



The Jurisprudence of Free Mixing- What is the Hukm of Free Mixing?

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Hukm ul-Ikhtilaat

Undoubtedly, the Muslim Ummah is facing many hardship wherever they may be, no less so in Britain. The struggle against disbelief (Kufr) manifests itself in all aspects of our lives, whether in education against the injection of corrupt concepts, whether economically through confronting fraud, deceit, usury and monopolisation, whether socially against the exploitation of man's procreation instinct with homosexuality, pornography or adultery or whether struggling against manmade law generally, it is vital that knowledge is sought about the Islamic verdict on all issues. For Allah (SWT) will account you for it on the day of judgement [see EMQ 99:78].

One issue that has caused much misunderstanding among Muslims is the issue of free mixing. In western Societies, free mixing occurs in all walks of life. As Muslims living in this country, we need to understand the Islamic verdict with respect to this issue. Inshaallah, this article will set out to discuss this matter fully and give us the Islamic Verdict from the Qur'an and Sunnah.

The Divine Rule on any matter requires one to understand the evidence which relates to the reality or situation for which the rule is required hence, firstly, we need to distinguish between the reality of freemixing, the evidence from the Qur'an and Sunnah and the rule.

Linguistically, Al Fiqh in the Arabic language is derived from Al Fahem meaning understanding.

However, for the Fukaha, ALFiqh is understanding the Divine rules relating to actions obtained from the detailed evidences (i.e., verse, hadith etc).

There are three types of Fiqh:

- 1) Fiqh Al-Waqi' understanding the situation or the reality.
- 2) Fiqh Al-Daleel understanding the Divine evidence.
- 3) Fiqh Al-Hukm Al-Shar'ie or Al Istinbaatt understanding the Divine rule.

Understanding the reality of freemixing (i.e., Fiqh ALWaqi).
There are three potential situations which are addressed by the Shari'ah,

- a) Al Ikhtilaat This is freemixing in a situation where men and women who are non mahrum are in one place together where they can close the door and they can recognize or see each other.

Note: the maharem are listed in Surah Al Nisa and Surah Al Nur, and relate to blood relatives (e.g. sister, brother, father, mother etc.) and relations through Nikah (e.g. wife, husband, fatherinlaw)

- b) Al Ijtima' This is freemixing in a situation Where men and women who are non mahrum are in one place together where they can close the Door and they can recognize or see each other but men on one side and women on the other(i.e. Segregated).
- c) Al Khalwah - one man and one women alone together who are non mahrum and no one can see them.

Note: the majority of scholars today only call a) to c) freemixing if the men and women are sitting but the classical scholars rejected the issue of sitting since it is irrelevant (some modern Scholars therefore allow Khalwa in lifts, but this should be rejected since there is no Shri'ah permit to allow it).

In Surah Al Nur [EMQ 24:27] Allah (SWT) specifies that permission is required to enter houses (Boyout) different from your own. The permission (Al Izen) is what delineates or defines a place as public or private, the management of a place being irrelevant. However, this is only fiqh alwaqi and does not affect a)to c). i.e, it does not mean that just because a place is either public or private, mixing is permitted or prohibited, the publicness of a place is merely the under-

standing of reality.

Understanding the Divine Evidence (i.e. Fiqh ALDaleel).

From the Qur'an:

The Messenger Muhammad (saw) said, "O women stay at the back of the mosque, Allah has sent you the Qur'an,". He (saw) then recited from Surah Al Ahzab [EMQ 33:35], "For Muslim men and Muslim women, for believing men and believing women, for devoted men and devoted women...". The Sahabiyat (Muslim women) understood the command and after this Muslims practiced complete segregation between men and women in all spheres of their lives. The Messenger Muhammad (saw) said, "Allah has revealed an ayah which makes you two different entities". The people realized that something major had happened. The circumstances of revelation of this ayah (i.e. its Asbab ALNuzul) are Mutawatir (have multiple identical narration's)

And He (swt) says, [EMQ 33:36]:" it is not allowed for a believer man or women to have any choice when Allah and His Messenger decide a matter."

From the Ahadith:

In Bukhari, Volume 1, Chapter 2, in the Book of Al Hajj, Hadith No. 1618, at Section 64 about "Tawaff":

It is narrated upon the authority of Amr Ibn Ali that Ibn Hisham prevented women from mixing in tawaff from the area of the men. A man asked him "how did he do that, was it before or after the aiyah of khimar and jilbab?"

It is narrated that women never freemixed with men. In Sahih Muslim it is narrated that, Aisha (ra) used to do tawaff where no one could see her i.e. in complete seclusion (hijab). She would go out at night covered and the men and women would make tawaff elsewhere i.e. separate from each other.

In Abu Daoud Kitab Al Salat, V.1, in the Chapter on Segregation, it is narrated that Omar bin Al Khattab (ra) said: "Make a special door for women in the mosques."

In Abu Daoud, p.284, Hadith No. 4931, it is narrated upon the authority of Aisha (ra) that she said, "I used to play with my friends and whenever the prophet (saw) entered they would leave and whenever he (saw) went out they would come back in."

In Abu Daoud Hadith No.4933, it is narrated that Aisha (ra) said: "The prophet married me at seven and we had relationship at nine and when I moved to medina some women prepared me for the wedding and they nor I ever mixed with men in a house of women. The women received me and men received the prophet and then we went to the house."

In Abu Daoud V.4, p.370, Hadith No .5273, it is narrated upon the authority of Nafih that the Messenger Muhammad (saw) said, "Do

not walk between two men or between two women in the street."

In Abu Daoud, V.4, Hadith No. 5274, it is narrated upon the authority of Abu Usay Ansari that he heard the Messenger Muhammad (saw) say when he saw people mixing together in the street, "O men and women separate yourselves, it is not allowed for you to be in the same place."

Note: It is said that after this women used to walk so close to the side that their Khimar would stick to the walls.

In Sahih Muslim, it is narrated that Omar Bin Al Khittab was concerned in relation to the prophet (saw)'s house and an ayah was revealed that segregation from the prophets wives is obligatory [EMQ 33v53]. Note that there could not have been freemixing among the Muslims within society otherwise why would Omar (ra) be concerned.

In Muslim and Abu Daoud, it is narrated that the Messenger Muhammad (saw) said: "Whenever a man and a women are alone shaytan is with them."

(Linguistically Khalwa means alone e.g. Musa went to have Khalwa with his Lord i.e. to be alone)

In Abu Daoud, Trimizi and in Muslim, it is narrated that the Messenger Muhammad (saw) said, "Be careful from the place of Al Mujoun" i.e. the forbidden place. Ibn Abbass (ra) said, 'This is the place where people disobey Allah', e.g. by mixing in cinemas, night clubs etc.

Understanding The Divine Rule (i.e. Fiqh Al-Hukm)

The general rule is that free-mixing, segregated mixing and Khalwa are prohibited (Haram) until the text permits.

Even Shubhat Al Haram or the doubt of Haram is a sin because it is considered an introduction to Zina. It is narrated that Safiyyah used to live in the house of Usama and once she came to the Messenger Mohammed's (saw) house and was late. He walked out with her after maghrib and two Sahabi saw him (saw) with her. He (saw) said, "I ask you by Allah to come here... do you believe me?", they said, "yes" he (saw) said, "She is my wife..". From this the Fuqaha adopted the rule that we must avoid the doubt of haram. NB. It is the Sunnah of the Messenger Muhammad (saw) that men and women are always one behind the other in public.

Note: Ibn Hazim said that women should smell bad when they go out. The better opinion is to smell normal because it would be harming them to smell bad.

(Some people say that all mixing is allowed as a general rule and that the evidence restrict this as opposed to the general rule being prohibited! However, this opinion is weak, held by a minority and is not supposed by the evidence)

Ikhtilaat is the Ijtimaa of men and women in a situation of freemixing without segregation. Usually in Ikhtilaat people do not sit however both, including Khalwa are not allowed i.e. both are haram, not even segregated mixing is allowed. However, if the people are not present e.g. whilst in conversation on the telephone, it would not be called freemixing.

Islam forbids women to show any of their awrah (i.e. beauty which should be covered) to any foreign men.

Islam obliges both to lower their gaze and obliges women to have maharem to travel with. In salat the women's line should be behind the men's. Islam does not allow a women's testimony in the penal code. In other words, Allah (saw) made men and women two separate entities. Men never freemixing with women in the time of the Messenger Muhammad (saw) and this is very general in all spheres of life and the evidences are beyond dispute or different of opinions since they are based on ayat and hadith muttawatir.

As far as Khalwa is concerned the only permits to be found relate to life and death situations e.g. during fire. If you are alone in e.g. an office and a women enters to give you something, this is okay so long as the door is open and people passing by can see you, because Khalwa is in an enclosed setting where no one can see you. If the door is open and no one can see you the door makes no difference.

We list below some of the permits for Ikhtilaa and Ijtima, (Note that permit does not mean permission, hence one must observe the permit properly e.g. with Adabhi i.e. the correct Islamic etiquette, otherwise the permit will be exceeded leading to sin.)

- 1) Hajj through the prophets consent.
- 2) Trade/hiring this includes markets/shops, buying, selling, hiring, borrowing and lending (therefore going to libraries is allowed but not to sit around, just to borrow and leave).

Note: this is a permit and if a group of women are together the permit does not extend to passing between them. Tirmizi narrated that the Messenger Muhammad (saw) traded with women, and Abu Bakr saw the Messenger Muhammad (saw) trade with a woman.

- 3) Work if the work is haram, it is haram to mix but if the nature of the work means that one needs to mix then there is a permit. Work involves looking for work e.g. signing on, cultivation and manufacturing etc. Evidence for this is that the Messenger Muhammad (saw) permitted Zubayb Ibn Awwam's wife to work. She carried water both to men and women. The Messenger even offered his camel to assist her.
- 4) Travel -however one should avoid sitting or standing between women (for men or vice versa). In the Islamic state there will be complete segregation. At the time of Messenger Muhammad (saw) there were no buses, trains, etc, but travelling comes under general rules of permit. The Messenger Muhammad (saw) said for example, "Visit the mosque..." and this requires one to go out and mix. Hence, one generally needs to have somewhere to go in order to leave the house. And loitering in the streets was forbidden by

the Messenger Muhammad (saw).

- 5) Medicine - However to see ones awrah there must be an emergency and no alternative. Medicine will involve sickness requiring treatment not for example pregnancy. In jihad the women used to treat the men (note there is distinction between the roles i.e. Tamaayuz between men and women in Islam e.g. men fight and women treat the sick during jihad.)
- 6) Food in Surah Nur Allah (SWT) says, [EMQ 24:61]".. eat separately or eat together.." Therefore we can eat in restaurants, at weddings, etc. But leave once you have eaten and beware of socialization with the opposite sex and therefore exceeding the permit.
- 7) State arrest - this is a job of the state. The evidence for this is from Othman and Omar (ra) said, "O women, cover yourselves we are entering" and he entered a house to arrest someone with his army and there was Ijma' on this (i.e. no disagreement among the Sahabah.)
- 8) Engagement/marriage - A man came to the Messenger Muhammad (saw) to ask about marrying a girl and the prophet (saw) told him to go and see her i.e. see her in her fathers presence and therefore mixing is allowed.

Marriage - if you want to marry this will involve entering a contract through offer and acceptance in the presence of witnesses, etc and therefore may involve mixing.

- 9) Studying/teaching Islam there is much evidence to permit these e.g. from Umm Salamah and Aisha (ra) who used to do da'wa to men and women. Umm Darda was a judge who gave talks publicly. The Messenger Muhammad (saw) used to address men and women in the mosque in medina (men in front and women behind) and in public and private places. However, a women needs her mahrum to be present to study or teach Islam in a private place.

Note: studying at University/schools, to mix, whether segregated or not, whether you sit at the front or at the back is the same, i.e. prohibited unless you are learning Islam (which can include the arabic language) i.e. the teacher is giving the Islamic angle on the subject being taught. The Messenger Muhammad (saw) taught science but from the Islamic angle. He talked about the sun and the moon as 'Ayatollah' i.e. signs of the creator which have a specific, set path, and which do not eclipse for the death or birth of anyone.

Otherwise in order to attend a university or school, one must give the Islamic angle i.e. do da'wa, to justify his/her presence or else they cannot be there. In other words if you are not learning or teaching Islam you must give da'wa which must be verbal.

The above is not an exhausting list. Other permits to allow mixing in specified situations do exist e.g. to visit the sick etc. But remember that Allah (SWT) decrees that whoever legislates e.g. makes lawful what is prohibited, declares Kufr Buwah (explicit disbelief) and remember that reality will never become evidence e.g. to say "mortgage is allowed because of the law of the land" or 'mixing is allowed because we need to be educated,'

is invalid.

The Messenger Muhammad (saw) said, "There will come a day when people who want to stick to their Deen will feel they have fire in their hands." Although it is narrated that the Abyssinian children came and played and Aisha (ra) watched them and hence mixing for children is allowed there is no evidence to allow it for adults without a permit.

There is a consensus of the Sahabah on the issue of freemixing (whether concerning a),b),or c) above) being prohibited (i.e Haram) as a General Rule. The Sahabah, Tabien and TabiTabien have no difference of opinion concerning freemixing and the classical scholars, Imams Hanafi, Shafi, Hanbali, and Imam Malik agree on this issue as do their students. In another words it is a matter known by necessity in Islam.

Muslims in a Kufr society will face hardship in implementing Islam and may be tempted to compromise and to take the easy option however they should hold the fire in their hands and make Islam practical in their lives. We are forbidden from changing the ahkam to suit our situation and no concept of accepting the so called 'lesser sin' exists.

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