رقم 2159

<sup>21</sup> قال النووي: "يجب على الرجال غض البصر عنها في جميع الأحوال إلا لغرض صحيح شرعي وهو حالة الشهادة والمداواة وإرادة خطبتها أو شراء الجارية أو المعاملة بالبيع والشراء وغيرهما ونحو ذلك وإنما يباح في جميع هذا قدر الحاجة دون ما زاد والله أعلم..." في كتابه شرح النووي على مسلم، 139\14



evidence of non-mahrams looking at each other in various situations:

### Three Circumstances of Looking at Individuals of the Opposite Gender

1. Looking with sexual desire
2. Looking at need
3. Looking without sexual desire and the need.

#### 1) Looking with Sexual Desire

It is the consensus of all jurists that it is prohibited to look at an individual of the opposite gender with the intention of sexual desire or temptation.<sup>22</sup>

#### 2) Looking with Need

According to scholarly consensus, it is acceptable to look at the face of a non-mahram in situations of genuine need (حاجة). Examples of such needs may include, but are not limited to, trade, education, medicine, court testimony, and marriage proposals.<sup>23</sup>

In certain circumstances of genuine need (حاجة), it may be permissible to observe other parts of the body aside from the face without experiencing any sexual desire. A notable example is when a physician examines a patient's body for medical treatment.<sup>24</sup> We will discuss the 'need' of marriage and examine the prospect later in this paper.

It's important to understand that in situations of "extreme necessity" (ضرورة), it is permissible to look at the body of a non-mahram as much as necessary. For instance, this could involve rescuing a person of the opposite gender from drowning or a gynecologist aiding a patient in a life-threatening emergency. In these cases, what was initially forbidden becomes permissible due to the importance of saving human life.<sup>25</sup>

#### 3) Looking Without Sexual Desire & Without Need

Looking at the 'awrah of an individual from the opposite gender is forbidden, even if there is no sexual desire. This only becomes permissible when there is a genuine "need".

How about looking at the parts not considered as 'awrah such as the face? Can one look at non-'awrah parts without sexual desire and without genuine need while interacting with a non-mahram? This requires more gender-specific guidelines:

#### Men looking at a woman's face without feeling any sexual desire?

After carefully reviewing the evidence, one group of our classical scholars has conditionally permitted men to look at a woman's face or make eye contact. However, other scholars believe

<sup>22</sup> انظر الموسوعة الفقهية الكويتية، 26/269

<sup>23</sup> The following are the evidences.

• قال الإمام النووي: "إذا كانت حاجة شرعية فيجوز النظر، كما في حالة البيع، والشراء، والتطبيب، والشهادة ونحو ذلك، ولكن يحرم النظر في هذه الحال بشهوة، فإن الحاجة تبيح النظر للحاجة إليه، وأما الشهوة فلا حاجة إليها" في كتابه المنهاج شرح صحيح مسلم، 31/4

• قال الإمام السيوطي: "فإن الحاجة تنزل منزلة الضرورة والضرورات تبيح المحظورات" في كتابه الأشباه والنظائر، ص 88

• قال الإمام زحيلي: "يباح للضرورة أو للحاجة ويقدّر الحاجة نظر الرجل للمرأة الأجنبية في أحوال الخطبة والمعاملة في بيع وإجارة وقرض ونحوها، والشهادة، والتعليم، والاستطباب، وخدمة مريض أو مريضة في وضوء واستنجاء وغيرهما، والتخليص من غرق وحرق ونحوهما، وكذا عند الحنابلة خلق عانة من لا يحسن خلق عاقته، ونحوها..". في كتابه الفقه الإسلامي وأدلته، 9/6504

• قال الإمام الرملي الشافعي: "وبياح النظر (لوجه فقط) لمعاملة) كبيع، وشراء، ليرجع بالعنيدة ويطلب بالتمن مثلاً، أو شهادة) تحملاً وأداء لها وعليها" في كتابه نهاية المحتاج إلى شرح المنهاج، 6/981

<sup>24</sup> قال ابن قدامة المقدسي الحنبلي: "فصل: في من يباح له النظر من الأجانب. ويباح للطبيب النظر إلى ما تدعو إليه الحاجة من بدنها، من العورة وغيرها، فإنه موضع حاجة... وإن عامل امرأة في بيع أو إجارة فله النظر إلى وجهها، ليعلمها بعينها، فيرجع عليها بالدرك، وقد روي عن أحمد كراهة ذلك في حق الشابة دون العجوز. ولعله كرهه لمن يخاف الفتنة، أو يستغني عن المعاملة، فأما مع الحاجة وعدم الشهوة، فلا بأس". في كتابه المغني لابن قدامة، فصل: من يباح له النظر من الأجانب، 101/7

<sup>25</sup> قال الشاطبي: "الضرورات تبيح المحظورات...". في كتابه الموافقات، ج 5، ص 99، وانظر الأشباه والنظائر للسبكي، 1/49 49

avoiding eye contact as a proactive measure to avoid temptation is a better choice and that seeing a woman's face will be disliked. Some of our scholars still prohibit making eye contact even without sexual desires.<sup>26</sup>

The summary of all the opinions is as follows:

### 1st Opinion

One group of classical scholars believes that it is permissible to look at the face of a person of the opposite gender as long as it is done without any sexual desire (الشهوة) or fear of temptation (خوف). Earlier, Hanafi, Maaliki, and some Shafi'i scholars held this position.<sup>27</sup>

### 2nd opinion:

Another group of scholars holds the opinion that looking at the face is prohibited, regardless of the absence or presence of sexual desire or temptation. The Authorize Shafi position and Hambali hold this view.<sup>28</sup>

### 3rd opinion:

Some scholars believe that it is discouraged to look at someone's face, even without sexual desire involved. They recommend lowering the gaze even if there is no fear of temptation when interacting with Non-Mehram. Later, Hanafi scholars and a few Hambalis hold this opinion.<sup>29</sup>

- <sup>26</sup> قال ابن القطان في كتابه "أحكام النظر": أما مسألة نظره إلى وجهها: فمنهم: من جوزه لا بإطلاق، ولكن مقيداً بأن لا يخاف (بالنظر) إليه الفتنة، ومنهم: من حرّمه بإطلاق، ومنهم: من جعله مكروهاً... هكذا كتب ابن القطان في "أحكام النظر في أحكام النظر بحاشية البصر، ص 388
- <sup>27</sup> نظراً لأهمية الموضوع وحساسيته أعرض فيما يلي نموذجاً من نصوص بعض الفقهاء لحيث القاري بالموضوع، ويكون على بيّنة من أمره:
- يجوز النظر إلى الوجه والكفين من الأجنبية، إن لم يكن بشهوة، ولم يغلب على الظن وقوعها، ويحرم النظر إلى ما عدا ذلك بغير عذر شرعي، وهذا القول ذهب إليه الحنفية والمالكية، وهو مقابل الصحيح عند الشافعية... في الموسوعة الفقهية الكويتية، 341\40 وانظر الميسوط 10 / 152، والهداية والعناية وتكملة فتح القدير 10 / 28، وتبيين الحقائق 6 / 17، وحاشية النسوي والشرح الكبير 1 / 214، ونهاية المحتاج 6 / 187، ومغني المحتاج 4 / 209
  - قال السرخسي: "فأما النظر إلى الأجنبية فتقول: يباح النظر إلى موضع الزينة الظاهرة منهن دون الباطنة لقوله تعالى: {ولا يبدين زينتهن إلا ما ظهر منها} [النور: 31] وقال علي وابن عباس رضي الله عنهما: ما ظهر منها الكحل والخاتم..." في الميسوط، 10\152
  - قال ابن نجيم المصري الحنفي: "بأن الحرّة عورة إلا وجهها وكفيها وقدميها... ولذا حرّم النظر إلى وجهها ووجه الأمد إذا شك في الشهوة ولا عورة" في كتابه البحر الرائق شرح كنز الدقائق، ج 1، ص 284 وأيضاً انظر: تبيين الحقائق (30\6)
  - قال السوقي المالكي: "غير الوجه والكفين أي وأما ما غير عورة يجوز النظر إليهما ولا فرق بين ظاهر الكفين وباطنهما بشرط أن لا يخشى بالنظر لذلك فتنة وأن يكون النظر بغير قصد لذة وإلا حرم النظر لهما وهل يجب عليها حينئذ ستر وجهها وبيديها وهو الذي لاين مرزوق قائلًا إنه مشهور المذهب أو لا يجب عليها ذلك وإنما على الرجل غض بصره وهو مقتضى نقل المواق عن عياض، وفصل زرورق في شرح الوغليسية بين الجميلة فيجب عليها وغيرها فيستحب" في كتابه حاشية النسوي على الشرح الكبير، ج 1، ص 214
  - قال القرطبي: لما كان الغالب من الوجه والكفين ظهورهما عادة وعبادة وذلك في الصلاة والحج، فيصلح أن يكون الاستثناء رجعا إليهما... في تفسيره، 12\229
  - قال الرافعي: يجوز النظر من الأجنبية لوجهها وكفيها من غير شهوة، انظر: عبد الوهاب طويلة، الألبسة والزينة، ص 82-85
  - قال ابن تيمية: "وعلى هذين القولين تنازع الفقهاء في النظر إلى المرأة الأجنبية. فقيل: يجوز النظر لتغير شهوة إلى وجهها وبيديها وهو مذهب أبي حنيفة والشافعي وقول في مذهب أحمد" في مجموع الفتاوى، ج 22، ص 109
  - جاء في المحلى: ومن المرأة جميع بدنها حاشاً الوجه والكفين، (3\210 و 3\31)
  - قال الشوكاني: واستدلوا بقوله تعالى: ولا يبدين زينتهن إلا ما ظهر منها...، فقد روي عن ابن عباس وعلي وعائشة رضي الله عنهم أن المقصود بما ظهر من الزينة الوجه والكفان... في نيل الأوطار، 6\243
- Interestingly, for these scholars, there is no particular concession for a suitor to look at the prospect since they already allow looking at the face. The only concession they will provide to the suitor is that if he is looking at the prospect even with sexual desire, then some of them will allow it.
- <sup>28</sup> The following is the detail evidence for it:
- يحرم نظر الرجل بغير عذر شرعي إلى وجه المرأة الحرة الأجنبية وكفيها كسائر أعضائها سواء أخاف الفتنة من النظر باتفاق الشافعية أم لم يخف ذلك، وهذا هو قول الشافعية على الصحيح، وهو المذهب عند الحنابلة، وظاهر كلام أحمد... كما جاء في الموسوعة الفقهية الكويتية، 343\4، وانظر: مغني المحتاج 4 / 209، وروضة الطالبين 7 / 21، والإنصاف 8 / 29، ومطالب أولي النهى 5 / 18، والمغني 7 / 460
  - وفي منهاج النووي: يحرم نظر فحل بالغ إلى أجنبية، وكذا وجهها وكفيها عند خوف فتنة، وكذا عند الأمن على الصحيح، انظر السراج الوهاج ص 52، شرح مسلم للنووي 4\31، وقال البلقيني، الفتوى والمذهب على ما جاء في المنهاج من الحرمة مطلقاً، وهو الراجح، انظر: إغاثة الطالبين 1\113، مغني المحتاج 3\129-128، روضة الطالبين، 7\21، نهاية المحتاج 6\187
  - قال المرادوي: "كما أن الراجح في مذهب الإمام أحمد رحمه الله: أن النظر إلى وجه الأجنبية من غير حاجة: لا يجوز... في كتابه الإنصاف، 8\29
  - وبأن لحاشية البيهقي على الخطيب: عورته خارج الصلاة بالنسبة لنظر الأجنبي جميع بدنهما حتى الوجه والكفين ولو عند أمن الفتنة، 1\450
  - قد بين ابن تيمية وجه الاستدلال بهذه الآية والآية السابقة، فقال: قيل أن تنزل آية الحجاب كان النساء يخرجن بلا جلباب يرى الرجل وجهها وبيديها، وكان ذلك يجوز لها أن تظهر الوجه والكفين، وكان حينئذ يجوز النظر إليها، لأنها يجوز لها إظهاره، ثم لم أنزل الله عز وجل آية الحجاب بقوله: يا أيها النبي لا أزواجك وإنك ونساء المؤمنين يدين عليهن من جلابيبهن حجب النساء عن الرجال... في مجموع الفتاوى، 110\111
  - قال ابن حجر الهيتمي الشافعي: "ويحرم نظر فحل وخصي ومحبوب وخنثى إذ هو مع النساء كرجل وعكسه فيحرم نظره لهما ونظرهما له احتياطاً... (بالع... عاقل مختار إلى عورة حرة... كبيرة) ولو شوهاء بأن بلغت حداً تشتمى فيه لذوي الطباع السليمة لو سلمت من مشوه بها كما يأتي) أجنبية، وهي ما عدا وجهها وكفيها بلا خلاف لقوله تعالى: {مَنْ حَقَّ لِلْمُؤْمِنِينَ يَغْضُوا مِنْ أَيْسَارِهِمْ} (النور: 30)، ولأنه إذا حرم نظر المرأة إلى عورة مثلها كما في الحديث الصحيح فأولى الرجل، وكذا وجهها (أو بعضه ولو بعض عينها، أو من وراء نحو ثوب يحكي ما وراءه) وكفيها، أو بعضه أيضاً وهو من رأس الأصابع إلى الكوع) عند خوف الفتنة (إجمالاً من داعية نحو من لها، أو خلوة بها وكذا عند النظر بشهوة بأن يلتذ بها، وإن أمن الفتنة قطعاً) وكذا عند الأمن من الفتنة (فيما يظنه من نفسه وبلا شهوة (على الصحيح)) في "تحفة المحتاج في شرح المنهاج"، ج 7، ص 192
  - قال المرادوي الشافعي الحنبلي: "وحكى الكراهة في غير العورة، قال الشيخ تقي الدين رحمه الله: هل يحرم النظر إلى وجه الأجنبية لتغير حاجة؟ رواية عن الإمام أحمد: بكرة، ولا يحرم" في كتابه "الإنصاف في معرفة الأزواج من الخلاف"، ج 8، ص 28
  - المذهب عند أكثر الحنابلة - ولا سيما المتأخرين - أن المرأة كلها عورة حتى ظفرها وإنما رخص في كشف وجهها وكفيها عند الحاجة، قال ابن تيمية: التحقيق أن الوجه ليس بعورة في الصلاة، وهو عورة في باب النظر، وهو في الإنصاف. انظر المغني، 1\558، المحرر، 1\42-43، كشف القناع 1\243، الإنصاف 8\26، حاشية عبد الرحمن على الروض المربع، 1\497
  - قال ابن تيمية: "فقيل: لا يجوز وهو ظاهر مذهب أحمد؛ فإن كل شيء منها عورة حتى ظفرها... في مجموع الفتاوى، ج 22، ص 109

<sup>29</sup> The following is the detail evidence for it:

## Reconciliation Between Both Opinions – Eye contact?

As can be seen in the footnotes, there is a difference of opinion among major schools of thought regarding looking at someone's face without sexual desire. At times, even within each school of thought, there are multilateral disagreements.<sup>30</sup> We will try to reconcile these opinions with those of the great Mujtahid Imams.

Based on the factors mentioned, it is generally appropriate to maintain eye contact for educational and work-related purposes, provided that there is no sexual desire or fear of temptation involved. This perspective is supported by a group of classical scholars. It is advisable to refrain from making eye contact and instead adhere to stricter opinions, particularly when engaging with a younger, attractive individual and when there is potential for temptation<sup>31</sup>, or if the individual is not well covered. Allah knows best.

## Women Looking at the Face or Non-'Awhrah Parts of Men Without Sexual Desire?

Three opinions have been derived through the summarization of discussions among our classical scholars of Islamic Jurisprudence regarding women observing non-'awrah parts of men without sexual desire.

### 1st Opinion

The majority of scholars are more lenient when it comes to women looking at non-'awrah parts of men compared to men looking at non-'awrah parts of women. Consequently, they consider it permissible for women to look at non-'awrah parts of men, such as the face, arms, and chest, without experiencing any sexual desire or temptation. This is the position held by Hanafi, Hanbali, and many Shafi scholars.<sup>32</sup>

### 2nd Opinion

According to another group of scholars, the guidelines for women looking at men without sexual desire are the same as for men looking at women without sexual desire. Therefore, it is only permissible for a woman to look at the face, hands, or feet of a man as long as there is no sexual desire or temptation involved. Shafi'i (according to Imam Nawwi) and a few Hanbali scholars hold

• يحرم النظر بغير عذر أو حاجة إلى بدن المرأة الأجنبية غير الوجه والكفين ويكره النظر إليهما، ويندب غض البصر عنهما ولو بغير شهوة، وهذا القول نص عليه بعض المتأخرين من الحنفية وأصحاب الفتاوى، وعياره ابن عابدين أن الأحوط عدم النظر مطلقاً، وهو رواية عن أحمد وقول القاضي من الحنابلة كما جاء في الموسوعة الفقهية الكويتية، 345\40، وانظر: حاشية ابن عابدين 635\6، والفتاوى الهندية 5 / 329، المعنى 7 / 460، والإنصاف 8 / 28

• جاء في الفتاوى العالمية المعروفة بالفتاوى الهندية: "النظر إلى وجه الأجنبية إذا لم يكن عن شهوة ليس بحرام لكنه مكروه..."، 329\5

• قال الرافعي: فإن نظر كل واحد منهما إلى عورة صاحبه كان حراماً، وإن نظر إلى عورة غيره كان مكروهاً... في كتابه الحاوي الكبير، 35\9

• قال النووي: نظر الرجل إلى المرأة، فيحرم نظره إلى عورتها مطلقاً، وإلى وجهها وكفيها إن خاف فتنة. وإن لم يخف، فوجهان، قال أكثر الأصحاب لا سيما المتقدمون: لا يحرم، لقول الله تعالى: (ولا يبدين زينتهن إلا ما ظهر منها) وهو مفسر بالوجه والكفين، لكن يكره، قاله الشيخ أبو حامد وغيره... في كتابه روضة الطالبين، 21\7

<sup>30</sup> قولان في مذهب الشافعي، رجحه الرافعي: لا يحرم عند أمن الفتنة ولكن رجحه النووي: لا يجوز ولو من غير مشتة

<sup>31</sup> There are some jurists who gave importance to being less flexible when it comes to looking at younger, more attractive individual in the later period:

• قال عبد الغني بن طالب الغنيمي الدمشقي الميداني الحنفي: "فحل النظر مقيد بعدم الشهوة، وإلا فحرام، وهذا في زمانهم، وأما في زماننا فممنوع من الشابة، قهستاني وغيره" في كتابه اللباب في شرح الكتاب، 162\4

• قال ابن نجيم المصري الحنفي: "قال مشايخنا تمنع المرأة الشابة من كشف وجهها بين الرجال في زماننا للفتنة" في البحر الرائق، 284\1 وقال أيضاً الطحطاوي: تمنع الشابة من كشف الوجه بين الرجال، لا لأنه عورة، بل لخوف الفتنة، انظر: عبد الوهاب طوبلة، الألبسة والزينة، ص 82، رد المحتار على الدر المختار، 272\1

• وفي الشرح الصغير: وقال عياض: لا يجب سترها، بل عليه غض البصر عن الروية وأيضاً قال الزروق: يجب الستر على الجميلة، ويستحب لغيرها، 289\1

• وقال ابن خويز منداد: إن كانت جميلة وخيف من وجهها وكفيها الفتنة فعليها ستر ذلك وإن كانت عجوزاً أو مقبحة جاز أن تكشف وجهها. انظر حاشية العنوي، 379\2، حاشية الدسوقي، 214\1، مواهب الجنيل، 499\1، شرح الموطأ للزرقاتي 279\5

<sup>32</sup> يجوز للمرأة أن تنظر من الرجل الأجنبي إلى ما سوى عورتها أي إلى ما فوق السرة وتحت الركبة... وإلى هذا القول ذهب الحنفية في الأصح والشافعية في الأصح (عند الرافعي) أيضاً والحنابلة في المذهب... انظر: المبسوط، ج 10، ص 480، والهداية وشرحها، ج 15، ص 33 - 35 وحاشية ابن عابدين، ج 9، ص 533 - 534، والفتاوى الهندية، ج 5، ص 327، ومجمع الأنهر، ج 2، ص 538 - 539، وتبيين الحقائق، ج 6، ص 18، ونهاية المحتاج، ج 6، ص 194 - 195، وروضة الطالبين، ج 7، ص 21 وما بعدها، ومعنى المحتاج، ج 3، ص 130، وزاد المحتاج، ج 3، ص 174 - 175، والمبدع، ج 7، ص 11، ومطالب أولي النهي، ج 5، ص 15 - 16، والإنصاف، ج 8، ص 25، في الموسوعة الفقهية الكويتية، ج 40، ص 356

this viewpoint.<sup>33</sup>

### 3rd Opinion

Some scholars believe that it's inappropriate for women to look at a man's face, wrists, or feet. They also argue that it's forbidden for women to look at other non-'awrah parts of a man, such as his chest, shoulders, etc. Some Hanbali scholars hold this stance.<sup>34</sup>

### Reconciliation Between all Three Opinions

Many scholars consider it permissible for women to look at non-awrah parts of men, such as the face, neck, and shoulders, as long as there is no temptation or sexual desire. There seems to be more flexibility and leniency compared to men looking at women.

In situations where there is a potential for temptation (such as women looking at young, attractive male celebrities and athletes), women should adopt a more conservative stance and refrain from looking at their bodies, even if they are doing so without sexual desire, unless there is a genuine need.

### Is it Permissible for Men to View Women's Photos and Videos on social media and vice versa?

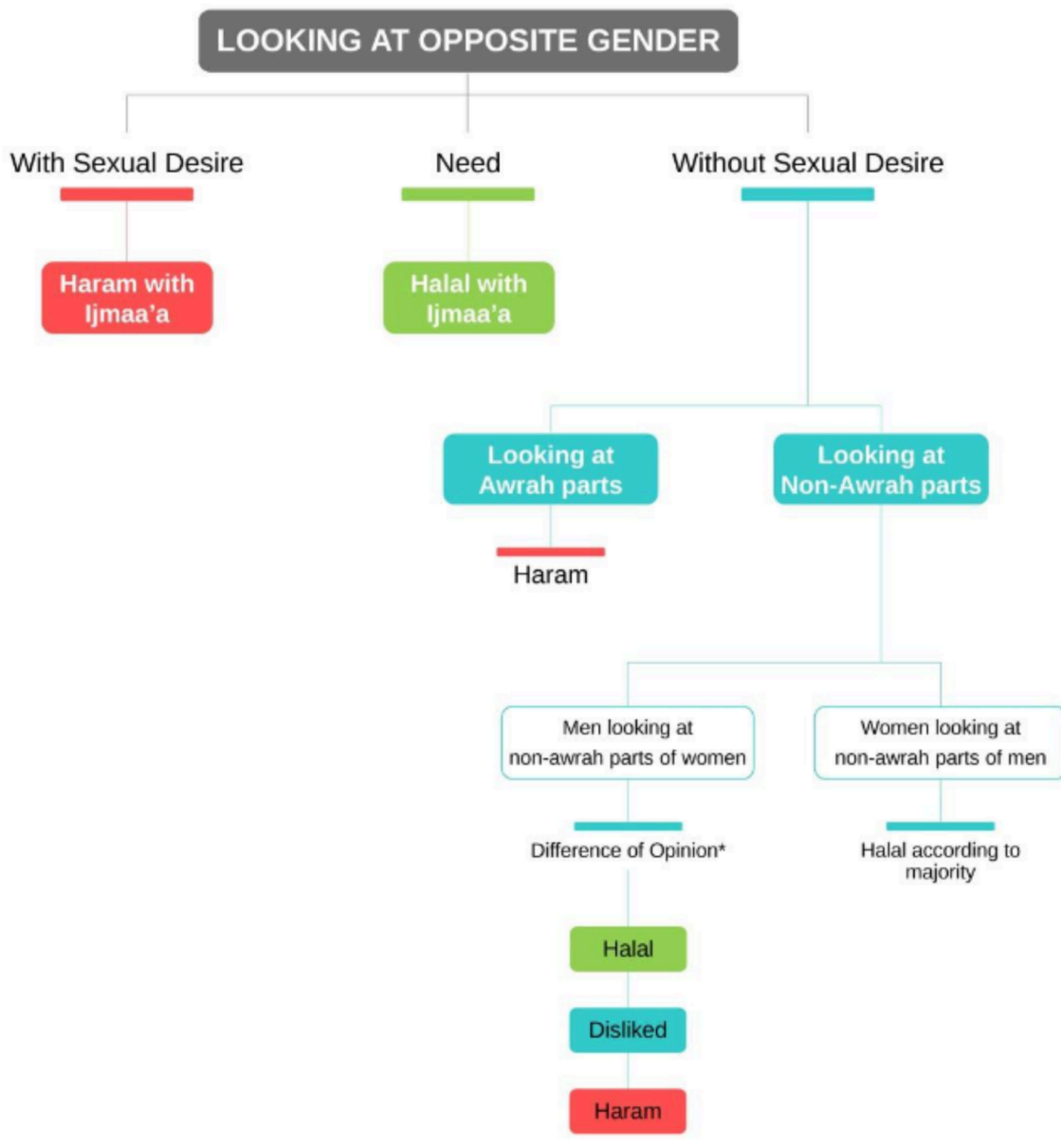
In the age of heightened social media usage, it is crucial to consider the appropriateness of viewing photos and videos on platforms such as TikTok, Instagram, Facebook, Twitter, LinkedIn, or, WhatsApp. According to the above analysis, viewing someone's photo and video for legitimate reasons, such as job searches, matrimonial purposes, or educational endeavors, is acceptable as long as there are no inappropriate intentions. However, it is advisable to refrain from viewing photos and videos with no specific need, especially if it could lead to temptation due to factors such as youth, physical attractiveness, frivolous social media activities, or immodest clothing. Ultimately, aligning our actions with our traditions and values while using social media is important.

<sup>33</sup> أن حكم نظر المرأة إلى الرجل الأجنبي كحكم نظره إليها، فلا يخل أن ترى منه إلا ما يحل له أن يرى منها، وهذا هو قول الشافعية في مقال الأصح، ورواية عن أحمد، لكن النووي جعله هو الأصح من مذهب الشافعية... انظر معني المحتاج 3 / 128 وما بعدها، ونهاية المحتاج 6 / 194، 195، وروضة الطالبين 7 / 21 وما بعدها، وزاد المحتاج 3 / 174، 175، والإنصاف 8 / 25، 26. وجاء في الموسوعة الفقهية الكويتية، ج 40، ص 357

<sup>34</sup> أنه يكره للمرأة أن تنظر إلى وجه الرجل وكفيه وقدميه ولا يحرم عليها، وإنما يحرم عليها النظر إلى ما سوى ذلك، وهو اختيار الشيخ تقي الدين، واعتبره ظاهر كلام أحمد، والقاضي انظر الإنصاف، ج 8، ص 26، وجاء الموسوعة الفقهية الكويتية، ج 40، ص 358

وأيضاً ذهب المالكية إلى أنه لا يجوز للمرأة الأجنبية أن ترى من الرجل الأجنبي إلا الرأس والأطراف، فلها أن تنظر إلى وجهه وعنقه ويديه وقدميه إلا أن تخشى لذة، ولا يجوز لها أن تنظر إلى صدره وظهره وجنبه وساقه ولو لم تخف لذة، كما جاء في شرح منح الجليل 1\221-223، الشرح الصغير، 1\403

**Chart for Respectful Gaze**



**2<sup>nd</sup> Guideline: Conversations should be Purposeful and Professional:**

Conversations between non-mahrams should have a clear purpose. Unnecessary discussions that may lead to temptation should be avoided.<sup>35</sup>

It is evident that during the time of Prophet Muhammad (ﷺ), there were established guidelines for the interaction between men and women. Logically and psychologically, a functional society cannot exist without some level of interaction between men and women. The ruling on the interaction between unrelated (non-Mahram) men and women will not be a simple black-and-white

<sup>35</sup> ذهب الفقهاء إلى أنه لا يجوز التكلم مع الشابة الأجنبية بلا حاجة لأنه مظنة الفتنة...” في كتاب الموسوعة الفقهية الكويتية، ج 35 ، ص 122

scenario; instead, it will be influenced by factors such as necessity, circumstances, established protocols, the ages of the individuals involved, the nature of the situation, and the type of interaction.<sup>36-37</sup>

### **Quranic Evidence**

يَا نِسَاءَ النَّبِيِّ لَسْتُنَّ كَأَحَدٍ مِّنَ النِّسَاءِ ۗ إِنِ اتَّقَيْتُنَّ فَلَا تَخْضَعْنَ بِالْقَوْلِ فَيَطْمَعَ الَّذِي فِي قَلْبِهِ مَرَضٌ وَقُلْنَ قَوْلًا مَّعْرُوفًا

"O wives of the Prophet! You are not like other women. If you keep your duty (to Allah), then be not soft in speech, lest he in whose heart is a disease should be moved with desire, rather speak in an honorable manner" - Surat Al-Ahzab, Ayah 32

It is important to note that in this verse, Allah (SWT) does not say, "Do not speak to men at all," but rather, He says, "Do not be soft in your speech... And speak to them in an honorable manner." This verse clearly shows that conversations between men and women are not entirely prohibited, but some guidelines should be followed.<sup>38</sup>

### **Basic Guidelines for Conversations**

#### **1) The Tone Should Not be Tempting<sup>39</sup>**

According to the majority of scholars, a woman's voice is not considered part of her 'awrah<sup>40</sup>. The ayah above suggests that her voice should not be purposely made very soft or tempting. The ayah also mentions speaking honorably.

Certain women are naturally soft-spoken. This ayah does not refer to the natural tone of voice, rather the mentioned ayah pertains to producing a seductive voice to captivate the attention of men, a behavior exhibited by flirtatious women during the pre-Islamic era in the Arabian Peninsula, as elucidated by Tafsir scholars.<sup>41</sup>

#### **2) Conversations Should be Professional<sup>42</sup>**

Conversations that adhere to what is necessary without veering off other unnecessary topics are permissible.

#### **3) Culture Should be Considered**

Interactions might vary from culture to culture in certain situations, which is acceptable as long as it does not contradict Islamic law.<sup>43</sup>

It is important to remember that in the ayah, Allah (SWT) is asking people to speak in an

<sup>36</sup> قال د.حاتم الحاج: أن حكم اختلاط الرجال بالنساء يختلف بحسب أعمار الرجال والنساء وبساط الحال بما في ذلك طبيعة المخالطة والحاجة الداعية إليها... في كتابه الإختلاط بين الجنسين، ص 81

<sup>37</sup> For more details: Pls read the book by Dr. Hatem: "A guide to Male-Female Interaction", Asif Hirani, "Principles of Men-Women interaction in Islam"

<sup>38</sup> قال شيخ العثميين: "علم يقل الله تعالى فلا تكلمن الرجال بل قال فلا تخضعن بالقول، والخضوع بالقول أخص من مطلق الكلام، إذن فكلام المرأة للرجل إذا لم يصل به فتنة فلا بأس به" في كتابه مجموعة أسئلة تهم الأسرة المسلمة، ص 37

<sup>39</sup> This is taken from the phrase {بِالْقَوْلِ تَخْضَعْنَ فَلَا} from the same Ayah 32 of Surat Al-Ahzab

<sup>40</sup> Majority of the traditional scholars that said that the woman's voice is not part of her 'awrah. For evidence:

- ابن نجيم الحنفي، البحر الرائق شرح كنز الدقائق، ج 1، ص 285
- الخرشني المالكي أبو عبد الله، شرح مختصر خليل للخرشي، ج 1، ص 275
- النووي، المجموع، ج 3، ص 390
- أبو بكر (المشهور بالبكري)، إغاثة الطالبين على حل ألفاظ فتح المعين، ج 3، ص 177
- المرادوي، الإنصاف، 58\20

<sup>41</sup> القرطبي، الجامع الأحكام القرآن، ج 14، ص 177

<sup>42</sup> This is taken from the phrase {مَعْرُوفًا قَوْلًا وَقُلْنَ} from the same Ayah 32 of Surat Al-Ahzab

<sup>43</sup> This is also proven from the agreed upon legal maxim which says "العادة مَحْكَمَةٌ" "Custom is the basis of judgment." (Al-Ashbah-Wa-Nazair, page 79)

honorable way. The Arabic term used is "Maarufa (مَعْرُوفًا)," derived from "urf," meaning custom or local culture. Therefore, it is important to consider culture when communicating. For example, in Western society, it is normal for a cashier to smile and tell a customer of the opposite gender, "Have a nice day!" It would be appropriate to respond with a courteous greeting in that context. However, this behavior might be inappropriate in some traditional or conservative cultures. Allah knows best.

#### 4) Same Guidelines on Social Media

In contemporary times, communication often takes place through various text-based platforms, such as social media and emails, which enable non-face-to-face dialogues.

Allah (SWT) said:

... "فَلَا تَخْضَعْنَ بِالْقَوْلِ"

"Don't be soft in your speech..."

The Arabic term "القول" encapsulates a wide range of communication, including verbal and non-verbal expressions and unspoken thoughts held in the heart.<sup>44</sup> Therefore, it is of utmost importance to uphold dignity in nonverbal communication and refrain from indecent language, unnecessary use of emojis, and inappropriate internet slang.

#### Can We Say Salam to Non-Mahram?

The practice of greeting with "salam" and exchanging it is encouraged for Muslims based on the teachings of the Quran and Sunnah.<sup>45</sup>

A female companion in Abu Dawood narrates:

"The Prophet (ﷺ) passed by us women and greeted us with salam."<sup>46</sup>

In today's context, a relevant example of this is greeting coworkers of the opposite gender in the workplace. The only exception is when encountering a younger individual of the opposite gender.<sup>47</sup> In such a situation, if there is a fear of temptation and an individual believes that saying "salam" could potentially act as an icebreaker to manifest that temptation, then the majority of scholars discourage saying "salam" or responding to it.<sup>48</sup>

#### 3<sup>rd</sup> Guideline: Avoid Physical Contact

To better understand the Islamic guidelines for physical contact with the opposite gender, it is important to consider three different categories of such contact:

<sup>44</sup> قال الإمام رابع: "يقال للمتصوّر في النفس قبل الإبراز باللفظ: قَوْلٌ، فيقال: في نفسي قول لم أظهره... فجعل ما في اعتقادهم قولاً" في كتابه مفردات القرآن، ص 688

<sup>45</sup> Surat An-Nisa, Ayah 86

<sup>46</sup> أخرجه أبو داود في سننه، باب في سلام على النساء، ج 4، ص 352 ، رقم 5204 ، حكم الألباني: صحيح

<sup>47</sup> الشيخ تقي العثماني، فتاوى عثمانى، 432-435 والشيوخ تقي العثماني، تكملة فتح الملهم، 158\5-160

<sup>48</sup> Following is the evidence for it.

• قال الزرقاني: " (سئل مالك هل يسلم) بالبناء للمفعول، أي الرجل) على المرأة (الأجنبية؟) فقال: أما المتجالة: (المعجوز التي انقطع أرب الرجال منها، فلاأكره ذلك، وأما الشابة، فلا أحب ذلك) خوف الفتنة بسماع ردها السلام." في كتابه شرح الزرقاني على موطأ الإمام مالك، ج 4، ص 568

• قال النووي: "قال أصحابنا: والمرأة مع المرأة كالرجل مع الرجل، وأما المرأة مع الرجل، فإن كانت المرأة زوجته، أو جاريته، أو محرماً من محارمه فهي معه كالرجل، فيستحب لكل واحد منهما ابتداء الآخر بالسلام ويجب على الآخر رد السلام عليه. وإن كانت أجنبية، فإن كانت جميلة يخاف الافتتان بها لم يسلم الرجل عليها، ولو سلم لم يجر لها رد الجواب، ولم تسلم هي عليه ابتداء، فإن سلمت لم تستحق جواباً فإن أجابها كره له..." في كتابه الأذكار، ص 407

• إن المرأة الأجنبية إذا سلمت على الرجل إن كانت عجزوا رد الرجل عليها لفظاً أما إن كانت شابة يخشى الافتتان بها أو يخشى افتتانها هي بمن سلم عليها فالسلام عليها وجواب السلام منها حكمه الكراهة عند المالكية والشافعية والحنابلة، وذكر الحنفية أن الرجل يرد على سلام المرأة في نفسه إن سلمت عليه وترد هي في نفسها إن سلم عليها 122 والنظر برفقة محمودية في شرح طريقة محمدية، ج 4، ص 1577 وانظر حاشية ابن عابدين، ج 1، ص 272 (ج 5، ص 233 أيضاً)، وانظر الفواكه النواني، ج 2، ص 224، وانظر شرح الزرقاني، ج 3، ص 110، وانظر روضة الطالبين، ج 10، ص 229، وانظر المغني، ج 6، ص 558-559، الموسوعة الفقهية الكويتية، 35\122

- a) Touch with sexual desire
- b) Touch out of pressing need or necessity
- c) Touch without sexual desire (such as handshakes, cultural greetings, etc.)

### 1) Touch with Sexual Desire

It is an indisputable fact that physical contact with the intention of sexual desire is prohibited, according to all scholars. At-Tabaraani reports that the Prophet (PBUH) said:

49 "لأن يُطعن في رأس أحدكم بمخيط من حديد خير له من أن يمسن امرأة لا تحل له"

*"If one of you were to be struck in the head with an iron needle, it would be better for him than if he were to touch a woman he is not allowed to."*<sup>50</sup>

The term for touching in the hadith is "يمسن" which, according to some scholars in the context of Shariah, refers to sexual intercourse or an act of foreplay.<sup>51</sup>

### 2) Touch out of Pressing Need or Necessity:

According to scholarly consensus, physical contact with a non-mahram is permissible if there is a genuine need (حاجة). For instance, in medical practice, a male doctor may need to touch a female patient for necessary treatment, especially when a female doctor is unavailable. It is worth noting that scholars generally apply a more stringent standard for justifying physical contact compared to visual interaction.<sup>(52)</sup> This will be further elucidated in the subsequent chapter on interactions for marriage since divine legislation would allow potential marriage prospects to look at each other but prohibits physical contact until the marriage contract is finalized.<sup>53</sup>

In situations of extreme necessity (ضرورة), it is deemed permissible to make physical contact with the 'awrah of a non-mahram, provided that the circumstances indeed amount to extreme necessity. An example of such a scenario could be the need to rescue an individual from drowning or in a life-threatening medical emergency as a gynecologist.<sup>54</sup>

### 3) Touch without Sexual Desire (such as handshakes, cultural greetings, etc.)<sup>55</sup>

In scholarly discourse, it is essential to note that a considerable body of classical Fiqh scholars concur that physical contact, such as shaking hands<sup>56</sup>, is considered permissible for individuals with

49 أخرجه الطبراني في معجمه الكبير، باب ميم، ج 20، ص 211، رقم 486، صححه الألباني في صحيح الجامع 5045 وصححه الهيثمي في الزواجر عن اقتراف الكبائر، 4\2

50 According to some scholars, this hadith has controversial traceability to the Prophet (ﷺ). قال الإمام راغب: "وكتي به عن النكاح، فقيل: مسها وماسها، قال تعالى: وإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ [البقرة/237]، وقال: لا جناح عليكم إن طَلَقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ [البقرة/236]، وقرئ: ما لم تَمْسُوهُنَّ، وقال: أتَى يَكُونُ لِي وَلَدٌ وَلَمْ يَمْسُسْنِي نَشْرًا [آل عمران/47] والمسيس كناية عن النكاح...". في كتابه مفردات القرآن، ص 767

52 الأجنبية فلا يحل مس وجهها وكفيها وإن أمن الشهوة؛ لأنه أعظم من النظر، انظر: ابن عابدين 5 / 235، ومغني المحتاج 3 / 132 - 133، وكشاف القناع 5 / 15

53 ذهب الفقهاء في الجملة إلى عدم جواز لمس الرجل شيئاً من جسد المرأة الأجنبية الحية، إلا أنهم أجازوا للطبيب المسلم إن لم توجد طبيبة أن يداوي المريضة الأجنبية المسلمة وينظر منها ويلمس ما تلجئ الحاجة إلى نظره ولمسه، ويجزؤون للطبيبة أن تنتظر وتلمس من المريض ما تدعو الحاجة الملجئة إلى نظره ولمسه إن لم يوجد طبيب يقوم بمداواة المريض، وأيضاً: "ذهب جمهور الفقهاء من الحنفية والمالكية والشافعية والحنابلة إلى أنه يجوز للطبيب المسلم إن لم توجد طبيبة أن يداوي المريضة الأجنبية المسلمة وينظر منها ويلمس ما تلجئ الحاجة إلى نظره، وانظر بدائع الصنائع، ج 2، ص 261، وانظر الفواكه الدواني، ج 2، ص 410، وانظر مغني المحتاج، ج 3، ص 133، وانظر نهاية المحتاج، ج 6، ص 196، وانظر كفاية الأختار، ص 29، وانظر المغني، ج 3، ص 113، وانظر الإصناف، ج 8، ص 22، الموسوعة الفقهية الكويتية، ج 35، ص 334، البحر الرائق، 352\8

54 It is important to note that most medical care would not qualify for an extreme emergency unless it involves a life-threatening situation. (انظر: الشيخ تقي العثماني، فتاوى عثمانى، 4\232-235)

55 Some may ask where in Shariah we find the distinctions of "with sexual desire" and "without sexual desire." The answer to this question is that some of the classical scholars of Fiqh have made such distinctions. For example, in Hanafi Fiqh, it is permissible to shake hands with elderly women when there is no sexual desire or temptation. The following evidence supports this:

واقفهم الحنفية في حكم لمس الأجنبية الشابة. وقالوا: لا بأس بمصافحة العجوز ومس يدها لاتعداد خوف الفتنة. انظر: بدائع الصنائع، ج 6، ص 2959 وتبيين الحقائق، ج 5، ص 18 وتكملة فتح القدير، ج 8، ص 98، في الموسوعة الفقهية الكويتية، ج 31، ص 55

56 فأما مصافحة المحارم فقد ذهب الحنفية والمالكية والشافعية في المعتمد عندهم إلى جوازها، وهو ما ذهب إليه الحنابلة في الوالدين مع الأبناء رواية واحدة وفي غيرهم في رواية بناء على قولهم بجواز لمس المحارم في غير محل العورة بشرط الأمان من الفتنة وعدم خوف الشهوة

انظر بدائع الصنائع، ج 5، ص 120، والفتاوى الهندية، ج 5، ص 328، والمبسوط ج 10، ص 149، والهداية ج 4، ص 63-64، وحاشية السوقي ج 1، ص 215، والمحلي وحاشية القلوبي ج 3، ص 212، والآداب الشرعية ج 2، ص 269، غداء الألبان ج 1، ص 329، في الموسوعة الفقهية الكويتية، ج 37، ص 357-358



their mahram, prepubertal children<sup>57</sup>, or some even allow with the older opposite gender<sup>58</sup>, provided that it is devoid of any sexual connotations.

When it comes to young men and women, Muslims often encounter the awkward situation of how to react when a non-mahram offers a handshake as a greeting, especially in Western educational and professional settings. Additionally, in some Muslim cultures, it is not uncommon for a family member to lightly place their hand on the head of a younger individual of the opposite gender as a form of cultural interaction.

If we assume that such an interaction does not include any sexual desire, then what does Islam say about it? What is the ruling? Is it prohibited (harām)? Or disliked (makruh) because the intention is different? What about avoiding an awkward situation?

All four major schools of thought agree that men are prohibited from shaking hands with young women and vice versa. Therefore, as pious Muslims, men and women should not extend their hands to shake with young individuals of the opposite gender, even if they are engaged until the marriage contract is finalized. What should we do if a colleague of the opposite gender extends their hand for a handshake in the workplace? How do we politely communicate our boundaries? This requires a little more explanation.

- Shaking hands with non-mahrams is prohibited as it can lead to the ultimate prohibition. This connection comes from the Islamic principle of "blocking the means"<sup>59</sup>. The principle implies that the action of shaking hands can lead to increased temptation. It should be noted that something prohibited because it *may* lead to a major sin is considered a lesser evil when compared to something that is *explicitly* prohibited.
- Secondly, it is important to mention some of the strong, authentic, and agreed-upon evidence that scholars of the past have used to avoid shaking hands with non-mahrams. We must check the rulings because we know that, eventually, it boils down to the strength of the evidence.

#### Evidences:

- 1) Prophet Muhammad (PBUH) said about touching a female non-mahram:

*"If one of you were to be struck in the head with an iron needle, it would be better for him than if he were to touch a woman he is not allowed to."*<sup>60</sup>

As we have already mentioned, the word in this hadith refers to sexual pleasure or intercourse<sup>61</sup> so we cannot use this to find a ruling on shaking hands for greetings.

- 2) It is reported in At-Tabaraani:

<sup>57</sup> فإن كان اللبس بغير شهوة وكان الصغير أو الصغيرة ممن لا يشتهي جاز لمسه عند الحنفية والحنابلة، سواء اتحد الجنس أم اختلف، لعدم خوف الفتنة في هذه الحال، وهو الأصح عند الشافعية، انظر لفتاوى الهندية ج5، ص329، وتكملة فتح القدير ج8، ص99، والمعنى ج7، ص462، ومغني المحتاج ج3، ص130، وشرح المنهاج والفتاوى ج3، ص109، 111، في كتاب الموسوعة الفقهية الكويتية، ج37، ص360-361 فمصافحة الرجل للمرأة العجوز التي لا تشتهي ولا تشتهي، وكذلك مصافحة المرأة للرجل العجوز الذي لا يشتهي ولا يشتهي، ومصافحة الرجل للمرأة العجوز، جائزة عند الحنفية والحنابلة ما دامت الشهوة مأمونة من كلا الطرفين... ولأن الحرمة لخوف الفتنة، فإذا كان أحد المتصافحين ممن لا يشتهي ولا يشتهي فخوف الفتنة معدوم أو نادر، انظر بدائع الصنائع ج5، ص123، والإداب الشرعية ج2، ص269، ومطالب أولى النهى ج5، ص14، في كتاب الموسوعة الفقهية الكويتية، ج37، ص359

<sup>59</sup> سد الذرائع  
<sup>60</sup> أخرجه الطبراني في معجمه الكبير، باب ميم، ج20، ص211، رقم 486، صححه الألباني في صحيح الجامع 5045 وصححه البيهقي في الزواجر عن اقتراف الكبائر، ج2، ص4  
<sup>61</sup> الإمام الراغب، مفردات القرآن، ص767

”إني لا أصافح النساء...“<sup>62</sup>

*"Indeed, I do not shake hands with women."*

3) It is also mentioned in Sahīh Al-Bukhārī that the Prophet (PBUH) did not hold the hands of women when accepting their bay'ah (pledge) as he did with men; their bay'ah was by words only.<sup>63</sup>

4) It is reported in Sahih Muslim that the Prophet (PBUH) said:

...واليد زناها البطش

*"the Zina (fornication) of the hand is the grip..."*<sup>64</sup>

The phrasing and context of the hadith make it apparent that the term "touching" denotes sexual contact, as evidenced by the inclusion of the word "zina," signifying fornication, to describe the touch. This interpretation aligns with the perspectives of hadith commentators.<sup>65</sup>

The passages above unequivocally demonstrate that the Prophet (PBUH) abstained from shaking hands with women or making physical contact with them. Nevertheless, it can be contended that these passages (evidence 2 and 3) do not unequivocally establish a prohibition, as the Prophet's abstention from a particular action does not necessarily denote its prohibition; rather, it may indicate that the action is merely disliked (makrooh). However, it is indisputable that the action is at least disliked; therefore, observant Muslims should refrain from it.<sup>66</sup>

From a legal standpoint, all four schools of thought unanimously agree that one should refrain from shaking hands with a young individual of the opposite gender.<sup>67</sup>

Based on the analysis above, it is recommended that practicing Muslims (especially leaders, imams, board members, volunteers of Islamic organizations, and Shariah-compliant activists) should politely refrain from shaking hands with a non-mahram. This act is either prohibited according to the agreement of our classical jurists or at least discouraged by some contemporary scholars.<sup>68</sup>

### **What should you do if a non-mahram Initiates a Handshake?**

**For non-Muslim environments:** First, it is best to avoid shaking hands with the opposite gender by explaining beforehand or greeting the person in a way different than a handshake. For instance, you could place your hand over your chest and politely excuse yourself. However, it may be challenging to avoid shaking hands in certain situations. If you rarely do so to prevent

<sup>62</sup> أخرجه الطبراني في معجمه الكبير، باب الألف، ج 24، ص 163، رقم 417، صححه الألباني في صحيح الجامع 8054

<sup>63</sup> أخرجه البخاري في صحيحه، كتاب الأحكام، باب بيعة النساء، ج 9، ص 80، رقم 7214

<sup>64</sup> أخرجه مسلم في صحيحه، ج 4، ص 2047، رقم 2657

<sup>65</sup> قال النووي: "وممنهم من يكون زناه مجازاً بالنظر الحرام أو الاستماع إلى الزنى وما يتعلق بتحصيله أو بالمس باليد بأن يمس أجنبية بيده أو يقبلها..." في كتابه شرح النووي في مسلم، ج 16، ص 206.

<sup>66</sup> لا شك أن قوة الحكم ترجع إلى قوة الدليل من حيث الثبوت والدلالة وفي تحريم المصافحة جاء قوله صلى الله عليه وسلم: إني لا أصافح النساء، ولا ينتهض للتحريم وغاية ما يفيد الاحتمال المتردد بين التحريم والكراهة والتزهد، وهو إلى الكراهة أقرب لأن الحال يقتضي أخذ البيعة من هؤلاء النساء وعدم إخراجهن، فلا يقوى أن يكون تركه لها تنزهاً، فيتردد الحكم بين الكراهة والتحريم والمتيقن الكراهة..." د.حاتم الحاج، الإختلاط بين الجنسين، ص 73

<sup>67</sup> مصافحة الرجل للمرأة الأجنبية الشابة فقد ذهب الحنفية والمالكية والشافعية والحنابلة في الرواية المختارة، وابن تيمية إلى تحريمها، انظر تبين الحقائق ج 6، ص 18، والفتاوى الهندية ج 5، ص 329، وحاشية الغدوي على الرسالة ج 2، ص 437، وعارضة الأحوذ ج 7، ص 95-96، والمنقذ ج 7، ص 308، والأذكار ج 228، وشرح النووي على صحيح مسلم ج 13، ص 10، وفتح الباري ج 11، ص 46، والأدب الشرعية ج 2، ص 269، في الموسوعة الفقهية الكويتية، ج 37، ص 359

<sup>68</sup> القرصاوي، فتاوى المرأة المسلمة، ج 49-64، د.حاتم، الإختلاط بين الجنسين، ص 74

embarrassment, some contemporary scholars believe that, hopefully, Allah will forgive you.<sup>69</sup>

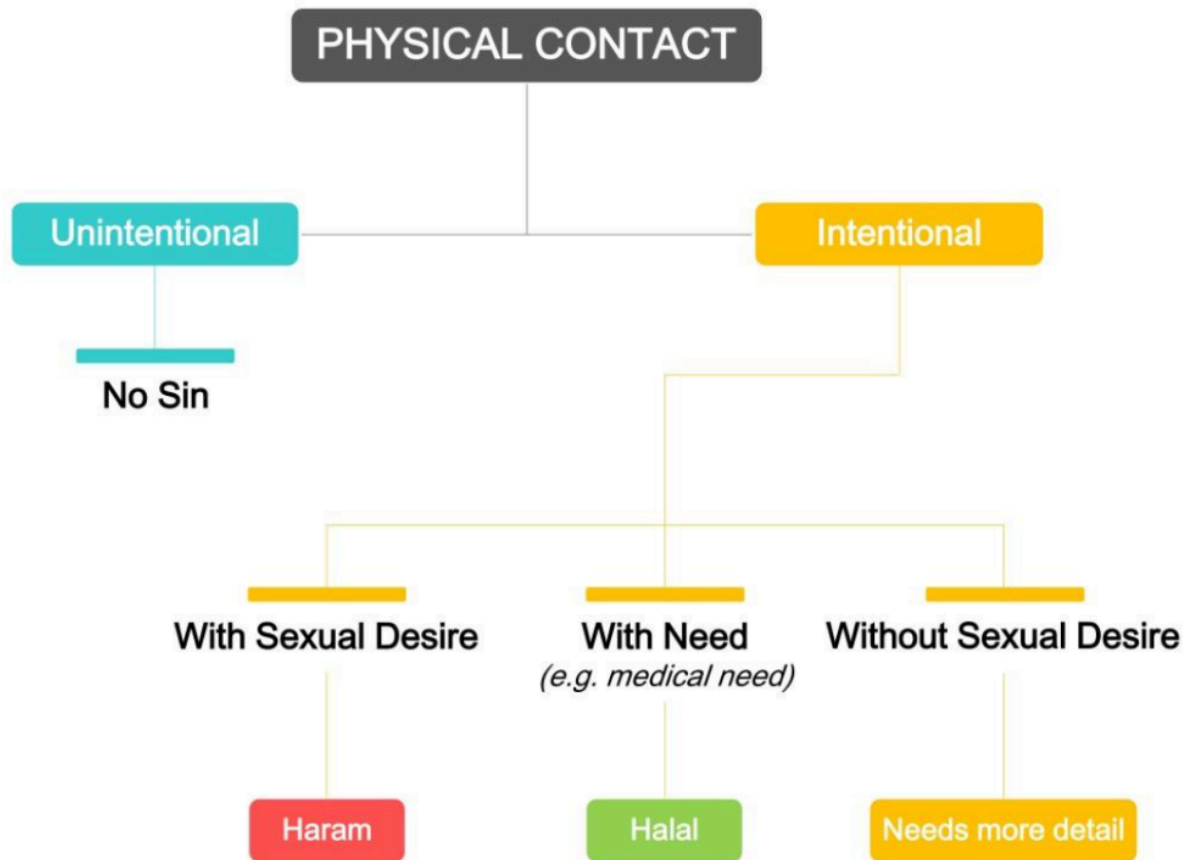
**For Muslim spaces:** When Muslim spaces host non-Muslim visitors, it is imperative for Muslims to feel confident in adhering to their religious guidelines. According to the agreement of all four imams, it is forbidden (haram) to shake hands with young non-mahram individuals., so it is important to educate non-Muslims about appropriate gender interaction guidelines respectfully when they are visiting Muslim spaces. The potential negative implications of disregarding these guidelines by the activists and Dua't far outweigh any perceived benefits.<sup>70</sup>

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<sup>69</sup> "قال د.حاتم: "فإن صافح علي وجه الندرة من بدأه لنفخ حرج ما فيرجى أن يفغر له ذلك...". في كتابه الأختلاط بين الجنسين، ص75، وقال د. يوسف القرضاوي: "يتبغي الإقتصار في المصافحة على موضع الحاجة، كالأقارب والأصهار الذين بينهم خلطة وصللة قوية، ولا يحسن للزريعة، ويعدا عن الشبهة، وأخذ التوسع في ذلك، سدا بالأحوط، واقتداء بالنبي صلى الله عليه وسلم الذي لم يثبت عنه أنه صافح امرأة أجنبية قط وأفضل للمسلم المتدين، والمسلمة المتدينة ألا يبدأ أحدهما بالمصافحة، ولكن إذا صوفح صافح" في كتابه فتاوى المرأة المسلمة، ص 64

<sup>70</sup> قال عمر: نحن قوم أعزنا الله بالإسلام، فمهما نطلب العزة بغير ما أعزنا الله به أدلنا الله المستدرك على الصحيحين، 207

**Chart For Physical Contact**



**4<sup>th</sup> Guideline: Avoid Meeting in Private**

In order to interact appropriately with individuals of the opposite gender, we should always meet in public and avoid private meetings whenever possible.

**Evidence**

Prophet Muhammad (PBUH) said:

71 وَلَا يَخْلُ عَليهَا رَجُلٌ إِلَّا وَمَعَهَا مَحْرَمٌ

"No man should be alone with a woman unless there is a mahram with them."

It is also narrated in Sunan Tirmidhi that the Prophet (PBUH) said:

72 لَا يَخْلُونَ رَجُلٌ بِامْرَأَةٍ فَإِنَّ الشَّيْطَانَ ثَالِثُهُمَا

"No man is alone with a woman except the devil is the third present."

Meeting in private (خلوة) refers to a situation where a man and a woman are alone together and cannot be observed or seen by anyone else.<sup>73</sup>

Such private interactions between individuals of the opposite gender are generally prohibited

71 أخرجه البخاري في صحيحه، باب لا يخلون رجل بامرأة إلا ذو محرم، ج 7، ص 37، رقم 5233  
 72 أخرجه الترمذي في سننه، باب ما جاء في كراهية الخول على...، ج 2، ص 465، رقم 1171، صححه الألباني في صحيح الترمذي  
 73 الموسوعة الفقهية الكويتية، ج 5، ص 207، ابن مفلح، الفروع، ج 153، والجزيري، الفقه على المذاهب الأربعة، 3/102

according to the consensus of scholars.<sup>(74)</sup> The ruling on prohibitions can change based on the circumstances of need (حاجة) or extreme necessity (ضرورة). Such exceptions include the case of a Muslim sister who is in a potentially dangerous or life-threatening situation and desperately needs help,<sup>75</sup> as in the case of our Mother 'A'isha (RA) (RA) and Safwan (RA).<sup>76</sup>

Under typical circumstances, it is not appropriate for a man and a woman to meet in private, even if they need to discuss something important and believe there will not be any temptation. The default approach would be to meet in a public setting from a Shariah-compliant perspective.

### **What If They Have to Meet in Private to Discuss Something Confidential?**

If non-mahrams must meet privately, some measures can be taken to keep the meeting lawful. Such measures include having a third person present, having the door open so any passersby can see you,<sup>77</sup> utilizing glass-walled meeting spaces, and other analogous strategies.<sup>(78)</sup>

### **Will private meetings in virtual spaces, such as texting chats, emails, or social media, be subject to the same ruling as Khalwa?**

We know that we cannot meet in seclusion (khalwa) because the third one present would be Shaytān.<sup>79</sup> The question arises: Are private virtual interactions (e.g., texting, emailing, chatting on instant messengers, etc.) the same as private in-person interactions? Will the seclusion (khalwa) ruling be applied in online interactions as well?

From the Usuli perspective, Some scholars argue that seclusion (khalwa) is considered haram due to the principle of "blocking the means" (سد الذرائع), as articulated by Imam Al-Shatibi. Imam Al-Shatibi divided this principle into four categories<sup>80, 81</sup> He suggested that the fourth category of "blocking the means" could lead to significant harm, even if it does not necessarily result in harm itself. He places 'khalwa' in this category.<sup>82</sup> However, we know that what is prohibited due to blocking the means can be made permissible if the need and benefit outweigh the harm.<sup>83</sup>

Technically speaking, one can argue that virtual privacy<sup>84</sup> via email/texting cannot be considered the same as meeting a person in private<sup>85</sup> in terms of leading to Zina, but there are still chances

<sup>74</sup> قال الإمام النووي: "تحريم الخلوة بالأجنبية وإباحة الخلوة بمحارمها وهذان الأمران مجمع عليهما..." في كتابه شرح صحيح مسلم، ج 14، ص 153، وابن تيمية، مجموع الفتاوى 505\11، وفيض القدير للمناوي، 3\124، بدائع الصنائع، 125\5، المرادوي، الإصناف، 314\9، نهاية المحتاج، 6\190، كشف القناع، 16-13\5  
<sup>75</sup> وقد تكون الخلوة بالأجنبية واجبة في حال الضرورة، كمن وجد امرأة أجنبية منقطعة في برية، ويخاف عليها الهلاك لو تركت، انظر: البدائع 5 / 125، ابن عابدين 5 / 235، 236، الحطاب 3 / 410، المجموع 4 / 157، تحقيق المطيعي، المعنى 6 / 553، منتهى الإرادات 3 / 7  
<sup>76</sup> قال أبو الفضل العراقي في فصل "قائمة الأدب مع الأجنبية لا سيما في الخلوة": "فلم يقع منه ذلك بل استعمل الصمت في تلك الحالة أدبا وصيانة ولهول تلك الحالة التي هو فيها وفيه إغائة الملهوف وعون المنقطع وإنقاذ الضائع وإكرام ذوي الأقدار وحسن الأدب مع الأجنبية لا سيما في الخلوة بين عن الضرورة في برية أو غيرها كما فعل صفوان من إبرائه الجمل بغير كلام ولا سؤال وأنه ينبغي أن يثني قدامها لا بجانبها ولا وراءها واستحباب الإيثار بالركوب" في كتابه طرح التثريب في شرح التقریب، ج 8، ص 53  
<sup>77</sup> الفقهاء يجعلون إغلاق الأبواب والتوافد مما تتحقق به الخلوة، انظر: المعنى 6 / 724، وحاشية ابن عابدين 2 / 338

<sup>78</sup> Following is the evidence:

كتب النووي: "المشهور جواز خلوة رجل بنسوة لا محرم له فيهن لعدم المفسدة غالبا لأن النساء يستحجن من بعضهن بعضا في ذلك..." في كتابه المجموع شرح المهذب، ج 7، ص 87، وقال ابن عابدين: أن الخلوة المحرمة بالأجنبية تنتفي بالحائل، وبوجود محرم للرجل معها، أو امرأة ثقة قادرة، رد المحتار، 236\5، وانظر ابن مفلح، الفروع، 153\5، فقد جاء في صحيح البخاري: "جاءت امرأة من الأنصار إلى النبي فحلا بها" ترجم الإمام البخاري في صحيحه لهذا الحديث بقوله: "باب ما يجوز أن يخلو الرجل بالمرأة عند الناس"، حديث رقم 111، 2006\5  
<sup>79</sup> أخرجه الترمذي في سننه، باب ما جاء في كراهية الدخول على...، ج 2، ص 465، رقم 1171، صححه الألباني في صحيح الترمذي

<sup>80</sup> Al-Shatbi divided the means into four categories: the first is that which certainly leads to the harm occurring. This must be blocked. The second is that which rarely leads to harm, this is not blocked. The third is that which leads to harm a lot such that most likely it will lead to it. This category is differed upon in terms of if they should be blocked, With Imam Al-Shatibi choosing they are to be. The fourth is that which lead to harm a lot, but it does not reach the level of most likely leading to it. For more details, Read Al-Muwafaqat by Al-Shatibi (3rd volume)

<sup>81</sup> Indeed, various scholars have developed their own categorization of the principle of "blocking the means" (سد الذرائع). for more info, pls read: ابن القيم، إعلام، 109\3، الصاوي، حاشية الصاوي على الشرح الصغير، 116\3، الشوكاني، إرشاد الفحول، 196\2

<sup>82</sup> الشاطبي، الموافقات، 3\54-77

<sup>83</sup> القرافي، الفروع، 23\2، ابن القيم، إعلام الموقعين، 142\2 وابن فرحون، تبصرة الحكام، 270\2

<sup>84</sup> خلوة الحديث

<sup>85</sup> خلوة النظر

that it may lead to evil.

Therefore, when a person is young and single, adding a 3rd party to the chat, group, etc., is preferable and safer, or finding some method of at least having some supervision over the conversation to help avoid distractions. However, this may become impossible due to the nature of one's work. Nowadays, people must send and receive many emails and messages from non-mahrams as part of their professional interactions. In this case, this author believes that interacting alone on social media, DM/instant message, and email with a non-mahram will not be sinful due to the need (حاجة) as long as the interaction is without temptation or sexual desire.

What is the evidence for this ruling when the hadith mentioned above about khalwa is straightforward?

Firstly, textual evidence is indicated in one of the narrations in Sahīh Al-Bukhārī. The Prophet (PBUH) was with his companions when a woman with her baby came to the Prophet (PBUH) to discuss something personal. He went to the side to speak with the women in private. Although the other companions could not hear the conversation, they could still see the Prophet (PBUH).<sup>86</sup> We can use this Hadith as an analogy to say that even if no 3rd party is present and two non-mahrams are interacting, then it will not be considered a sin as long as there is no temptation. Allah knows best.<sup>87</sup>

In summary, if one wants to interact with an individual from the opposite gender, he/she should abide by these four constant guidelines in general circumstances:

1. Respectful gaze
2. Purposeful and professional conversation
3. Avoid physical contact
4. Avoid meeting in private.

#### **b) Variant factors when examining gender interaction:**

Following the guidelines mentioned above, it is crucial to consider the various factors associated with the traditional commentaries of the Fiqh scholars, principles of Fiqh, legal maxims, and the higher objectives of Islamic law. When issuing rulings on gender interactions, it is important to carefully consider these factors and avoid making overarching generalizations, as they may cause more harm than benefit.

Several crucial variant factors are involved:

#### **1) Knowledge of Culture, Custom, and Social Norms:**

<sup>86</sup> أخرجه البخاري في صحيحه، باب ما يجوز أن يخلو الرجل بالمرأة عند الناس، ج 7، ص 37، رقم 5234 وقال ابن حجر العسقلاني: "جاءت امرأة من الأنصار إلى النبي صلى الله عليه وسلم زاد في رواية بهز بن أسد ومعها صبي لها فكلما رسول الله صلى الله عليه وسلم قوله فخلا بها رسول الله صلى الله عليه وسلم أي في بعض الطرق قال المهلب لم يرد أنس أنه خلا بها بحيث غاب عن أبصار من كان معه وإنما خلا بها بحيث لا يسمع من حضر شكواها ولأما دار بينهما من الكلام ولهذا سمع أنس آخر الكلام فنقله ولم ينقل ما دار بينهما لأنه لم يسمعه..." في كتابه فتح الباري، ج 9، ص 333

<sup>87</sup> It is important to note that some contemporary scholars disagree with the author and still hold the position of prohibition on virtual meetings with non-mehram. Pls see: <https://www.banuri.edu.pk/readquestion/mard-ustad-kitni-umar-ki-larrkion-ko-online-ya-phr-samne-bitha-kar-quran-parha-sakta-he-144407101151/04-02-2023>

In numerous instances where Allah (SWT) addresses gender interactions and social relationships between men and women, the term "معروف" (reasonable) is repeated.<sup>88</sup> This word originates from "عرف" ('custom'). It indicates the necessity of referring to local culture for practical application.

The principle above originates from the established legal maxim that "custom is the basis of judgment,"<sup>89</sup> Provided that it does not contradict Shariah law directly or indirectly.<sup>90</sup> In cases where Shariah law does not offer specific guidance, referencing the prevailing cultural practices is necessary for an appropriate application.<sup>91</sup>

Also, for certain religious rulings whose legal bases depend on variable norms and customs, we must remember that time and place may influence those specific religious rulings, leading to changes in scholars' interpretations. The commonly used principle states, "It is not permissible to reject the change in ruling concerning change in time, place, and situation."<sup>92</sup>

It is important to note here that this principle applies specifically to speculative (ظني) issues, not definitive (قطعي) ones in Shariah. Therefore, a 'fatwa' (verdict) may vary based on different environments, times, and places.<sup>93</sup> This is particularly pertinent when establishing guidelines for gender interactions.

For instance, in the context of gender interaction, Allah (SWT) states, "قولاً معروفاً" which translates to "reasonably talk to them." This indicates that it is important to consider the cultural context (عرف) and guidelines mentioned above to ascertain appropriateness and reasonableness before issuing a ruling.

## 2) Proper Application of the Principle of "Blocking the Means"<sup>94</sup>

As some scholars define it, this principle is an action that is allowed but leads to something that is not allowed.<sup>95</sup> Thus, "blocking the means" prevents what is allowed so that it does not lead to what is not in the divine law.<sup>96</sup> Classical scholars commonly applied it, and it is frequently used in the context of gender interactions.<sup>97</sup> Whether it involves looking at the opposite gender, talking, touching, or even being in seclusion (khalwa), this principle of "blocking the means" is utilized to infer the prohibited nature of such interactions.<sup>98</sup>

When we apply the principle of "blocking the means," we must consider that if there is a legitimate benefit or need, whatever is forbidden due to this principle will become permissible as long as the need lasts, as stated by our esteemed scholars.<sup>99</sup>

<sup>88</sup> سورة الأحزاب 32، سورة البقرة 235

<sup>89</sup> العادة محكمة، السيوطي وابن نجيم، الأشباه والنظائر، 90 و 93

<sup>90</sup> خلاف، مصادر التشريع، ص 148

<sup>91</sup> ابن عابدين، نشر العرف، 146\2، القرافي، الأحكام، 68-70، الشاطبي، الاعتصام، 141\2، السيوطي، الأشباه والنظائر، ص 98

<sup>92</sup> لا يُنكر تغيّر الأحكام بتغيّر الأزمنة، وجاء في مجلة الأحكام العدلية المادة 39، وشرح القواعد الفقهية للزرقي ص 227

<sup>93</sup> ابن القيم، إعلام، 3\3، الشافعي، الثبات والشمول، ص 540، القرافي، الفروق، 103\4

<sup>94</sup> سد الذرائع

<sup>95</sup> ابن تيمية، الفتاوى الكبرى، 173-172\6، الباجي، إجماع الفصول، 567\2، الشاطبي، الموافقات، 183\5

<sup>96</sup> القرافي، شرح تنقيح الفصول، 448-449

<sup>97</sup> المرادوي، التحبير، 3811\8-3833، الطوفي، شرح مختصر الروضة، 140\2، ابن النجار، شرح الكوكب المنير، 434\4، الزركشي، البحر المحيط، 90\8

<sup>98</sup> الشاطبي، الموافقات، 77-54\3

<sup>99</sup> ما حرم سدا للذريعة أبيع للمصلحة الراجحة، ذكر هذه القاعدة ابن القيم، إعلام الموقعين، 108\2

For instance, the same lawgiver who emphasized that our eyes and tongue can be capable of committing adultery also permitted looking at women, even with sexual desire (according to some scholars), under the condition that it is for marriage.<sup>100</sup> Therefore, considering Islamic law's higher objectives (مقاصد) is crucial while applying these principles (أصول).

These guidelines for gender interaction are not intended to cause dysfunction in society; instead, they are designed to ensure its efficient functioning in compliance with Shariah.<sup>101</sup>

### **3) Understanding the Concept of 'Need' (حاجة) within the Framework of the Higher Objectives of Islamic Law without Deviating from Tradition:**

Shariah provides legal maxims (القواعد) for extreme necessity (ضرورة) and genuine need (حاجة);<sup>102</sup> Such as: "extreme necessity changes the unlawful to lawful," "collective need is treated the same as an extreme necessity," and "whatever is rendered lawful due to extreme necessity must be proportionate to the need."<sup>103</sup>

From the perspective of the fatwa, Shariah is not intended to be rigid. Instead, it is meant to be flexible, considering the individual's "need" and "extreme necessity" before applying the general guidelines while still adhering to the tradition.<sup>104</sup>

For instance, in the context of gender interactions, divine legislation has provided guidelines for interacting with the opposite gender. Some scholars prohibited looking at a woman's face, regardless of any feelings of attraction. However, when it comes to the need (حاجة) of getting married, our divine legislation not only lifted the prohibition on looking, but most scholars consider it "recommended" (and some even say it is "obligatory") to look at women.<sup>105</sup> It is imperative to acknowledge the individual's needs (حاجة) before formulating a ruling regarding their interaction with the opposite gender.

### **4) Consideration of age and nature of the gathering:**

#### **Age:**

Based on various reports, the Shariah' allows more flexibility in interacting with older individuals than younger ones. This can be seen in instances such as when the Prophet (ﷺ) assigned Samra' bint Nuhayk, an elderly woman, to oversee good and forbid evil in the marketplace,<sup>106</sup> Another two examples mentioned in the Quran include the interactions between Zakariah and Mariam and the encounter between Sarah and her husband's guests.

<sup>100</sup> ابن عابدين، رد المحتار، 1\407 و6\370، الكاساني، بدائع الصنائع، 5\122، والشربيني، مغني المحتاج، 4\208، وعسر سليمان الأشقر، أحكام الزواج في ضوء الكتاب والسنة، ص 55  
<sup>101</sup> ابن عاشور: ولم تات الشريعة لتغيير كل ما هو في المجتمع، بل إن مقصد التشريع تغيير وتقدير وتعديل (وتغيير الأحوال الفاسدة والأعراف الباطلة وتقدير أحوال صالحة قد اتبعها الناس، وهي الأحوال المعبر عنها بالمعروف في قوله تعالى يأمرهم بالمعروف)، مقاصد الشريعة، ص 103-104  
<sup>102</sup> the distinction between both of them is that the extreme necessity (ضرورة) is required for human survival, without which one's life, organs, or senses would be in danger, As for need (حاجة) it is more general than extreme necessity (ضرورة), and it is that which if not responded to will lead to distress and difficulty, or some hardship or adversity that will not lead to destruction.  
<sup>103</sup> الصناعات المُختلِجات، الحاجة العامة تنزل منزلة الضرورة الخاصة في حق آحاد الناس، الحاجة تنزل منزلة الضرورة، عامة كانت أو خاصة في إباحة المحظور، ما أبيض للضرورة يُقَدَّر بقدرها، الزحيلي، القواعد الفقهية، 1\281-333  
<sup>104</sup> الخلاف، مصادر التشريع، ص 147، القرظاوي، عوامل السعة المرونة في الشريعة الإسلامية، ص 79 وانظر قطناني، أثر اختلاف الأزمان في تغيير الأحكام، ص 81-185  
<sup>105</sup> إن النظر إلى المخطوبة مستحب عند الجمهور، وإليه ذهب الحنفية والشافعية، والحنابلة في رواية، انظر: إدريس، أحكام المعقود عليها قبل الدخول في الفقه الإسلامي، ص139، وانظر البدائع الصنائع في ترتيب الشرائع، ج5، ص122، وانظر رد المحتار على الدر المختار، ج6، ص370، وانظر مغني المحتاج إلى معاني ألفاظ المنهاج، ج4، ص270، وانظر نهاية المحتاج إلى شرح ألفاظ المنهاج، ج4، ص119، الإنصاف في معرفة الأزواج من الخلاف، ج 8، ص17، كشاف القناع عن مت الإقناع، ج 5، ص 10  
<sup>106</sup> قال ابن عبد البر: سمراء بنت نهيك كانت تمر في الأسواق وتأمُر بالمعروف وتنهى عن المنكر" في الاستيعاب في معرفة الأصحاب، 4\1863



Many classical scholars are more permissive with interaction guidelines for older women than for younger ones because of the potential temptation (خوف الفتنة).<sup>107</sup>

Sociologists Richard Felson and Richard Moran have stated: "Social science has shown a strong relationship between age and sexual attractiveness. Age preferences explain why adult film stars, sex workers, dancers, and glamour models are often young and why their earnings decline as they age".<sup>108</sup>

والله المستعان وعليه التكلان ولا حول ولا قوة إلا بالله العلي العظيم

**Nature of gathering:** Traditional scholars also appear to consider the nature of the gathering, enforcing stricter rules for mixed gatherings at foolish recreation or joyous occasions such as weddings, compared to mosque gatherings for Friday prayers<sup>109, 110</sup>

**To conclude,** the factors mentioned above, whether constant or variable, such as the nature of the conversation, needs, customs, age, clothing, potential for temptation, attractiveness, and environment, will help determine a specific ruling for the interaction.

## 2<sup>ND</sup> CHAPTER: SPECIFIC INTERACTION GUIDELINES BETWEEN THE PROSPECTS FOR MARRIAGE

It is a common misunderstanding that gender interaction guidelines may hinder marriage. One of the purposes of these guidelines is to strengthen healthy marriage institutions by minimizing the likelihood of infidelity and fornication.<sup>111</sup>

We will primarily discuss two things in this chapter:

- 1) The Fiqh of men and women looking at each other as potential marriage prospects.
- 2) Guidelines for interaction between the prospects before the engagement or marriage contract.

### 1. Men and Women Looking at each other as Potential Marriage Prospects:

#### a) Divine Legislation about Looking at the Prospects before Marriage:

Allah (SWT) states in the Quran:

لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدُ وَلَا أَنْ تَبَدَّلَ بِهِنَّ مِنْ أَزْوَاجٍ وَلَوْ أَعْجَبَكَ حُسْنُهُنَّ

Not lawful to you, [O Muhammad], are [any additional] women after [this], nor [is it] for you to exchange them for [other] wives, even if their beauty were to please you (Surah Al-Ahzaab 52). Imam Qurtubi and other scholars infer from this verse that it is permissible to look at a potential

<sup>107</sup> انظر: بدائع الصنائع، 123\5، المبسوط 10 / 154، والفتاوى الهندية 5 / 329، ومجمع الأنهر 2 / 540، حاشية العدوي، 2\379-423، حاشية الدسوقي على الشرح الكبير، 1\213 مواهب الجليل لشرح خليل، 1\499، إغاة الطالبين، 1\113، مغني المحتاج، 3\128-129، روضة الطالبين، 7\21، نهاية المحتاج 2\8، المغني، 1\602-558، كشاف القناع، 1\243، ومطالب أولى النهي 5 / 14

<sup>108</sup> Louis Perry, *The case against sexual revolution*, page 35-36.

<sup>109</sup> قال الحموي: والمختار أن الزفاف لا يكره إذا لم يشتمل على مفسدة، كما في الفتح...قلت: وهو حرام في زماننا فضلا عن الكراهة لأمور لا تخفى عليك منها اختلاط النساء بالرجال، 2\114. وقال ابن فرحون: "وفي الأعراس التي يمتزج فيها الرجال والنساء، فلا يختلف في المذهب أن شهادة بعضهم لبعض لا تقبل، وكذلك الماتم لا يجز حضوره إذا كان فيه نوح، وما أشبه ذلك مما حرمة الشارع؛ لأن بحضورهن في هذه المواضع تسقط عدالتين"، تبصرة الحكام في أصول الأفضية ومناهج الأحكام، 1\361.

قال النووي: من البدع القبيحة ما اعتاده بعض العوام في هذه الأزمان من إيقاد الشمع بجبل عرفة ليلة التاسع أو غيرها ويستصحبون الشمع من بلدانهم لذلك ويعتنون به وهذه ضلالة فاحشة جمعوا فيها أنواعا من القبائح (منها) إضاعة المال في غير وجهه (ومنها) إظهار شعار المجوس في الاعتناء بالنار (ومنها) اختلاط النساء بالرجال والشموع بينهم وجوههم بارزة (ومنها)، في المجموع، 8\118 وهذا بخلاف الحال في المسجد، فيقول النووي نفسه في صلاتين الجمعة فيها: وقد ثبتت الأحاديث الصحيحة المستفيضة أن النساء كن يصلين خلف رسول الله صلى الله عليه وسلم في مسجده خلف الرجال ولأن اختلاط النساء بالرجال إذا لم يكن خلوة ليس بجرام" في المجموع، 4\484

<sup>110</sup> د.حاتم، الاختلاط بين الجنسين، ص 81-88

<sup>111</sup> تفهيم القرآن، المودودي، ج 3، ص 324 - 325

spouse with the intention of marriage.<sup>112</sup>

Many Hadiths speak regarding this ayah:

- a) Abu Huraira reported: I was in the company of Allah's Messenger (ﷺ) When there came a man who informed him that he had contracted to marry a woman of the Ansar. Thereupon Allah's Messenger (ﷺ) said: Did you cast a glance at her? He said: No. He (ﷺ) said: Go and look at her, for there is something in the eyes of the Ansar.<sup>113</sup>
- b) Jabir ibn Abdullah narrated: The Prophet (ﷺ) said: When one of you asks for a woman in marriage if he is able to look at what will induce him to marry her, he should do so. He (Jabir) said: I asked a girl for marriage; I used to look at her secretly until I looked at what induced me to marry her. I, therefore, married her.<sup>114</sup>
- c) Abi Humaida narrated that Prophet Mohammad (ﷺ) said: If one of you proposes to a woman, there is no harm in looking at her if the purpose is marriage, even if she is unaware.<sup>115</sup>
- d) It was narrated that Muhammad bin Salamah said: "I proposed marriage to a woman, then I hid and waited to see her until I saw her among some date palm trees that belonged to her." It was said to him: "Do you do such a thing when you are a companion of the Messenger of Allah?" He said: "I heard the Messenger of Allah saying: 'When Allah causes a man to propose to a woman, there is nothing wrong with him looking at her.'<sup>116</sup>

### b) What is the Ruling (Hukm) of Looking at the Prospect:

We found four opinions among our classical scholars of Fiqh:

**1st Opinion:** A minority group of scholars said it is permissible according to the Hanbali school.<sup>117</sup>

**2nd Opinion:** The majority of scholars, including Hanafi, Maliki, Shafi'i, and some Hanbali, recommended it.<sup>118</sup>

**3rd Opinion:** A minority group of scholars, some Zaahiris, stated that it is wajib.<sup>119</sup>

**4th Opinion:** According to one report from Imam Maalik, a minority group of scholars reported that it is prohibited.<sup>120</sup>

- The fourth opinion is weak, with only one report from Imam Maalik supporting it. The majority of scholars do not widely support this opinion, and even this one report from Imam Maalik does not represent the authorize Maaliki position. Why did Imam Maalik report this

<sup>112</sup> القروطي، الجامع لأحكام القرآن، 14\221، ومحمد صديق حسن خان، فتح البيان في مقاصد القرآن، 11\124، ومحمد جمال الدين قاسمي، محاسن التأويل، 8\98

<sup>113</sup> حُكِّنَا ابْنُ أَبِي عُمَرَ، حُكِّنَا سَفِيَّانَ، عَنْ يَزِيدَ بْنِ كَيْسَانَ، عَنْ أَبِي حَزَامٍ، عَنْ أَبِي، هُرَيْرَةَ قَالَ قَالَ كُنْتُ عِنْدَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَاتَاهُ رَجُلٌ فَأَخْبَرَهُ أَنَّهُ تَزَوَّجَ امْرَأَةً مِنَ الْأَنْصَارِ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " أَنْظَرْتَ إِلَيْهَا " . قَالَ لَا . قَالَ " فَذَهَبَ فَانظَرَ إِلَيْهَا فَإِنْ فِي أَعْيُنِ الْأَنْصَارِ شَيْئًا، أَخْرَجَهُ مُسَلِّمٌ فِي صَحِيحِهِ، كِتَابُ النِّكَاحِ، بَابُ نَدْبِ النَّظَرِ إِلَى وَجْهِ الْمَرْأَةِ وَكَيْفِيَّتِهَا لِمَنْ يَرِيدُ تَزْوِجَهَا، حَدِيثٌ رَقْمٌ 1424، 2\1040

<sup>114</sup> عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " إِذَا حَظَبَ أَحَدُكُمْ الْمَرْأَةَ فَإِنْ اسْتَمْتَعَ أَنْ يَنْظُرَ إِلَى مَا يَدْعُوهُ إِلَى نِكَاحِهَا فَلْيَفْعَلْ " . قَالَ فَحَظَبْتُ جَارِيَةً فَكُنْتُ أَتَخَيَّبُهَا حَتَّى رَأَيْتُ مِنْهَا مَا دَعَانِي إِلَى نِكَاحِهَا وَتَزَوَّجْتُهَا فَتَرَوُّجْتُهَا، رَوَاهُ أَبُو دَاوُدَ فِي سُنَنِهِ، كِتَابُ النِّكَاحِ، بَابُ الرَّجُلِ يَنْظُرُ إِلَى الْمَرْأَةِ وَهُوَ يَرِيدُ تَزْوِجَهَا، حَدِيثٌ رَقْمٌ 2082، 3\424

<sup>115</sup> أَخْرَجَهُ أَحْمَدُ، حَدِيثٌ رَقْمٌ 23602، قَالَ فِي مَجْمَعِ الزَّوَانِدِ: وَرَجُلًا أَحْمَدُ رَجُلًا الصَّحِيحَ

<sup>116</sup> عَنْ مُحَمَّدِ بْنِ سَلَمَةَ، قَالَ: حَظَبْتُ امْرَأَةً، فَجَعَلْتُ أَتَخَيَّبُهَا، حَتَّى نَظَرْتُ إِلَيْهَا فِي نَحْلِهَا، فَقِيلَ لَهَا: قِيلَ لَهَا: أَنْتَ فَعَلْتَ هَذَا وَأَنْتَ صَاحِبُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ؟، فَقَالَ: سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ: إِذَا لَقِيَ اللَّهُ فِي قَلْبِ امْرِئٍ حِطَّةَ امْرَأَةٍ، فَلَا بَأْسَ أَنْ يَنْظُرَ إِلَيْهَا، رَوَاهُ ابْنُ مَاجَةَ فِي سُنَنِهِ، كِتَابُ النِّكَاحِ، بَابُ النَّظَرِ إِلَى الْمَرْأَةِ إِذَا أَرَادَ أَنْ يَتَزَوَّجَهَا، حَدِيثٌ رَقْمٌ 1864، 3\66

<sup>117</sup> المرادوي، الإنصاف، 20\28، البهوتي، كشف القناع، 10\5

<sup>118</sup> ابن عابدين، رد المحتار، 3\8، وزروق، شرح زورق على متن المسألة، 2\1054، والخرشي، شرح مختصر خليل للخرشي، 3\165، والنووي، روضة الطالبين، 7\19، والرملي، نهاية المحتاج، 6\186

<sup>119</sup> والبهوتي، كشف القناع، 5\10، والنووي، شرح صحيح مسلم، 9\210

<sup>120</sup> ابن القيم، روضة المحبين ونزهة المشتاقين، ص 124

<sup>121</sup> ابن عبد البر، الكافي في فقه أهل المدينة، 2\519، وابن العربي، المسالك في شرح موطأ مالك، 5\442، القاضي عبد الوهاب، الإشراف على نكت مسائل، 2\685، وابن رشد، بداية المجتهد ونهاية المقتصد، 3\31، ابن حجر، فتح الباري، 9\182، قال في الفتح: "ونقل الطحاوي عن قوم أنه لا يجوز النظر إلى المخطوبة قبل العقد بحال"

opinion? Due to brevity, we will not include all the evidence and counterarguments for each opinion.

- In brief, there are conflicting reports from Imam Malik; one forbade while the other makes it permissible.<sup>121</sup> Also, it is possible that Imam Malik used to consider that the entire body of a woman is her 'awrah, meaning that looking at her without any need is not permissible. However, when there is a legitimate need, such as for marriage prospects, then it would be permissible<sup>122</sup>

The first and second opinions are the most popular.<sup>123</sup> Why did some scholars choose the obligation opinion?

They argue that the Prophet (PBUH) commanded in the hadith for the man to look at the prospect, and the principles of fiqh say that command results in obligation.<sup>124</sup>

Although most scholars recommend it, the fact that some scholars consider it obligatory underscores its importance. All parents from traditional and conservative backgrounds need to recognize that it is a right given by Allah (SWT) to both parties. It holds undeniable wisdom and benefits, but for the sake of the nature of this paper, I will confine my discussion to Fiqh. However, we should not deny our children what Allah (SWT) has made permissible, recommended, or obligatory.<sup>125</sup>

- Scholars like Shaikh Ibn-Jibreen and Shaikh Yousuf Qardawi have advised parents of prospective daughters not to deny the request of the suitors to see their daughter, as it is a right given by Allah (SWT) to both parties.<sup>126</sup>

### c) Hukom of Looking at Prospects Multiple Times:

There are many hadith regarding looking at the prospect. Some include:

- 1) Sahl bin Sa`d narrated: A woman came to Allah's Messenger (ﷺ) and said, "O Allah's Messenger (ﷺ)! I have come to you to present myself to you (for marriage)." Allah's Messenger (ﷺ) glanced at her. He looked at her carefully, glanced at her, and lowered his head. She sat down when she saw that he did not say anything.<sup>127</sup>

Haafiz Ibn Hajr and Imam Awzai interpreted this hadith as meaning that the Prophet (ﷺ) observed her deeply, looking at her repeatedly before deciding.<sup>128</sup>

<sup>121</sup> قال ابن عبد البر: ومن أراد نكاح امرأة فليس له عند مالك أن ينظر إليها ولا يتأمل محاسنها وقد روي عنه أنه ينظر إليها وعليها ثيابها ومن أباح من العلماء النظر إليها عند خطبتها فإنه يبيح أن ينظر منها إلى وجهها وكفيها لأن ذلك ليس عليها ستره في صلاتها... في كتابه الكافي في فقه أهل المدينة، 519/2  
<sup>122</sup> قال عمر سليمان الأشقر: "ولعل من نسب إلى مالك القول بعدم جواز النظر إلى المخطوبة نظر إلى أن مالكا يرى أن جسد المرأة كله عورة، حتى ظفرها، ينبغي أن يقيد النظر الممنوع عنده بغير الحاجة، فإذا كان لحاجة كظنر الخاطب فإنه جائز عنده" أحكام الزواج في ضوء الكتاب والسنة، ص 52  
<sup>123</sup> دليل أصحاب القول الأول: بأن الأمر بالنظر جاء بعد الحظر، أي حظر النظر إلى الأجنبية والأمر بعد الحظر غالبا ما يفيد الإباحة (انظر كمال الدين أبو البقاء، النجم الوهاج في شرح المنهاج، 7/17) واليهوتي، كشاف القناع، 5/10  
ويناقش: على التسليم بأن الأمر بعد الحظر يفيد الإباحة فإننا نقول: بأن الحظر لم يأت بخصوص النظر للمخطوبة، حتى يقال بأنه أمر بعد حظر (اختلف الأصوليون في هذه القاعدة على أقوال منها: أن الأمر بعد الحظر يفيد الإباحة، وقيل: إذا وردت صيغة الأمر بعد النهي، فإنها تقتضي ما كانت تقتضيه قبل ورود النهي، من وجوب أو نذر أو إباحت، وقيل بالتوقف وعدم الجزم بشيء من الوجوب أو الإباحة، انظر: عيد الكريم النملة، المهذب في أصول الفقه المقارن، 1361/3 وما بعدها.  
دليل أصحاب القول الثاني: أن الأمر وإن كان أمرا بعد نهى، لكنه معطل بعلته تدل على أنه أريد بالأمر التذنب، وهي: قوله (ﷺ) فإنه أجرى أن يؤدم بينكما... والله أعلم  
<sup>124</sup> قال ابن القيم: قد استدلوا بأنه (ﷺ) قد أمر بالنظر إلى المخطوبة، والأصل في الأمر أنه للوجوب، روضة المحبين ونزهة المشتاقين، ص 124

<sup>125</sup> Neither should we promote liberal values, which don't give any regard to tradition, nor should we try to conserve a culture that conflicts with the text.

<sup>126</sup> القرصاوي، الحلال والحرام في الإسلام، ص 171  
<sup>127</sup> أخرجه البخاري في صحيحه، كتاب النكاح، باب النظر إلى المرأة قبل التزويج، حديث رقم: 5126، 7/14  
<sup>128</sup> حديث الواهبة نفسها وفيه: "فنظر إليها رسول الله فصدع النظر إليها وصوبه" ووجه الدلالة "أن النبي بالغ في النظر والتأمل وكرر النظر، فنظر أعلاها وأسفلها، ويدل عليه ما وقع في رواية فضيل بن سليمان فخفف فيها البصر ورفعها." ابن حجر، فتح الباري، 9/206

- 2) 'A'isha (RA) reported that the Prophet (ﷺ) said: I saw you in a dream for three nights when an angel brought you to me in a silk cloth and he said: Here is your wife, and when I removed (the cloth) from your face, lo, it was yourself, so I said: If this is from Allah, let Him carry it out.<sup>129</sup>

This hadith clearly illustrates that the Prophet (ﷺ) saw 'A'isha (RA)'s face multiple times in a dream before the marriage contract.<sup>130</sup> Also, interestingly, it was three different days that he (ﷺ) saw the face of 'A'isha (RA) before the marriage contract.

- 3) Anas bin Malik narrated that Mughirah bin Shu'bah wanted to marry a woman. The Prophet (ﷺ) said to him, "Go and look at her, for that is more likely to create love between you." So he did that, married her, and mentioned how well he got along with her.<sup>131</sup>

This hadith does not specify or restrict how often you have to see her.<sup>132</sup>

- 4) Jabir ibn Abdullah narrated that the Prophet (ﷺ) said: When one of you asks a woman in marriage if he can look at what will induce him to marry her, he should do so. He (Jabir) said: I asked a girl in marriage; I used to look at her secretly until I looked at what induced me to marry her. I, therefore, married her.

Some scholars commented while explaining this hadith: This hadith illustrates that if you cannot find what will attract you to marriage on the first attempt, you can look at her multiple times until you make that decision.<sup>133</sup>

- From the Usuli perspective: In our legislation, it is required to see the prospect before marriage because of the principle of 'need' (حاجة). It is important to understand that whatever is deemed lawful due to a 'need' must be proportionate to the 'need.' Therefore, if one glance, meeting, or encounter did not fulfill the purpose and the prospect still wants to see or meet again, it is permissible to do so due to this genuine need.<sup>134</sup>

Sometimes, the objectives of marriage are unattainable without looking at the prospect more than once. Potential prospects must carefully consider each other and ensure they are satisfied before moving forward. It may take several meetings to determine if there is a genuine need for marriage as long as they follow the appropriate protocols for interaction.<sup>135</sup>

What if someone ends up abusing these concessions? Shariah provides extra precautionary measures, which are as follows:

#### **d) Limitations of what can be seen by Prospects during Meetings:**

The validity of looking at a prospective partner for marriage is supported by various hadiths,

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<sup>129</sup> أخرجه مسلم في صحيحه، كتاب الفضائل، باب في فضل عائشة رضي الله تعالى، حديث رقم 2438، 1889\4

<sup>130</sup> الشيخ إبراهيم، أحكام النظر إلى المخطوبة، ص 51

<sup>131</sup> أخرجه ابن ماجه في سننه، كتاب النكاح، حديث رقم 1865

<sup>132</sup> عبد الله ناصح علوان، آداب الخطبة والزفاف وحقوق الزوجين، ص 49-50

<sup>133</sup> ابن عثيمين، الشرح الممتع، 12\21

<sup>134</sup> الذي نص عليه فقهاؤنا رحمهم الله: أن النظر إنما أذن فيه للحاجة، وما كان كذلك فإنه يقدر يقدرها، فإذا حصل المقصود بنظره حرم ما زاد على ذلك، وإن لم يحصل المقصود زاد عليها نظرة ثانية وثالثة، حتى يحصل المقصود من ذلك كما قال ابن عابدين في رد المحتار، 6\370، والرمل، نهاية المحتاج، 6\186، والبيهوتي، كشف القناع، 5\10

<sup>135</sup> علي بن عبد الرحمن الحصون، أحكام النظر إلى المخطوبة، ص 84 وعبد القادر داودي، مقاصد نظام الأسرة في التشريع الإسلامي، ص 51-52

indicating the permissibility of this practice. The scope of permissibility, however, is a matter subject to the ijhtihad, or independent reasoning, of scholars. Classical scholars unanimously agreed on the allowance of observing a prospect based on textual and rational evidence. However, they held diverging opinions regarding the extent to which one may see. It is essential to note that they all agreed on the permissibility of observing the visage of a potential prospect for marital purposes.<sup>136</sup> The rest of the disagreement is as follows:

**1st Opinion:** According to the Hanafi, Maliki, Shafi'i, and one report from Imam Ahmed, it is permissible to look at one's face and hands, front and back. Most scholars also support this view.<sup>137</sup>

**2nd Opinion:** One report states that Abu Haneefah allowed looking at the feet, face, and hands.<sup>138</sup>

**3rd Opinion:** According to the Hanbali position, it is permissible to observe commonly visible areas that usually appear at home, such as the face, neck, hands, and feet.<sup>(139)</sup> There is a disagreement within the Hanbali Madhhab regarding looking at the head; one faction of Hanbali scholars allows it since it customarily appears at home, while the authorized opinion is that it should not be shown. And Allah knows best.<sup>140</sup>

Regarding the last point, if a potential suitor wants to see the hair of the person they are interested in, they should be highly respectful and considerate of cultural sensitivity and appropriateness. This decision should be made as a final step before progressing the relationship. It is up to the woman to decide whether she is comfortable following this minority Hanbali opinion and showing her hair to the potential spouse, especially since the majority do not allow this.

### **e) Asking Someone Else to See the Prospect on Your Behalf? I.e. in MSA or a Community:**

Is it permissible for individuals to inquire about prospects by seeking assistance from a mutual acquaintance? From the textual perspective, Anas ibn Maalik narrated: The Prophet (ﷺ) wanted to marry a woman, so he sent another woman to look at her and said, "Smell her mouth (front teeth) and look at the back of her ankles."<sup>141</sup>

All four Madhahib concur that it is permissible to designate someone else to observe a potential prospect and provide their description to assist in making a decision. However, they differ in their opinions regarding the conditions for doing so.<sup>142</sup>

Some scholars state that if a potential suitor cannot travel or meet the person they are interested in, they can appoint someone else to go on their behalf. However, there are certain considerations to keep in mind when asking someone else to act on your behalf. For instance:

<sup>136</sup> ابن قدامة، المغني، 7\97  
<sup>137</sup> السرخسي، المبسوط، 154\10-155، ابن عابدين، رد المحتار، 6\370، النسوفي، حاشية النسوفي على الشرح الكبير، 2\215، والنووي، روضة الطالبين، 7\20، الشربيني، مغني المحتاج، 4\208  
<sup>138</sup> الكاساني، بدائع الصنائع 210\9، والموسوعة الفقهية الكويتية، 19\199  
<sup>139</sup> المرادوي، الإنصاف في معرفة الراجح من الخلاف، 18\8 والبهوتي، كشف القناع، 10\5  
<sup>140</sup> قال ابن قدامة: فأما ما يظهر غالباً سوى الوجه، كالكفين والقدمين ونحو ذلك، مما تطهره المرأة في منزلها، ففيه روايتان؛ إحداهما، لا يباح النظر إليه؛ لأنه عورة، فلم يبح النظر إليه، كاذى لا يظهر، فإن عبد الله روى أن النبي صلى الله عليه وسلم قال: "المرأة عورة" حديث حسن. ولأن الحاجة تندفع بالنظر إلى الوجه، فيقى ما عداه على التحريم. والثانية، له النظر إلى ذلك. قال أحمد، في رواية حنبل: لا بأس أن ينظر إليها، وإلى ما يدعوه إلى نكاحها، من يد أو جسم ونحو (15) ذلك. قال أبو بكر: لا بأس أن ينظر إليها عند الخطبة حاضرة... في المغني، 491\9، وانظر ابن مفلح، المبدع في شرح المقنع، 85\6  
<sup>141</sup> رواه الحاكم في المستدرک، کتاب النکاح، حديث رقم: 2699، 2\180 وقال: "صحیح علی شرط مسلم"  
<sup>142</sup> ابن عابدين، رد المحتار، 6\370، النسوفي، حاشية النسوفي، 2\215، النووي، روضة الطالبين، 7\20، البهوتي، كشف القناع، 5\10

- a) The Prophet (ﷺ) appointed Umm-Sulaym to go on his behalf to see a potential prospect and gave specific guidelines, such as "smelling her mouth," which shows the level of closeness required. This illustrates the need for someone of the same gender to carry out certain tasks that involve close interaction due to gender interaction guidelines.<sup>143</sup>
- b) The majority state that the appointed individual must be a woman, except for the Maalikis, who did not impose this condition.<sup>144</sup>
- c) Maaliki scholars explicitly state that if the appointed individual is a man overseeing the project, he must adhere to specific gender interaction protocols and restrictions to prevent harm and temptation.<sup>145</sup>

We must note that these are specific to the Maliki school, and the majority did not permit men to be appointed to oversee the prospect.<sup>146</sup>

### **f) Looking at a Prospect Without Her Permission: Essential Guidelines for MSA / Youth Groups**

Let's first discuss whether an individual can see a prospect before proposing. There are two issues to note regarding this:

***1<sup>st</sup> issue: According to most scholars, the suitor must have a serious intention and commitment to marriage before meeting and seeing her.***<sup>147</sup>

It is important to note that, according to Shafi and Hanbali, it is permissible to view the prospect before proposing, despite the disagreement among classical scholars on this matter.<sup>148</sup>

In the context of looking at and assessing potential marriage prospects within a community or college MSA setting, two key considerations are:

- 1) Before proposing, the initial look and assessment should focus on developing interest and evaluating the prospect, rather than engaging in deep reflection and pondering. This approach is necessary because the prospect's marital or engagement status may be undisclosed, requiring careful consideration.<sup>149</sup>
- 2) It is essential to ensure that no corrupt or unfounded accusations are directed at individuals respectfully exploring opportunities in their communities or MSAs and earnestly seeking to adhere to divine law.

***2<sup>nd</sup> issue: Should an individual seek the prospect's or her guardian's permission (ولي) before looking at her?***

Our Classical scholars have three different opinions:

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<sup>143</sup> مغني المحتاج، 2\128s  
<sup>144</sup> الدسوقي، "أوله توكيل رجل أو امرأة في نظرهما، وجاز للمرأة الوكيله نظر زائد على الوجه والكفين، من حيث إنها امرأة، لا مندوب من حيث إنها وكيله، إذ الموكل لا يجوز له نظر الزائد عليهما"، حاشية الدسوقي، 2\215، عبد الرحمن عتر، خطبة النكاح، ص 220  
<sup>145</sup> الحطاب الرعيني، مواهب الجليل في شرح مختصر خليل، 3\404 والخرشى، شرح مختصر خليل للخرشي، 3\166  
<sup>146</sup> علي بن عبد الرحمن الحسون، أحكام النظر إلى المخطوبة، ص 91  
<sup>147</sup> الخرشى، شرح مختصر خليل للخرشي، 3\165، والشرييني، مغني المحتاج، 4\207، والبهوتي، كشاف القناع، 5\10، الرملي، نهاية المحتاج، 6\185، وعبد الكريم زيدان، المفصل في أحكام المرأة والبيت المسلم، 3\217  
<sup>148</sup> المرادوي، الإنصاف، 8\18، والرملي، نهاية المحتاج، 6\186، والنووي، روضة الطالبين، 7\20  
<sup>149</sup> عبد الرحمن عتر، خطبة النكاح، ص 199

**1<sup>st</sup> Opinion:** The majority of scholars have stated that seeking permission from a woman or her guardian is not a requirement for looking at a marriage prospect. This stance is supported by the Hanafi, Shafi'i, Hanbali, and Zahiri schools of thought and is also a position within the Maliki school of thought.<sup>150</sup>

**2<sup>nd</sup> Opinion:** According to the Maliki school of thought, looking at a prospect without her permission is disliked.<sup>151</sup>

**3<sup>rd</sup> Opinion:** Some Maaliks believe seeing her without her permission is prohibited.<sup>152</sup>

- The majority of classical scholars permitted the act of observing a potential prospect without her permission:
  - 1) Rationally, seeking permission before looking at the prospect but not considering her afterward may harm her self-respect or confidence.<sup>153</sup>
  - 2) Modern society is often human-centric, but Islam emphasizes being Allah-centric. As the Lawgiver is Allah, we must be concerned about His permission.<sup>154</sup>
  - 3) The hadith (textual evidence allowing individuals to see the prospect) indicates that the Prophet (ﷺ) did not restrict seeking permission to see the prospect. This was understood and practiced by the Sahaba, such as Jaabir and Mohammad Bin Muslamah, during the time of the Prophet (ﷺ).<sup>155</sup>

**Caution:** Two important cautions regarding this:

- 1) It's essential to understand that the permission given by the Lawgiver to observe a potential spouse without explicit permission is intended only for marriage. It must not be misused to engage in stalking or harassment.
- 2) Some scholars have also emphasized another necessary caution: if a suitor looks at the prospect without her permission, he is only supposed to see what is permissible according to the majority, i.e., her face, hands, and feet. He cannot see anything else.<sup>156</sup>

### **g) Is it Permissible for an Individual to Look at Someone with Sexual Desire?**

Scholars disagree on this matter:

**1<sup>st</sup> Opinion:** It is permissible for individuals to look at a potential spouse, even if there is a possibility of feeling tempted or experiencing sexual desire. The Hanafi and Shafi'i schools of thought support this perspective. The rationale behind this opinion is that while people may struggle to control their emotions fully, they should be allowed to fulfill their natural inclination to

<sup>150</sup> الشريبي، مغني المحتاج، 4\208، ابن قدامة، المغني 7\96، ظفر أحمد عثمانى، أعلاء السنن، 17\379، البيهوتي، كشف القناع، 10\5، ابن حزم، المحلى، 9\161، والمواق، التاج والإكليل لمختصر خليل، 5\21، والخطاب الرعيني، مواهب الجليل، 3\404، الدسوقي، حاشية الدسوقي على الشرح الكبير، 2\215، الخطاب الرعيني، مواهب الجليل في شرح مختصر خليل، 3\404، النووي، المنهاج شرح صحيح مسلم، 210-211\9، الرملي، نهاية المحتاج، 6\186، عبد القادر داودي، مقاصد نظام الأسرة في التشريع الإسلامي، ص 55، قال ظفر أحمد العثماني التهانوي: "قال العبد الضعيف: و حجة الجمهور قول جابر رضي الله عنه: "فخطبت جارية فكننت أتخياً" والزاوي أعرف بمعنى ما رواه، فقل علي أنه لا يجوز له أن يطلب من أولائها أن يحضروها بين يديه لما في ذلك من الاستخفاف بهم، ولا يجوز ارتكاب مثل ذلك الأمر مباح ولا أن ينظر إليها بحيث تطلع على رؤيته لها من غير إذنها؛ لأن المرأة تستحي من ذلك و يتقل نظر الأجنبي إليها على قلبها لما جبلها الله على الخيرة، و قد يفرض ذلك إلى مفاسد عظيمة كما لا يخفى، وإنما يجوز له أن يتخياً لها و ينظر إليها خفية، و مثل هذا النظر يقتصر على الوجه و الكف و القدم لا يعدها إلى مواضع اللحم و لا إلى جميع البدن." في كتابه إعلاء السنن، كتاب الحظر والاباحة، باب جواز النظر إلى المخطوبة، 17\379

assess a potential spouse for marriage.<sup>157</sup>

**2nd Opinion:** According to the Maalikis, individuals should not seek out sexual desire, but if it arises during the process, it is forgivable.<sup>158</sup>

**3rd opinion:** According to the Hanbalis, if there is potential for sexual desire, then it will not be permissible.<sup>159</sup>

## 2. Principles of Interaction that an Individual Needs to Abide by when Meeting with the Prospect:

There are a few principles with which both prospects should comply:

### 1st Principle: They should not meet in seclusion (خلوة)

- Looking at her is regarded as permissible by legislators, but other rulings like seclusion (خلوة) between non-mahrams will remain in the original position, i.e., forbidden.
- We already discussed the hadith in the first chapter about the prohibition of seclusion (خلوة). Scholars agree that seclusion between two individuals of opposite genders (even if it's a prospect) is prohibited. A third party must be with them to make the meeting Shariah-compliant.<sup>160</sup>

### 2nd Principle: Physical contact will continue to be prohibited, even for the prospect.

Scholars have explained that the continued prohibition of physical contact, such as touching or shaking hands, between potential partners is rooted in the belief that it is not a pressing need or extreme necessity when making decisions about marriage. This type of physical contact is not considered contributory to the decision-making process.<sup>161</sup>

### 3rd Principle: Prospects should interact with each other by following the protocols of above Gender Interaction guidelines

*The evidence in the Shariah for this initial conversation between the prospects are as follows:*

Evidence from the Quran:

1) Allah says:

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْتَمْتُمْ فِي أَنْفُسِكُمْ عَلِيمَ اللَّهِ أَنَّكُمْ سَنَذْكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا

“There is no blame upon you for what you [indirectly] allude to a proposal to women or for what you conceal within yourselves. Allah knows that you will have them in mind. But do not promise them secretly except for saying a proper saying.”

Some may argue that the ayah implies that proposing to them "secretly" in a "respectful" manner

<sup>157</sup> الكاساني، بدائع الصنائع، 5\122، والشربيني، مغني المحتاج، 4\208، وعمر سليمان الأشقر، أحكام الزواج في ضوء الكتاب والسنة، ص 55

<sup>158</sup> الدسوقي، حاشية الدسوقي، 2\215

<sup>159</sup> البهوتي، شرح منتهى الإرادات، 2\624

<sup>160</sup> النووي، المنهاج شرح مسلم، 9\109، ابن قدامة، المغني 7\96، الغرياني، مدونة الفقه المالكي وأدلته، 2\499، ابن عابدين 5 / 237، البناية في شرح الهداية 3 / 442، شرح البهجة 4 / 93، 94، الفواكه

الدواني 2 / 410، مطالب أولي النهي 5 / 12

<sup>161</sup> الزيلعي، تبيين الحقائق وحاشية الشلبي، 6\18، والشربيني، مغني المحتاج، 4\208 – فقد علل فقهاؤنا عدم إباحة لمس الخاطب للمخطوبة بعدم وجود الضرورة والحاجة لذلك، كما في النظر، فيبقى الأصل على التحريم. والله أعلم



is not feasible without allowing them to interact with each other, as "secretly" implies direct interaction.<sup>162</sup>

- 2) "The Prophet proposed to Umm-Haani, and she responded: 'By Allah, I liked you in Jahiliyyah; why won't I like you in Islam? But I am an old woman with many kids, and I don't like to harm you.' This is mentioned in the Sunnah in the narration of Al-Mustadrak lil-Hakim, and similar narrations are found in Sahih Muslim<sup>163</sup> And other books.<sup>164</sup><sup>165</sup>

The mentioned hadith signifies the importance of communication, emphasizing that it is not only permissible but sometimes essential. It suggests that couples should discuss significant matters that may influence their lives after marriage.

- 3) From a principles (Usuli) perspective, the initial interaction between potential partners before engagement falls under the extended category of "تدعوه إلى نكاحها" "What will induce him to marry her," as mentioned in the hadith. Along with seeing each other, communicating will also encourage the prospects to marry. Additionally, from a "سد الذرائع" "Blocking the means" perspective, speaking with each other (whether in-person or virtually) is a lesser or farther mean to the evil than simply looking, with the looking being allowed due to specific needs and benefits in divine legislation. Therefore, speaking with each other (whether in person or on the Internet) is permissible as long as the need and benefit outweigh the potential harm.
- 4) From the Objectives (مقاصدي) standpoint, when couples communicate and ask questions, they can better understand each other's priorities, likes, dislikes, and worldviews. This can contribute to a happier marriage and align with Islamic Law's objectives.<sup>166</sup>
- 5) From the Legal maxims (القواعد الفقهية) standpoint, it is an essential 'need' (حاجة) For both parties to communicate, many important questions in our modern society must be discussed. Speaking indirectly to her via family members may not adequately fulfill their needs.
- 6) If they are undecided after the first meeting, more than one meeting can be arranged (ideally with her guardian's permission). Since the 'need,' حاجة Needs to be fulfilled proportionate to its need.
- 7) The conversation should adhere to gender interaction guidelines, including avoiding meeting in private and physical contact.
- 8) Rationally speaking, establishing a timeline for decision-making processes is imperative. Without a clear timeline, individuals may experience difficulty reaching decisions despite numerous deliberations, potentially leading to overthinking. Ultimately, some characteristics will appear only after marriage, which is even true for those who live together for years

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<sup>162</sup> الشيخ إبراهيم، احكام النظر إلى المخطوبة، ص 103  
<sup>163</sup> أخرجه مسلم في صحيح، حديث رقم: 2527، 182/7  
<sup>164</sup> العراقي، طرح التثريب، 7\15  
<sup>165</sup> رواه الحاكم في المستدرک، كتاب معرفة الصحابة، ذكر أم هاني فاخته بنت أبي طالب... ابنة عم رسول الله وأخت علي صلوات اللع على محمد وآله، وحديث رقم: 6871، 4\58. وقد حذفه الذهبي من التلخيص  
<sup>166</sup> البهي الخولي، المرأة بين البيت والمجتمع، ص 60

before marrying; the divorce rates amongst them, including during the first year, are exceedingly high.<sup>167</sup> Moreover, excessive meetings without proper time constraints can lead to harmful outcomes such as emotional attachment or involvement.

- 9) If one party in a conversation decides they are uninterested, they should convey this respectfully without hurting the other person's feelings or insulting them. Scholars like Imam Nawawi have mentioned that it is crucial to preserve self-respect and avoid damaging their reputation afterward.<sup>168</sup>

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<sup>167</sup> د.حاتم، شرح العمدة، 593\2  
<sup>168</sup> قال النووي في روضة الطالبين: "وإذا نظر فلم تعجبه، فليسكت، ولا يقل: لا أريدها، لأنه إيذاء" 7\21

### 3<sup>RD</sup> CHAPTER: FAQ ON CONTEMPORARY ISSUES:

Before we begin this chapter, there are two essential things to note:

- 1) The answers provided are intended for Muslims living in the West. If you are reading this for (or from) a Muslim-majority country, please consult their local scholars.
- 2) The author will present different perspectives from scholars with opposing views on the expansion or restriction of permissibility when discussing the following contemporary issues. This approach is crucial because these topics can be highly polarizing, potentially controversial, and divisive, often leading one group to accuse the other of being too permissive or overly restrictive.

#### **Question: Is it permissible for a woman to apply makeup or present herself at different Islamic / matrimonial events or conferences to find a marriage proposal?**

Before we can answer this question, let's consider a few factors:

- a) It is unanimously agreed that wearing makeup before a non-mahram man or showing parts of 'awrah to seek his attention is forbidden. This is considered haram and falls under the category of Tabarujj.<sup>169</sup>
- b) Also, the fact that Prophet Mohammad (ﷺ), the truthful and verified one, said:"

#### **"The ever-harmful temptation that will afflict men after me is (the temptation of) women."<sup>170-171</sup>**

- c) Also, women in Islam are being told to remember that their homes need them (وقرن في بيوتكن), While it is permissible for a woman to leave her home for work, study, prayer, or other obligations, it is important to acknowledge that the default directive emphasizes the significance of staying at home. Consequently, the departure of women for work and study should not be considered the norm within a Muslim household, despite being permissible due to necessity ("حاجة").<sup>172</sup>

From a rational perspective, we can observe how the consequences of the "freedom and choice" argument lead to the breakdown of family structures. After the sexual revolution, some countries are experiencing over 50% of children being born out of wedlock.<sup>173</sup> We thank Allah (swt) and His beloved Prophet for providing proactive guidelines to preserve our honor and dignity.

Now, let's look at the other side of the aisle; the scholars who widen the scope of permissibility might argue that when we are speaking about these needs. 'حاجة'. Is there a 'need' for a Muslim

<sup>169</sup> قال المفسرون في تفسير قوله تعالى: {غير متبرجات بزينة} أي غير مطهرات ولا متعرضات بالزينة لينظر إليهن، فإن ذلك من أقبح الأشياء وأبعدها عن الحق. وأصل التبرج: التكتف والظهور للعيون، وانظر: تفسير القرطبي، 12\309، ابن عابدين 5 / 235-236، وتكملة فتح القدير 8 / 460، 465 - 470، وقلوبى 3 / 208 - 210، وكشاف القناع عن متن الإقناع 1 / 265، 5 / 15 - 17 والمغني لابن قدامة 6 / 554 - 558

<sup>170</sup> متفق عليه  
<sup>171</sup> فإذا ثبت أن النساء فتنة للرجال، وأن اتقاء الفتنة واجب ثبت أن مخالطة الرجال للنساء محرمة لتضمنها ترك الواجب، انظر: د. عامر بهجت، الاختلاط بين الجنسين، ص 67  
<sup>172</sup> قال الشيخ تقي عثمانى: "فالأصل في حجاب النساء هو الحجاب بالدرجة الأولى، وهي أن تكون مستورة في البيت، ولا تخرج منه إلا لحاجة ويدل على ذلك قول الله سبحانه وتعالى: (وَقَرْنَ فِي بُيُوتِكُنَّ) والظاهر أن هذا الأمر ليس مختصاً بالأزواج المطهرات لأن الأحكام السابقة واللاحقة في هذه الآية لا يختص شيء منها بأمهات المؤمنين بالإجماع..." في تكملة فتح الملهم بشرح صحيح مسلم، 4\226

<sup>173</sup> FastStats - Unmarried Childbearing (cdc.gov)

woman to get married (especially in the West, where Muslims are widely dispersed)?

Is it permissible for a woman, particularly in Western countries where Muslims are a minority facing challenges in finding suitable partners, to attend Islamic conferences, events at her mosque, or other Muslim spaces with modesty to meet and interact with people? Would seeking a righteous spouse be considered a legitimate need (حاجة) within these Western Muslim communities, as she aims to safeguard her honor and lineage. Is there a slight exception for a single Muslim woman seeking a marriage proposal in the guidelines for gender interaction and beautifying herself to seek marriage proposals?

Some contemporary scholars who broaden the scope of permissibility may propose the following guidelines for unmarried Muslim women to present themselves modestly and presentably when seeking marriage proposals<sup>174</sup>:

1) Allah says:

فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا 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.) - Surah Al-Baqrah- 234

Ibn Abbas (ra) explained in the tafsir of this Ayah that "Maroof" here refers to a widow's adorning and beautifying herself after the waiting period to seek a reasonable marriage proposal.<sup>175</sup>

2) It is reported by 'A'isha (RA) that Prophet (ﷺ) said about Usamah (ra):

"وَكَانَ أَسَامَةُ جَارِيَةً لِحَلَّتِيهِ وَكَسَوْتُهُ حَتَّى أَنْفَقَهُ"

If Usamah were a girl, I would have adorned him and dressed him until I married him off<sup>176</sup>

This hadith indicates beautification in presentable outfits and jewelry to get a marriage proposal, even going so far as to say it's the guardians' responsibility. However, someone may argue that this hadith is specific to a certain time, permitting beautification only when potential suitors visit the prospects.

3) Female companion Subai'ah (ra) was under (i.e., the wife of) Saad bin Khawlah, who belonged to Banu Amir bin Luwayy. He was one of those who participated in the battle of Badr. He died at the Farewell Pilgrimage while she was pregnant. Soon after his death, she gave birth to a child. When she was purified from her bleeding after childbirth, she adorned herself for seekers in marriage. Then Abu Al Sanabil bin Ba'kah, a man from Banu Abd Al Dar, entered upon her and said to her, "What is the matter seeing you adorned? Perhaps you are seeking marriage? I swear by Allah you cannot marry until four months and ten days pass away. Saubai'ah said, "When she said this to me, I gathered my clothes on me when the evening came, and I came to the Apostle of Allaah (ﷺ) and asked him about that. He

<sup>174</sup> إبراهيم بن بشير، حدود النظر إلى المخطوبة – دراسة فقهية مقاصدية، ص 65-93

<sup>175</sup> ابن كثير، تفسير القرآن العظيم، 1\483 – وقال رضي الله عنه: فلا جناح عليها ان تتزين وتتصنع وتعرض للتزويج، فذلك المعروف

<sup>176</sup> رواه أحمد في مسنده، حديث رقم 42\7 25082، قال محقق المسند شعيب الأرنؤوط ومن معه: حديث حسن بطرقه

told me that I became lawful when I had delivered a child. He suggested that I marry if I wished.<sup>177</sup>

The above version is Sahih Muslim and Abu Dawood, but there is another narration of the incident in Sunan An-Nissai, which has the following wording:

178 فَلَمَّا تَعَلَّتْ تَشَوَّفَتْ لِلْأَزْوَاجِ فَعَيَّبَ ذَلِكَ عَلَيْهَا فَذَكَرَ ذَلِكَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " مَا يَمْنَعُهَا قَدِ انْقَضَى أَجَلُهَا

"When she beautified herself (to be presentable) to receive marriage proposals, she was criticized for that. This was mentioned to the Prophet (ﷺ), and he said, "There has been nothing to stop her since her term (iddah) ended."<sup>179</sup>

Some Contemporary scholars who've expanded the scope of permissibility argue that Prophet Muhammad (ﷺ) allowed her to beautify herself, which means there is a slight level of concession or tolerance for an unmarried woman who wants to get married.<sup>180</sup>

- 4) From a Scholarly perspective, Ibn Al-Qattan Al-Maliki stated, "If a woman takes care of herself and presents herself reasonably to a potential spouse by using cosmetics and beautifying herself to make herself presentable, her intention is to get married. It is recommended or even obligatory since marriage is prescribed in Islamic law for women just as it is for men. In this case, beautification in front of a potential spouse will fulfill the objective of Islamic law. However, beautifying oneself for other men who are not potential spouses is not permissible."<sup>181</sup>
- 5) Hanafi scholars like Ibn Abideen and Ibn Nujaym stated that when girls reach marriageable age, they should wear appropriate jewelry and presentable clothing to seek marriage proposals.<sup>182</sup>

Someone might notice the distinction between Hanafi scholars' statements and Ibn Al-Qattan's report. While Ibn Al-Qattan discussed applying makeup in front of potential marriage partners, the Hanafi scholars addressed the broader concept of self-care during the marriageable age.<sup>183</sup>

### Shariah-Complaint Caution:

If we are considering the opinion that there is slight flexibility for an unmarried Muslim woman to modestly adorn herself to seek marriage proposals, as substantiated in our divine legislation to accomplish the objectives of Islamic law, the term "maroof" is derived from "urf," signifying the necessity to consider local cultural customs for an accurate interpretation without deviating from tradition. Nonetheless, this concession should not be misused to advocate excessive use of makeup or cosmetics that alter one's true appearance, as it would constitute deception. It also shouldn't be

177 رواد مسلم في صحيحه، كتاب الطلاق، باب انقضاء عدة المتوفى عنها زوجها وغيرها بوضع الحمل، حديث رقم: 1484، 2\1122، أخرجه أبي داود في سننه، حديث رقم 2306

178 تشوفت: أي تزينت وتشرفت، ينظر: الحربي، غريب الحديث، 2\819

179 رواد النسائي في سننه، كتاب الطلاق، باب عدة الحامل المتوفى عنها زوجها، حديث رقم: 3508، 6\190

180 قال د.حاتم: فالذي يظهر أن هناك شيئاً من التجوز في حق العزبة الراغبة في النكاح... الإختلاط بين الجنسين، ص 92

181 ابن القطن، أحكام النظر في أحكام النظر بحاسة البصر، ص 483

182 وقال فقهاء الحنفية: وتحلية البنات بالحلي والحلل ليرغب فيهن الرجال سنة... ابن نجيم، كنز النقائض، 3\87، ابن عابدين، رد المحتار 3\9

183 ونلاحظ أن هناك فرقا بين ما ذهب إليه ابن قطن وما قاله فقهاء الحنفية، حيث إن ابن قطن يجيز التزين لحاطب بعينه، بينما فقهاء الحنفية تكلموا عن تحلية الفتاة التي هي في سن الزواج بالحلي والحلل، ليرغب الرجال عموماً في نكاحها، والله أعلم، انظر: إبراهيم، حدود النظر إلى المخطوبة، ص 99

misused for any other intention, like seeking unnecessary attention, as that is prohibited.<sup>184</sup>

It is also crucial to note that contemporary beauty tools and cosmetics are markedly different from those available to the earlier scholars who endorsed moderate adornment, primarily through clothing and jewelry.

### How do we reconcile all this?

- To address this issue, it is acceptable for a single/unmarried Muslim sister residing in the West and who is open to marriage proposals to attend Islamic conferences in a respectable outfit and modest beautification, such as Kohl, a ring, and bangles while wearing a presentable Abaya or at least a loose-fitted long Kurta with a proper Shariah-compliant hijab.<sup>185</sup> This approach allows her to be seen and receive marriage proposals without compromising essential clothing and interaction guidelines. This will fulfill the objective of the Shariah, and while (hopefully) we don't have to depart from the tradition or traditional methodology, Allah knows the best.<sup>186</sup>

### What about matrimonial events?

The author acknowledges the concerns raised by the restrictive group. It is sincerely stated that if a woman already has suitors coming to her door due to her Islamic knowledge, beauty, Shariah-compliant activism, family background, volunteer work, etc., then she shouldn't visit this conference for matrimonial purposes.

But everyone's situation, family dynamics, and background are different. In our Muslim minority in America, many young adults are unable to get married. If an organization follows a scholarly opinion, even if it's a minority view, to fulfill the objective of Islamic law and respond to the pressing 'need' (حاجة), we should respect that scholarship and be generous even if we disagree.

After considering the analysis mentioned above by the scholars who provide little flexibility for an unmarried woman, no definitive (قطعي) verdict can be issued on prohibiting the practices of some matrimonial events during Islamic conferences in the West. These events gather a crowd of individuals seeking to get married, along with their parents, in a large hall, allowing each to speak to more than one young man or woman for several minutes. Whether individuals accept or reject this practice is a personal choice based on differences in custom, environment, and other personal considerations.<sup>187</sup>

An important suggestion for Islamic centers that organize matrimonial programs to help Muslims in Western countries is to involve a traditionally trained Fiqh scholar to ensure that the programs comply with Shariah principles. The Fiqh scholar should have a deep understanding of the

<sup>184</sup> قاضي عياض: "ونهى النبي صلى الله عليه وسلم للنساء عن الخروج إلى المساجد إذا تطيبن أو تبخرن؛ لأجل فتنة الرجال بطيب ريحهن وتحريك قلوبهم وشهواتهم بذلك، وذلك لغیر المساجد أخرى، وفي معنى الطيب ظهور الزينة وحسن الثياب وصوت الخلاخيل والطنى، وكل ذلك يجب منع النساء منه إذا خرجن بحيث يراهن الرجال..." في كتابه إكمال المعلم بفوائد المسلم، 355\2  
<sup>185</sup> روي عن ابن عباس في تفسير قوله تعالى: ﴿وَلَا يَبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا﴾ قال: ما ظهر منها: الكحل، والخاتم، والسوار، انظر: تفسير القرطبي، 228\12، فتح القدير للشوكاني، 4\24  
<sup>186</sup> قال دحاتم: "فلذي يظهر أن هناك شيئاً من التجوز في حق العزبة الراغبة في النكاح، وما تفعله بعض المؤسسات الإسلامية من جمع عدد كبير من الراغبين في الزواج وأبائهم في قاعة واسعة والسماح لكل منهم بالكلام عدة دقائق مع أكثر من شاب أو شابة لا يظهر لي وجه للمنع منه. أما قبول أحاد الناس لذلك أو رفضه فهذا خاص يرجع إلى اختلاف العادات والبيئات واعتبارات شخصية أخرى..." ص 92  
<sup>187</sup> دحاتم، الاختلاط بين الجنسين، ص 92

importance and value of such programs and a comprehensive knowledge of Fiqh. This is essential for ensuring that the Islamic center follows traditional principles.

May Allah help our single Sisters and Brothers to find righteous spouses, Ameen

### **Question 2: What's the ruling on getting married through matrimonial apps?**

#### **- Important advice for all the respected brothers and sisters involved in marriage apps and matrimonial committees:**

There are many different matrimonial apps, each with a different procedure and protocol.

Overgeneralization will not help. We will discuss general guidelines for using these apps, marriage websites, or brothers and sisters working on marriage committees in the masjid. Each question can be answered from multiple angles, so we will cover both sides of the scholars who reflect some strictness and those who reflect some flexibility.

- a) Before we start, it's essential to acknowledge and appreciate the hard work of dedicated brothers and sisters who volunteer in these marriage committees or run these matrimonial apps. They aim to make the marriage process more accessible as it's a social obligation mentioned by Allah in Surah An-Nur (Ayah 24). May Allah grant all the brothers and sisters the best rewards and accept their efforts. Ameen.

As Muslims, we should be open to any process that helps facilitate marriage and aligns with the higher objectives of Islamic law as long as the benefits outweigh the potential harm. This doesn't mean we should blindly accept every condition; instead, we should utilize the traditional guardrails of Islamic law when using matrimonial processes or apps, such as submitting a matrimonial form on a mosque's website or a marriage app.

- b) In the context of a marriage app where potential partners upload pictures, certain contemporary scholars hold a restrictive viewpoint that argues against displaying women's photos. According to this perspective, it is permissible for a suitor to view a woman's picture only after he proposes marriage to her.<sup>188</sup> Allowing others to view her photo is considered impermissible. The emphasis is placed on the suitor's need to have a profound and committed intention toward marriage before accessing the prospect's visual portrayal. Can we imagine the potential harm of saving and forwarding pictures of our respected daughters and sisters?<sup>189</sup> How can a suitor justify browsing through multiple pictures without the genuine intention of marriage?

But one might argue that there are two issues with this argument:

- I. Firstly, as previously discussed in Chapter 1, some scholars permit men to look at a

<sup>188</sup> قال في شرح مختصر خليل: "يندب -يعني النظر - لمن أراد نكاح امرأة إذا رجا أنها ووليها يجيبانه إلى ما سأل وإلا حرم" وجاء في معني المحتاج: "وإذا قصد نكاحها ورجا رجاء ظاهرا أنه يجاب إلى خطبته... سن نظره إليها" وفي كشف القناع: "ويسن لمن أراد خطبة امرأة، وغلب على ظنه إجابته النظر"... الخرش، شرح مختصر خليل للخرشي، 3\165، والشربيني، معني المحتاج، 4\207، والبهوتي، كشف القناع، 5\10.

<sup>189</sup> ابن العثيمين، إرسال صورة المخطوبة للخاطب بالانترنت، أخذتها من الشبكة العنكبوتية، على الصفحة: [islamqa.info/amq/ar/answer/4027](http://islamqa.info/amq/ar/answer/4027) وعبد المحسن بن حمد العباد، [ar.islamway.net/fatwa/33202](http://ar.islamway.net/fatwa/33202)

woman's face without feeling sexual desire, irrespective of necessity.<sup>190</sup>

II. Secondly, we also established that if the intention is marriage, almost all scholars allow a man to see a woman's face for consideration.

The group also presents textual evidence to counter the prohibition from the Hadith of Subayah (as referenced in the earlier question). It is mentioned that beautifying oneself to seek marriage proposals without waiting for someone to look at her after the intention of marriage provides room for that, as the Prophet allowed her.<sup>191, 192</sup>

- In the context of matrimonial apps, it is reasonable to assume that almost everyone signing up intends to get married. How can we prevent suitors from viewing a picture on the marriage app, especially if a trustworthy Shariah-compliant organization manages it?

Therefore, can we definitively say that looking at profiles on these matrimonial apps or Islamic Center matrimonial programs is prohibited when they appear to be based on speculative arguments with both sides presenting their evidence?<sup>193</sup>

**How do we reconcile?** This author suggests that organizers create an app or program that allows for an initial introduction without sharing pictures. If there is a mutual interest, then with the prospect's permission (or ideally the permission of a guardian), the picture can be shared. This approach aligns more closely with our scholarly tradition and helps preserve the honor and dignity of the respected sisters in our community.

But now the question arises: Should we share detailed information about a woman with a potential suitor on marriage apps?

- c) Some contemporary scholars might say that the website should not give a detailed visual description of the woman so that it is as if one can see her, citing the Hadith of the Prophet where he (saw) said:

لا تباشر المرأة المرأة فتنعتها لزوجها كأنه ينظر إليها

"No woman should describe another woman to her husband so that it is as if he is looking at her."<sup>194</sup>

But one might challenge the application of the hadith above. How can we apply this general hadith, which addresses a wife mentioning other women's beauty traits to her husband, which is more in the context of considering the potential for marital discord, as highlighted by the highly respected commentator Haafiz Ibn Hajr?<sup>195</sup> Compared to a suitor looking at a prospect, they both have to know about themselves before moving forward. Divine legislation allowed even looking at the

<sup>190</sup> الفتاوى الخانية، 408\3، تبين الحقائق شرح كنز الدقائق، 17\6، وبدائع الصنائع، 123-121\5، التمهيد لابن عبد البر، 365\6، بداية المجتهد، 403\2، شرح الصغير، 401-400\1

<sup>191</sup> رواد النسائي في سننه، كتاب الطلاق، باب عدة الحامل المتوفي عنها زوجها، حديث رقم: 6\190، 3508

<sup>192</sup> د.حاتم، الإطلاقات بين الجنسين، ص 90-92

<sup>193</sup> وعبد الكريم زيدان، المفصل في أحكام المرأة والبيت المسلم، 3\217، الرملي، نهاية المحتاج، 6\185

<sup>194</sup> أخرجه البخاري في صحيحه، حديث رقم 5240

<sup>195</sup> قال الحافظ: " هذا أصل لمالك في سد الذرائع، فإن الحكمة في هذا النهي خشية أن يعجب الزوج الوصف المذكور فيفضي ذلك إلى تطلق الواصفة أو الافتتان بالموصفة" في فتح الباري، رقم حديث 5241.



prospect directly, citing the reason "ما يدعوا إلى نكاحها" (what will induce him to marry her)<sup>196</sup>, so looking at the detailed info is a fortiori (من باب الأولى) and should be permissible for marriage reasons. How can we reconcile these conflicting responses in our practical matrimonial apps? Perhaps Islamic centers and organizations need to vet cases to eliminate instances of marriage scams diligently. Initially, they could share concise information about the families and professional lives of the prospects to spark interest. If there is mutual interest, they can then view each other's pictures or meet, while adhering to Shariah-compliant guidelines, as mentioned earlier. Ultimately, may Allah guide us in making the best decisions.

But now the question arises: Can they interact within these marriage apps?

- d) Some scholars believe that matrimonial apps should not allow communication between users because the presence of multiple profiles can lead to unethical behavior. They suggest implementing measures to prevent corrupt individuals from using these apps for malicious purposes.<sup>197</sup>

A potential rebuttal to this argument asserts that if the administrators of matrimonial websites, supervisors of matrimonial apps, or the Imams responsible for matrimonial work in their respective regions have conducted thorough due diligence to mitigate these risks and authenticate the applicants, then the concerns above would be allayed (إلا ماشاء الله). As previously established, the interaction between individuals to initiate marriage is permissible.

**To conclude**, we should appreciate the hard work done by matrimonial committees and provide them with all the help they need. Having said that, they have a huge responsibility to make this process Shariah-compliant.

When determining which approach is better -- the restrictive approach or the flexible approach -- it's important to note that most of our disagreements are based on speculative rather than definitive evidence. Both sides have their supporting texts and reasoning. Therefore, we should respectfully disagree and view matters through the lens of what is best for the community without departing from the tradition instead of accusing each other of being too lenient or strict. It's important to remember that true virtue often lies between two extremes, and ultimate wisdom resides with Allah.<sup>198</sup>

### **Question 3: Can the suitor communicate with the prospect after engagement and visit the prospect's house or family?**

After discussing various factors in this paper, addressing the interaction between engaged

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<sup>196</sup> سنن أبي داود، حديث رقم 2082، 3\424  
<sup>197</sup> إلا يتاح المجال للمراسلة بين الجنسين؛ لما يترتب على ذلك من المغاسد، ومنها دخول العائنين والعائبات بقصد الإفساد أو التسلية، وإنما تتولى إدارة الموقع التأكد أولاً من شخص الخاطب، والربط بينه وبين ولي المخطوبة

[islamqa.info](http://islamqa.info) عن طريق مواقع التزويج على الإنترنت - الإسلام سؤال وجواب

<sup>198</sup> It is also important to keep in mind that not all the differences are acceptable; acceptable differences have to have a basis in Quran and Sunnah or have been reported by the Salaf. On this note, The Maliki scholar, Abul Hassan Ibn Al-Hisar said:

فليس كل خلاف جاء معتبراً إلا خلافت له حظ من النظر  
"Not every difference (khilaf) is valid. Valid difference is only the one that has some sound basis."  
(انظر: الاتقان في علوم القرآن، 1\45)

individuals is essential. Until the marriage contract is completed, engaged individuals are still considered "Non-Mahram" to each other. Therefore, the guidelines for interacting with non-mahram, as mentioned in Chapter 1, should be followed.

However, it is acceptable to communicate with your fiancée regarding important matters related to the wedding, such as the prenuptial agreement, living arrangements, etc. If the interaction is in person, it must be Shariah compliant, meaning it should not be done in private (khalwa)<sup>199</sup> but in a public setting in the presence of others. Physical contact, including shaking hands, should be avoided.<sup>200</sup>

Suppose the interaction is via virtual platforms like Zoom or WhatsApp. In that case, it is recommended that the communication be conducted under the supervision of her guardian or someone trustworthy, as discussed in Chapter 1.

It is important to note that these interactions should not become a norm but should only occur when discussing something important related to marriage. Excessive informal interaction may lead to unnecessary doubts and uncertainty, which might result in breakups and be detrimental to the higher objectives of Islamic law.

In summary, if there is a need to communicate with the fiancée regarding crucial matters related to marriage, it is acceptable to do so within the boundaries of Islamic law and following the guidelines for interaction with non-mahram. However, informal interaction should be avoided if there is no specific need until the marriage contract is completed.

### **What about visiting your fiancée's family for dinner after getting engaged?**

According to the Gender Interaction guidelines, a potential spouse can visit their fiancée's family before marriage, or vice versa, if they adhere to Shariah and the Gender Interaction guidelines. As mentioned in the hadith, it is also encouraged to accept an invitation from a Muslim brother to their home for lunch or dinner.<sup>201</sup>

However, as mentioned above, a prospective fiancé is considered a non-Mahram. Merely agreeing to marry does not change this status until marriage occurs. This is a crucial point that is often overlooked.<sup>202</sup>

It is observed at times that engaged couples spend time together in ways that are not permissible, such as going out to eat alone, being alone together in a house or room, or going for outings without any other family members present. All of these practices are unlawful and not permissible.<sup>203</sup>

### **Conclusion:**

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<sup>199</sup> لا يجوز خلوة الخاطب بالمخطوبة للنظر ولا لغيره لأنها محرمة ولم يرد الشرع بغير النظر فيقتت على التحريم؛ ولأنه لا يؤمن من الخلوة الوقوع في المحذور، المغني 6 / 553  
<sup>200</sup> لا يجوز للخاطب أن يمس وجه المخطوبة ولا كفيها وإن أمن الشبهة؛ لما في المس من زيادة المباشرة؛ ولوجود الحرمة وانعدام الضرورة والبلوى، رد المحتار 5 / 237، جواهر الإكليل 1 / 275، أسنى المطالب 3 / 109 /  
<sup>201</sup> أخرجه البخاري في صحيحه، رقم الحديث 1164  
<sup>202</sup> الشيخ تقي العثماني، فتاوى عثمانى، 234-232\2، حاشية ابن عابدين، 11\3  
<sup>203</sup> د.حاتم، شرح العمدة، 591\2

### **Shariah-compliant Caution: Dichotomy of scholars in America regarding gender issues<sup>204</sup>:**

There is a dichotomy for our Fiqh scholars in America speaking about gender issues in modern society because

1. On the one hand, the American empire is known for its secular machinery and institutions, and all aspects of life, including the category of "religion," are expected to be reformed and adapted to American values. Some of us, as American Muslim scholars, might feel pressure to undergo this enforced reformation, especially on sensitive topics such as gender issues and sexuality. The issue is further complicated by globalization and American imperialism, as fiqh discussions in America by American scholars hold global influence. Adding another layer of complexity, we should also take a cautious approach when applying the principles of Fiqh, such as considering local culture and customs, as mentioned in Chapter 1. America creates a cultural hegemony, which can sometimes be identified as anti-theistic. So, we shouldn't just fix square pegs in a circle hole but be cautious while moving forward.

This underscores the responsibility of American scholars to exercise caution in applying these principles to avoid inadvertently altering traditional methodologies and misusing the beautiful concept of higher objectives (مقاصد) to create a new religious framework.<sup>205</sup>

This results in a dichotomy; in the Western context, a group of contemporary scholars is deriving fiqh conclusions, mostly from pre-modern society, and applying them within an inherently secular, ungodly society.<sup>206</sup> While these scholars adhere to traditional approaches and principles, they are subject to criticism from another group for seemingly riding the tiger of modernity. On a positive note, this critique maintains a necessary balance within discourse, preventing some scholars from unduly attempting to overhaul established traditions. Still, the potential harm of this is widespread moral relativism.

2. Conversely, a faction of contemporary scholars expresses skepticism towards adjusting and issuing new fatwas in our rapidly evolving world. This skepticism pertains particularly to the formulation of Shariah-compliant solutions addressing present-day challenges, especially in hyper-polarized gender-related issues, since societal roles and their constituents as men and women underwent upheavals in a colonial and neo-colonial world. In response, proponents of a more flexible approach argue that such an overly cautious stance may hinder the application of foundational principles (أصول) and maxims (القواعد) to generate new fatwas that are responsive to the exigencies of contemporary society. This includes issues related to gender, as well as the integration of cutting-edge technologies, AI, and other modern advancements. Embracing alternative methodologies to navigate the challenges

<sup>204</sup> قال الشيخ أبو الحسن علي الندوي في كتابه "أحاديث صريحة في أمريكا": احذروا من أن ينشأ إسلام أمريكي أو أوروبي...ص: 72-74  
<sup>205</sup> يقول الله عزوجل: وإن كادوا ليفتنونك عن الذي أوحينا إليك إلىك لتفتننهم عليهما فغيرته وإنما لتخذنكم خليلًا 73 ولولا أن ثبتناك لقد كدت تركهن إليهم شيئا قليلا 74 إذا لؤدتك ضعيف أخيرة وضعيف الضمات ثم لا تجد لك عليهما نصيرا 75 سجى (سورة الإسراء)

<sup>206</sup> Some of the principles and beliefs of ungodly liberalism like Individualism, choice, agency, Freedom Autonomy are anti-theistic.

posed by modernity, instead of adhering to established divine legislative principles, is perceived as a potential catalyst for a spiritual disaster for the next generation who are and will be engaged in modern society.<sup>207</sup>

The opposition between thesis and antithesis leads to an unbalanced approach in our research, hindering us from reaching synthesis. This has given rise to social media polemics and debates, particularly concerning gender interaction and intermixing. Despite the genuine concern of each group for the ummah, the rhetoric on both sides can, at times, be divisive (at the global level). In addressing contemporary challenges beyond gender issues, we must earnestly contemplate whether we should ride the tiger of modernity. Although this inquiry falls outside the purview of our current paper, I will conclude with the following statement:

**Conclusion: Advice from Shaikh Abul Hassan Ali Nadwi to the Fiqh Scholars:**

The author acknowledges that advising scholars regarding such a contentious issue is beyond his expertise. However, let us cite the advice of an incredible scholar, Shaikh Abul Hassan Ali Nadwi, who urged scholars to consider their current needs.

- a) He stressed the importance of preserving Islamic traditions while crossing the bridge of modernity. He pointed out that Christianity lost its essence while adapting to modernity because it lacked the divine legislation principles we have as Muslims. He cited examples of eminent scholars such as Imam Ahmed ibn Hanbal, Abul Hassan Ashari, Imam Ghazali, and Imam Ibn Taymiyyah and how they addressed the challenge of syncretism when Greek culture began to influence Muslim lands. He emphasized the need for traditional scholars to leverage these principles to move forward, lest unqualified individuals dictate the path of modernity to the detriment of the Muslim community.<sup>208</sup>
- b) Shaikh Abul Hasan Ali Nadwi advised the scholars during his visit to Turkey in 1952, a time of significant secularization among Turkish youth, on how scholars should respond amidst this secularization. "In Turkey, during a period of intense secularization, scholars must demonstrate how Islam is relevant to the lives of people and how it can be used as a force for moving forward instead of taking Turkey backward. (Scholars need to remember that) We don't need to swing from one extreme to the other in our response to secularization by just conserving Eastern culture, which may not even be truly Islamic, as a response to the West. Instead, we need to adhere to the principles of Islam without compromise while also opening the door for permissibility (مباحات) as much as possible under Shariah's principles, as the Fiqh scholars did throughout history."<sup>209</sup>
- c) During his visit to Pakistan in 1984, he guided a gathering of scholars, remarking, "As a

<sup>207</sup> أبو الحسن علي الندوي، مذهب با تهنيد (لغة الأردية)، ص 7، و د. يوسف قرضاوي: إن الشريعة تصلح للتطبيق في كل زمان ومكان،  
<sup>208</sup> إنظر: أبو الحسن علي الندوي، تاريخ الدعوة وعزيمة (لغة الأردية)، مجلدات 1-5، وأيضاً: موقف العالم الإسلامي تجاه الحضارة الغربية  
<sup>209</sup> الندوي، تركي مين دو بقى (لغة الأردية)، ص 74

student of the history of Islamic civilizations, I can confirm that during the declining phases of Islamic civilization, scholars and activists often experienced severe internal discord, which distracted them from addressing important matters. These internal disputes also influenced the general population, leading them away from established traditions and traditional scholarly figures. Furthermore, scholars in declining civilizations became disconnected from the intellectual classes, resulting in a lack of guidance for the masses. Shaikh Nadwi emphasized the importance of scholars engaging with and guiding the intellectual class to prevent society from straying from religious principles."<sup>210</sup>

- d) During his visit to the US in 1977, he expressed optimism for the future of Muslim communities in the United States. However, he also voiced concern that an "American Islam" might emerge, potentially deviating from traditional Islamic principles and becoming disconnected from the global Ummah of the Muslim community. He emphasized that Muslims in America should focus on preserving the spiritual essence of Islam while adapting to American society. He also suggested avoiding a defeatist or assimilationist mentality and maintaining our uniqueness as people of faith.<sup>211</sup>
- e) He addressed a group of diverse Fiqh scholars during his visit to Makkah and proposed a thought for consideration. He recognized the significant changes in contemporary times and suggested that strict adherence to a single Fiqhi Madhhab in all aspects of life, especially in dealings "معاملات," may cause hardship for some individuals. He recommended that scholars refer to the rulings of other mujtahids Imams to alleviate hardship, particularly in dealings "معاملات," without departing from tradition.<sup>212</sup>

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<sup>212</sup> Reported by Shaikh Taqi Uthmani (حفظه الله)

<sup>210</sup> الندوي، تحفه باكستان (لغة الأردية)، ص 65-77  
<sup>211</sup> قال الشيخ أبو الحسن علي الندوي في كتابه "أحاديث صريحة في أمريكا": احذروا من أن ينشأ إسلام أمريكي أو أوروبي... ص: 10-74

## APPENDIX: MAHRAM CHART FOR MEN AND WOMEN

