



Fiqh of Marriage: Class Seven

الحمد لله و الصلاة و السلام على رسول الله و بعد:

We left off last time with the Khutbah that is made at the time of marriage, and that from the habit of the Prophet was to read three verses, from them the first verse from Surah an-Nisaa.

This Surah reminds the bride and groom to be about their shared roots, that they are each descendents of Adam, and after many centuries and many branches, they have come to meet.

Also, Allah Most High reminds us that that Adam and his wife were created from a single Nafs, and that their origin is one.

And Allah reminds us to keep our times of kinship (ulul-arhaam), they all those we do not inherit from us, and that through marriage we will have new ties of kinship developing.

Allah Most High then closes the verse by saying, Inna Allaha kaana 'alaikum raqeebah.

Allah was speaking about the shared origin of humanity, but how is this related to Allah being ever watchful? This is not like business where one must not cheat. It is more important.

He is going to give you his daughter, and you are taking her by the word of Allah, then you and her will be under the shade of a single roof, and no one will know what happens between you and her except Allah.

If you wrong her, or make accusations against her, belittle her, or honor her, are generous to her, make her happy.

And her likewise, she honors you, and makes you happy, and is loyal, or she betrays you, and accuses you, Allah is the Raqeeb. He is watching.

The first and foremost overseer over your marriage is Allah, for He knows the unseen, and He sees what takes places when no one else is watching.

For this reason, you heard of the complaint of the woman who was left alone by her husband during the time of Umar, and she said: if it was not for Allah, I would not be able to keep patience.

And for this reason, at the time of dispute, it is not right for either of the spouses to falsely accuse the other of wrongdoing in order to strengthen his own position.

Nor should there be factors of bad companionship between the spouses, so that one seeks to take revenge on the other.

This is an important reminder, that Allah is ever watchful over us. And if Allah is the watcher, and He is the One who will hold us to account, then we must always bear him in mind.

No matter how many clever accusations we make, or falsify words, for it will never be hidden from Allah.

And if the judge or the mediator believes your side, it will not escape Allah's judgment.

Like Umar bin Abdul Aziz used to say, there are some court cases that will not be settled except in front of Allah Most High.

Thus, it is from the Sunnah to remind the two parties marrying about Allah's Ever Watchfulness over them.

And if we return to the advice of the Prophet, "Seize the righteous woman." If we did this, then she will not use evil means against her husband, or take help from the Shaitan against him.

Then the Prophet read the verse: "Ya ayuhaladheena amano taquallaha wa quloo qawlan sadeeda."

In this verse, Allah is now directing the address to the believers (amanoo), saying: Speak straight and truthful words. You must speak truth since Allah knows the truthful and the liar, and do not make false accusations.

Allah is saying, speak truthfully between you and your spouse, and between others. Have Taqwa.

And it is as if Allah is saying after the earlier verse, you have now joined together in marriage, and Allah is overseeing you now, and what is left is to be truthful to one another, and loyal, trust one another.

"Yusslih lakum 'amalakum wa yaghfirlakum dhunubakum"

As if even if there were some ill-feelings between the husband and the wife, and some difference, if he has taqwa of Allah, and she has taqwa of Allah, Allah will rectify their affairs.

“Wa man yuti allaha wa rasoolahu fa qad faaza fawzan ‘adheema”

Speak the truth, and obey Allah, obey Allah in speech, and in all things He has commanded you, and prohibited you from

You see, this is the recipe for true success in marriage.

And the third verse: “ya ayuhal adheena amanoo taqulallah haqqa tuqaatih, wa la tamootunna illa wa antum muslimoon.”

This is more broad advice: Fear Allah, until you reach the time of your death. Fear Him as He should be feared. This is a goal we cannot truly reach, but if we aim for the peak, and we reach half way, we have achieved much goodness.

“And do not die except in the state of Islam.” This is the best ending between two spouses, that they continue to live truthfully on the ‘qawl as sadeed’ and on the taqwa of Allah, and on all of the guidance that has been mentioned, until death.

And do not die, except as Muslims, standing upright, and submitting to what Allah has guided you towards.

The Hadith:

830. Narrated Jabir: Allah's Messenger said, "When one of you proposes (marriage) to a woman, if he is able to look at what will induce him to marry her, he should do so."

Reported by Ahmad and Abu Dawud and al-Hakim declared it to be Saheeh.

831. Muslim reported from Abu Huraira: The Prophet asked a man who had intended to marry a woman, "Have you looked at her?" He replied, "No." He said, "Go and look at her."

The Explanation:

The Fuqahaa place the hadith of Jaber and others like it under the subject heading: "Looking at the woman one is proposing to." This is at the time of making proposal, when one wants to marry.

The discourse on this subject relates to: when one can look at the woman, and how, and to what extent.

Imam Ahmed holds that looking at the fiancée should be done before announcing the proposal of marriage, since if he announces his intention of marriage towards her, and she inclines towards him, and he looks at her, but he is not pleased and he leaves her, this would result in emotional harm to her.

Why did he leave her? She was not appropriate for him. This would hurt the woman.

However, if he looks before the time of proposal, and he finds acceptance, and easiness with what he sees, then alhamdulillah.

And if he sees her and he does not find interest, he can leave the proposal and no harm will be done to anyone.

Thus Imam Ahmed says, regarding the hadith of the Prophet, "A woman is married for four things...so marry the woman of religion," that one should look for all the qualities he desires in a woman, then he should examine her religion, and if it is good, he marries her for her religion. And if her religion is not good, he leaves her, based on her religion.

He should not ask about her religion first, then when he finds her, he asks about her akhlaaq and other qualities, and if it is not appealing to him, he leaves her because of these other qualities, and not her religion.

Here, the Jumhoor of the Ulema agree that what is meant by the Prophet when he said, "When one of you proposes marriage," is when he intends the proposal, and not at the time of the actual proposal. If he wishes to marry a certain woman, he should look.

And we shall examine the hadith regarding what is to be looked from the woman, and when, and how.

This is similar to the advice of the Prophet, when he said, "If one of you enters the bathroom he should say..." Is this after entering the bathroom, or before?

And likewise Allah says, "Idha qumtum illa as salaati faghsiloo," do we wash our faces and arms after we have stood up for prayer? No, when we intend to come to the masjid to pray.

And this look at the woman, this as an exception to the verse of Allah, “Qul lil mumineena yaghoodoo min absaarihim.” Since all of a marriageable woman, from her hair to her fingernails, is Awra. And likewise, she should not do what will attract others to look at her.

Allah says, “Lower the gaze.” And the Prophet says, “Look.”

Why? Since the looking her is not with desire for fitnah, or for forbidden desire, rather it is a means for bringing about the benefit for both of the spouses.

Like it is mentioned in some narrations of this hadith, “finnahu ahraa an yu’dama bainakumaa.” This means, it will be more compatible between you, and rectified for your affairs. If he sees her before the marriage day, he will know what he is about to embark upon.

We will be mentally prepared for marriage, and his intention will be fixed on something known, and not leave in dreams and imagination, in the world of poetry and love stories.

If he sees her, and knows what he is getting in to, he will not be surprised after marriage.

But there is imagined beauty, that turns out to be the opposite. What will happen to such a person?

Now, we come to the question, how should this looking at the fiancée take place?

The Prophet said, “If you propose marriage to a woman, if he is able to look at that from her (minhaa) that will induce him to marriage...”

“if he is able” What he is able to see, should it be secret or must it be with the agreement of the family, without any khalwa with her?

There is a hadith also narrated by Jaber: “He said, I wanted to propose to a girl, and I used to hide to have a look at her.”

If this look was supposed to be in the presence of her mother and father, the Prophet would not have said, “man istataa’ah, whoever is able”, he would have said, go have a look.

But he said, make an effort, without her knowing, and this is the opinion of the Jumhoor.

Imam Malik, on the other hand said no, he must take her permission, and perhaps in today’s world, the Jumhoor’s opinion is more appropriate.

Why? Since if he says, I want to see her. When? On such and such a day at such and such a time. What will she do at that time?

She will get out her makeup and everything that will make her look beautiful, and he will not be able to see her the way she is naturally.

For this reason, the opinion of the Jumhoor is better in order to see her in her natural state.

Or, if he tells the family, I am coming for a surprise visit. Since the looking is to know the reality.

Shaikh Atiya Muhammad Salam says, a person who is impressed with a woman by the way she looks with her makeup is being fooled, in all honesty.

If she wants to impress her suitor, she can do that with her akhlaaq, with her kindness, and behavior. Perhaps she will overdue the makeup, and it will have the opposite effect.

“If he can see from her (min haa).”

What does ‘minhaa’ mean, from her, some of her. What is it that he is allowed to see?

Some Ulema said, “minhaa” refers to what normally appears from a woman, which is her hands and face.

The face gives a complete impression, if she is beautiful he will see her beauty, or ugly he will see it. If he sees the face, he sees a complete picture. But what remains is size, thin or heavy, etc.

The hands give an impression of the build, if the hands are thick, he can get an impression, and if they are thin and the veins are showing, and the fingers are thin, he can get an impression.

From the face, he sees beauty, and from the hands he sees body type.

And different people desire different things in their spouse, some desire a wife who is thin, or otherwise.

In all cases, beauty is relative, and the man will look.

However, there are different opinions amongst the Ulema on this issue.

Malik and Shafii and Abu Hanifa, they say the face and hands only, since they show what is needed.

Imam Ahmed, he said what normally appears from her. The way she appears in her home, with her family. So he allows also some of her feet and calf.

It is narrated that Umar proposed to Ali's daughter, and Ali sent her to him so that he could see her, and said, if she impresses you, she is your wife.

So Ali sent her with some dates, and Umar looked at her calf, and she said, if you were not the Amir of the believers, I would have slapped you. But he was only looking at what normally appears.

This is the proof that Imam Ahmed uses for his position.

Ibn Hazm expanded this to say that it is allowed to see anything from his potential spouse, but this does not follow the literal understanding of the word (minhaa).

But it is said that even the Ulema of the dhahiri school would not follow this opinion with their own daughters!

In any case, the opinion of the Jumhoor is the safest, which is that it is only allowed to see the hands and the face, since this closes the door to those who might attempt to have a look at women without the real intention of seeking marriage.

In Summary, the Shariah commands one to look at his or her fiancée, since this looking does not lead to fitnah, but rather more compatibility and happiness in one's marriage.

And Allah knows best.

End of Class Seven.