

The Islamic Guide Lines Of Gender Interaction In Medical Profession

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No	Topic	P. No
1.	Policy statement	1
2.	Foreword	3
3.	Foreword	4
4.	Prologue	7
5.	About the book	9
6.	Preface	14
7.	Acknowledgement	18
Chapter – 1		
8.	Introduction	19
9.	The evidence from available data	21
Chapter – 2		
10.	Higher intents of Shariaah	25
11.	The unique status of women in Islam:	25
Chapter – 3		
12.	Some important terminologies/definitions:	29
13.	Haya (Modesty)	29
14.	Lowering the gaze	30
15.	Hijab (حجاب)	30
16.	Khimar:(خمار)	31
17.	Niqab (نقاب)	31
18.	Awra or (عورة) [Satar(ستر)]	31
19.	Mahram (محرم) and non-Mahram (غير محرم)	32
Chapter – 4		
20.	The Principles and Guidelines for Gender Interaction in Medical Education/Health Care	33
21.	Quranic Ayah and Ahadith of the Prophet (ﷺ) relevant to gender interaction:	34
22.	Quranic Ayah	34
23.	Ahadith	36
24.	The seclusion of males and females is forbidden	36
25.	Touching of a non-mahram female is prohibited	37
26.	Undisputed principles	37
Chapter – 5		
27.	Etiquettes for dress code	38

28.	Etiquettes of medical examination	40
29.	The etiquettes of conversation with opposite gender:	41
30.	Instructions/Commandments regarding “Satar” and Hijab	42
31.	Men looking at or examining women	42
32.	Women looking at or examining men	42
33.	Men looking at or examining men	43
34.	Women looking at women	43
35.	The etiquettes of traveling, workshops, conferences, and educational meetings:	43
36.	The ways and means of minimizing interaction /intermixing:	44
37.	Hospitals and health care facilities	44
38.	Medical schools	45
Chapter – 6		
39.	Questions and Answers about gender interaction in the field of medicine	47
40.	A: Matters related to the Medical educational	47
41.	B. Matters related to Hospitals and Health care	47
42.	A. Issues and problems of students and teachers in co-education institutions	48
43.	Traveling for education purposes	52
44.	Gender interaction in conferences, meetings, and other social gatherings	59
45.	Selecting a specialty	61
46.	Examination of patients in hospitals and mutual interaction of staff	63
47.	Interaction in Operation Theatre (OT)	79
48.	Use of social media and online technology for communicating with patients	82

Chapter – 7

49.	The principles (legal maxims) related to “making medical decisions including gender interaction”. (Annexure – 1)	84
50.	Introduction	84
51.	Sanctity of human life	85
52.	1 - The Islamic concept of human actions:	87
53.	2 - The concept of permissible and forbidden (Halal and Haram)	87
54.	3 - Customs: (عرف)	90
55.	4 – Blocking Pretenses (سدّ ذرائع)	92
56.	Legal Maxims related to blocking pretenses	94
57.	5-Necessity and Mitigation	95
58.	Evidence from Quran	96
59.	Evidence from Sunnah	97
60.	The limits of leniency and mitigation	98
61.	Important consideration	99
62.	Necessity (Dharurah (ضروره)	99
63.	Hardship/Harm	99
64.	Classification of Hardship	100
65.	Severe Harm	100
66.	Moderate Harm	100
67.	Minor Harm	101
68.	Impact of Harm on the Community	102
69.	Legal Maxims related to necessity and Mitigation	103
70.	Basic Rules Governing Mitigation:	107
71.	Annexure – 2	110
72.	Journey of Women without a Mehram (Annexure – 3)	111
73.	First opinion: It is not permissible for women to travel without a mahram	111
74.	Second opinion: Permissibility for women to travel without a mahram in specific circumstances	112

75.	What is The Ruling Regarding a Women Going to Hajj without a Mahram	115
76.	There are two pieces of evidence that a woman can travel without a mahram as long as she is safe and accompanied by trusted people	118
77.	Here, we want to add two important rules	118
78.	Names of Participants of the meeting of Shariaah Advisory Board and PIMA Fiqhi Board on gender interaction in Medical fields: (Annexure – 4)	120
79.	References	122

**Dedicated
To
My Wife and Daughters**

Policy statement

To provide a respectful and safe working environment, equal opportunities of education and health care to students and health professionals, and free options to the patient for choosing a healthcare provider inspired and guided by the faith values of Islam.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ
أَتْقَىٰكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ (49:13)

O mankind! We created you from a single (pair) of a male and a female and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things). (Yousaf Ali)

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ ۗ يَعِظُكُمْ
لَعَلَّكُمْ تَذَكَّرُونَ (16-90)

Surely Allah enjoins justice, kindness, and the doing of good, to kith and kin, and forbids all that is shameful, evil, and oppressive. He exhorts you so that you may be mindful. (Tarjuma Tafheem)

إِنَّ الْمُسْلِمِينَ وَالْمُسْلِمَاتِ وَالْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ وَالْقَنَاتِ وَالْقَنَاتِ وَالصَّادِقِينَ وَالصَّادِقَاتِ وَالصَّابِرِينَ
وَالصَّابِرَاتِ وَالْخَشِيعِينَ وَالْخَشِيعَاتِ وَالْمُتَصَدِّقِينَ وَالْمُتَصَدِّقَاتِ وَالصَّالِحِينَ وَالصَّالِحَاتِ وَالْحَفِظِينَ دُرُوجَهُمْ
وَالْحَفِظَاتِ وَالذَّاكِرِينَ اللَّهَ كَثِيرًا وَالذَّاكِرَاتِ ۗ أَعَدَّ اللَّهُ لَهُمْ مَغْفِرَةً وَأَجْرًا عَظِيمًا (33:35)

Gender Interaction in Medical Profession

Lo! men who surrender unto Allah, and women who surrender, and men who believe and women who believe, and men who obey and women who obey, and men who speak the truth and women who speak the truth, and men who persevere (in righteousness) and women who persevere, and humble men and humble women, and men who give alms and women who give alms, and men who fast and women who fast, and men who guard their modesty and women who guard (their modesty), and men who remember Allah much and women who remember - Allah hath prepared for them forgiveness and a vast reward. (Yousaf Ali)

Foreword

Dr. Asif Hirani

Ph.D. (Tafaseer and Uloom-ul-Qur'an

Al Madinah International University)

Imam and Resident Scholar

New Jersey, Connecticut, and Massachusetts

بِسْمِ اللَّهِ وَالْحَمْدُ لِلَّهِ وَالصَّلَاةُ وَالسَّلَامُ عَلَى رَسُولِ اللَّهِ، أَمَا بَعْدُ!

I am delighted to read the manuscript of Dr. Najib Ul Haq; written on the guidelines on men-women interactions in the field of medicine.

Even though a great number of medical advancements were produced during the golden age of the Muslims, recently most of the modern medical advancements have been made by the West. A central tenet to their advancements is the idea of separating church & state, which separates medical technology, advancements, education, academia, and even doctor-patient relationships from the idea of spirituality and religion. Hence, we see that despite their advancements, they are trying to reinvent the wheel when it comes to their own men-women interaction guidelines, which are either too relaxed or too restrictive. As Muslims, we are not surprised, because we know that if someone does not have the light of moderation from Allah, then how will he find light from the darkness of the secular world!

وَمَنْ لَمْ يَجْعَلِ اللَّهُ لَهُ نُورًا فَمَا لَهُ مِنْ نُورٍ

I hope that this book will be published and distributed to every medical school and hospital, and become part of the global ethical guidelines implemented in medicine, not only for Muslims but even for non-Muslims, as Western society seems to be craving something like this!

Foreword

Professor Dr Zia Ul Haq,

PhD Public Health (Glasgow, UK), Post Doc (Keel, UK)

Vice Chancellor Khyber Medical University

Professor & Dean Faculty of Public Health KMU

Social Visiting Professor, Institute of Health & Well-being,

University of Glasgow, UK

Fellow Faculty of Public Health Royal Colleges of UK (Lond, Edin & Glasg)

Allah narrated in Qur'an "O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise (each other)). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things). 49:13

Men and women are inevitable for life and without them the existence of life on earth is impossible. On the basis of this reality, an analogy is drawn between the two wheels of a vehicle on the one hand, and men and women on the other. Since Islam is a complete code of life; the teachings of Islam cover all the aspects of life according to the guidance provided by Allah Almighty. These teachings are a beacon for all humanity irrespective of language, gender, color or geography.

Although, man has made tremendous progress in the material field during the last few centuries, the misconceptions about the two-way relationship between society and men & women especially mutual relationship between men and women have created an enormous imbalance in the human society. The situation is even worse in medical profession.

Beyond any doubt, the field of medicine has made incredible advances in the welfare and wellbeing of humanity over the past century.

This is probably the only profession where men and women are not only equally involved as patients but it is the only profession in which the number of male and female employees and their overall ratio is much higher as compared to other fields. Therefore, mingling of male and female with each is not only unavoidable, but it has also become a social and professional necessity. To cater for this necessity, the rights and duties of the two classes have been clearly defined and their scope of action has also been clearly defined by the Prophet (peace and blessings of Allah be upon him). He said, “No man should be alone with a woman unless she has a mahram with her” (Saheeh Muslim).

There is no doubt that the Shariaah has set a clear yet distinguished framework for men and women to lead their lives in their own spectrum, but the deviation from this has resulted in a major upheaval which has social, economic and political consequences. In this regard, we have a clear example of Western societies where the search for a better lifestyle and the removal of women from the domestic responsibilities in the name of economic and social independence has ruined their social life and hence peace of mind. If this beaten-path is adopted, the results are expected to be the same. The so called women emancipation has divided women into two separate spheres of life and imposed unnatural and dual responsibilities on them resulting into the breakdown of family system.

The book in your hands is important from multiple perspectives. I congratulate Prof. Dr. Najib ul Haq on this work, which is a working guideline to medical practitioners (male & female) from Qur'an and Sunnah viewpoint. The content of the book is divided into multiple themes - each one is equally important. The most important and highly significant aspect for the reader is the reasoning in the light of the Qur'an and Hadith in an effective manner. It is evident that the author did not write this book merely to add to his list of credentials, rather he has shared his professional experience of almost five decades. No one can better understand the problems and difficulties that male and female in the medical profession undergo during their professional duties than the author himself.

In sum, this book provides practical guidance not only to practicing medical professionals but to the future medics both male and female, on how to interact with their opposite gender patients as well as amongst themselves within the limits of Shariaah.

Prologue

Dr Kouser Firdaus

Capt (Rtd) Former member Senate of Pakistan

Chair Person (ex) International Muslim Women Union

Director Tarbiah (ex) and Adviser to Vice Chancellor on project of
“Women well-being” Riphah International University, Islamabad.

The divine teachings provide permanent principles of guidance in all fields of life in context of time, place and culture. Unfortunately, the human being have forgotten this in the race of material gains and advancement in science and technology.

The book, a joint effort of scholars, is the most required need of time and is of utmost importance for all those who remained worried for seeking advice in day to day challenges while working in the medical field. It provides the Islamic guidelines for gender interaction on practical issues faced by healthcare professionals. It must be made part of curriculum in medical education as part of medical ethics. It should be used by hospitals /clinics regularly and the SOPs should be made part of routine practice of medics including medical teachers. It will be of great benefit for physical, psychological and moral wellbeing of individuals.

This book also addresses the prevailing paradigm of the “feminist movement” and “gender equality” in an impressive way a by high lighting unique status of women in Islam while explaining the principles of modesty through guidelines based on Qur’an and Ahadith. It elaborates the etiquettes gender interaction including dress code and conversation. The misconception that doctors are

“value neutral” has also been addressed by mentioning delicacy and subtlety of medical examination of patients of both gender by medical professionals of both genders. The solution for availing the benefits of workshops, conferences and international tours have not been left untouched and Shariaah guidance has been provided even on rare occasions of gender interaction.

This model when applied practically and subsequently supported by research in this area may also effectively address many issues of current world culture in an evidence based manner.

The section of Questions and answers at the end is a valuable addition to upgrade one comprehension in real case scenarios rather than mere assumptions. The invitation to share queries and problems makes this book a live forum rather than a book for bookshelf only.

May Allah make this initiative in the medical field by Prof: Najib Ul Haq a motivation for others to follow him and continue this sacred journey.

About the book

This book addresses the gender interaction from Islamic perspective in medical practice. Prof. Najib ul Haq is perhaps the most qualified person to write on the subject. He had medical training both in UK and Pakistan, experience and research in medicine and established medical institutes of highest quality. He worked closely with religious scholars in Islamic jurisprudence and studied the religious texts. This becomes obvious while reading the book when he cites the medical literature and religious sources with equal authority and ease.

He points out that ‘Discussing gender interaction in health care system from Islamic point view is considered an impractical proposition---. This is one of the most difficult issues in current world culture with many intricacies and practical problems.’ He then argues successfully that this issue needs to be addressed with evidence based approach.

Prof. Najib ul Haq proposes that ‘It must be clear at the outset that working of women is not a debatable issue in Islam but it is the safe and conducive working environment that Islam advocates for them’. He then goes on to put this in the light of evidence from Islamic perspective and also provides some practical solutions.

The book deals with important and sometimes contentious issues such as custom (*urf*) and mahram. I found the chapter on customs (*urf*) interesting and thought provoking. He mentions that local customs are given high importance in deciding many

issues in sharia. It is mentioned that the Islamic law pays much attention to the customs and enshrines it an institution worthy of regard in law. This helps to adapt to the local cultures thus allowing societies to retain their cultures still remaining within the boundaries of Shariaah.

The book also highlights the well-established Islamic principle that the public interest is given top priority in preventing harm. In a Hadith the Prophet forbid quackery, rather doing any clinical practice for which the person is not qualified and declared such person liable for damages. This should become the guiding principle of relationship between medical profession and society at large but is sadly neglected in many Muslim countries.

The book provides an outline of respectful and safe working environment, equal opportunities of education and health care to students and health carers, inspired and guided by the faith values of Islam. The book is product of a fruitful interaction between religious scholars and health care professionals. The book opens much needed debate in this area and I hope this will pave the way for further guidance and healthy debate on the subject.

Prof. Saeed Farooq

Professor of Psychiatry and Public Mental Health
Faculty of Medicine & Health Sciences, Keel University and,
Honorary Consultant Psychiatrist,
Midlands Partnership NHS Foundation Trust, UK

I feel honored and humbled to write few words on this book compiled by my inspiring teacher who has the passion to acquaint the medical fraternity with Islamic teachings compatible with the current times. This book is a priceless work for the guidance of Muslim medical profession particularly the youth who want to be Shariaah compliant in the professional life and the society in general. It is a need of the time to work in Islamic perspective, on practical issue faced by Muslim professional including such sensitive issues. This is the way forward for Muslims to succeed in this world and the hereafter.

May Allah bless him with good health and long healthy life to continue such endures. Ameen.

Prof Ejaz Hassan Khan Khattak

MBBS, M Phil, PhD, FRCP, FCPS.

Vice Chancellor

Gandhara University Peshawar

It would not be an exaggeration to say that this book is need of the day. The Muslim doctors want to know the permissible Islamic norms as is evident by the diverse practical question in the concerned chapter.

In the present era of many misconceptions about Islam, this book describes the righteous teachings on one hand while enlightens us about the concession given by ALLAH on the other lifting many prohibitions Himself (Allah) to save human life.

References from Qura'n and Sunnah makes this book very reliable and makes it clear that Islamic jurisprudence is nurtured directly by Qura'n and Sunnah. It stimulates a desire in Muslim

doctors to know the subject in depth and practice their profession in line with Shariaah and not personal whims.

The reader finds it amazing to note that only observing simple law of modesty in letter and spirit, solves many queries and questions arising in medical profession. The book explains the forbidden practices in the medical profession while providing Shariaah compliant solutions in such practices.

I recommend the book to be part of not only postgraduate curriculum but also taught at undergraduate level. May Allah accept this commendable team effort.

Dr. Naveed Butt

President PIMA (Female)

Health care encompasses essential services ranging from community-based home care to institutional based high tech intensive care. Interaction between men and women is not only unavoidable; at times it becomes essential due to vast variety of expertise required to manage individual patient as well as the system. The situation becomes very challenging in a Muslim Society where free interaction between men and women has religious limitations. Saving life is the religious duty of Muslim professionals but at the same time observing religious limits is also mandatory. How to find the right path between the two is a question which keeps on haunting every Muslim health care worker on daily basis.

Other Muslim scholars have written on the issue of gender interaction but this book has a unique position because of its special focus on the Health Profession.

The contributors of this book have done a great job by producing excellent guideline based on religious teachings and the Ijtihad of the Islamic scholars, on how to practice as a Muslim professional while fulfilling the demands of modern health care system. It is a high-level scholarly work by a team of eminent religious and professional experts lead by Prof: Najib ul Haq. May Allah accept their efforts and grant them highest reward on the day of judgement.

Dr. Sajjad Ur Rahman

Prof: of Paediatrics & Consultant Neonatologist

Clinical Director of NICU

Director of Neonatal Fellowship Program

Maternity and Children's Hospital

Buraydeh, Al Qassim, Saudi Arabia

Preface

“It is a non-issue”, “time has changed – it’s a story of the past”, “It’s not practical” or “it’s a personal choice” are the common replies by many Muslim professionals when responding to the issue of gender interaction in medical profession. Discussing gender interaction in the health care system from an Islamic point of view is considered to be an impractical proposition in the contemporary world culture. It is one of the most difficult issues in current time with many intricacies and practical problems.

This issue needs to be addressed in the current era on scientific basis with an evidence-based approach and draw the conclusion and propose workable solutions. Accepting or rejecting any proposition without evidence and scientific analysis does not make sense. We need evidenced-based analysis on existing data and see the effects on the personal, physical, psychological and moral being of individuals and the communities. This book is an attempt to address the issue in these contexts and provide a solution based on divine guidance.

It must be clear at the outset that the working of women is not a debatable issue in Islam but it is the safe and conducive working environment that Islam advocates for them.

Islam is a complete code of life. It is not a religion in the traditional terms of performing some divine rituals in personal life. It provides guidance for all fields of life at all times. The main objective of Islam is to establish a society based on justice and moral foundations with harmony and peace for all, with success in this world and the hereafter. Both genders have their essential role

in developing such a society and none can be deprived of that. It is the religious obligation of all Muslim men and women to seek knowledge and perform their role in the development of society in line with the divine guidance and enhance their capabilities and expertise.

The last century has witnessed tremendous development in the fields of science and technology consequently reshaping the social and cultural life of individuals and communities. There is a marked drift from religion and God in the race of material gains. Man has forgotten the purpose of creation/life. Divine teachings have become irrelevant as the philosophy of life.

The unabated gender interaction has not only led to an ever-increasing sexual abuse in society but also other social and psychological/psychiatric issues. It is vital to revisit the prevailing situation and present balanced and practical solutions to facilitate both genders in performing their role with respect and compassion for each other. If men or women try to invent regulations for gender interaction, they are bound to have biases (gender, societal and culture, etc.) and limitations (time, intellect and inability to anticipate future issues, etc.). Thus, it is only possible to develop such regulations under the guidance of our Creator who is all-knowing and the social contract provided by Islam under the divine guidance can provide permanent guidelines for this purpose.

Unfortunately, the clear instructions of Islam on gender interaction are not only neglected but practically considered irrelevant in the current era. This is the result of the intellectual decline of the Muslims during the past two centuries. There is a dire

need that Muslim professionals work in conjunction with Islamic scholars to address issues and provide solutions and practical guidelines in their respective domains in line with basic teachings and principles of Islam.

In a Muslim society, modern education should be representative of Islamic culture concurrent with global needs. Women must be given full opportunities and a conducive environment to contribute to the development and progress of society. The institutions should devise strategies to address the needs of working women in various fields to facilitate them in further development.

This book is primarily based on the transliteration of the guidelines compiled consequently to the deliberation of scholars (Annexure 4) and subsequent relevant additions are made to try and facilitate those intending to seek guidance of Shariaah on this subject. It attempts to answer queries of health care providers on problems faced by them in their professional life while interacting with the opposite gender in hospitals and medical colleges. It is obviously not the final word on the subject and readers are encouraged to use this book as “guidelines” and ~~may~~ seek the opinion of Islamic scholars when considered necessary.

An important part of the book is the section of Question and Answers which have been compiled by health care workers and discussed by Islamic scholars and medical professionals after thorough deliberations. These provide workable solutions on various issues faced by medical professionals and staff working in the field.

The annexure on “The principles (Legal maxims) related to making medical decisions including gender interaction” would hopefully be of interest to readers. It provides the basis for making decisions in different situations of gender interactions.

It will be highly appreciated if readers could identify problems not included in this book or needing further clarity so that these may be addressed in the next edition in-sha-Allah.

﴿إِنْ أُرِيدُ إِلَّا الْإِصْلَاحَ مَا اسْتَطَعْتُ وَمَا تَوْفِيقِي إِلَّا بِاللَّهِ عَلَيْهِ تَوَكَّلْتُ وَإِلَيْهِ أُنِيبُ﴾

“I want to reform as much as I can and whatever I am trying is dependent of His blessing. I have all faith in Him and I return to Him for all my deeds”. 8:11

May Allah accept this endure and make it beneficial for all in this world and the hereafter.

Prof: Dr. Najib Ul Haq
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I am thankful to all members of “The Shariaah Advisory Board of Prime Foundation” and the “Tibbi Fiqhi Board” of Pakistan Islamic Medical Association (Annexure-4) who deliberated on this intricate subject and answered the questions of Health Care providers.

My special thanks to Mufti Muhammad Yahya of Jamiaah Usmania for his valuable contribution and providing references.

I thank Mr. Muhammad Akif and Mr. Sabih Ibn Saddique who did the initial English translation of the Urdu version of the proceedings of the meeting of Shariaah Advisory Board and Mr. Abdul-Latif Khan Gandapur Advisor Tarbiah PRIME Foundation to refine that further. I am also thankful to the faculty members and my daughters for proof reading and necessary correction.

Maulana Dr. Hashmat Ali Safi and Malik Niaz Director IT Peshawar Medical College, took personal interest in formatting and printing of the book and I am indebted to them.

May Allah accept the efforts of all those who contributed in any form to the book and may He reward them in this world and the Hereafter.

Chapter -I

Introduction

Everyone has the right to get health care and education in line with his/her faith. Cultural diversity even within the Muslim world may be important in defining the norms of gender interaction. It has become inevitable and practically impossible to avoid it in the prevailing circumstances especially in medical education and the health care system. Free gender intermixing is not considered abnormal, problematic or sinful by many health care providers including some practicing Muslims.

This book is an attempt to address issues of gender interaction in medical fields and provide a workable solution for health care workers, medical teachers, and students in line with Islamic Shariaah and create awareness in the medical fraternity. The standard Islamic code of “Customs” (*urf*), “Necessity and mitigation” (*Dharoorah and Rukhsah*), and “Blocking pretenses” (*saddu-az-zarai*) along with some others, may be an important consideration in gender interaction and have been briefly described and annexed to have some insight in making decisions in gender interaction and other medical issues in line with principles of Shariaah.

It may be important to describe the terms “interaction” and “intermixing” before delving into discussing the subject. In this book the term “**interaction**” means men and women studying and working together in the same institution due to professional requirements and communicate/interact with each other when necessary. Whereas **intermixing** is working together with unabated interaction like chit-chatting, eating, and spending time together

without any necessity or need or regard for the Islamic etiquettes. Intermixing is forbidden in Islam and not the subject of our discussion. We may sometimes find these terms being used interchangeably. This book primarily addresses the issues of interaction and not intermixing.

Many poor Muslim countries, like Pakistan, do not have adequate opportunities for general education and the problem is worse for specialized education. It is still more challenging for female education. There is a limited number of institutions of higher education and only a few impart education to females only. There are only a few “Female Only” medical schools and almost none such hospitals except for Obstetrics and Gynecology. In such a situation, females are obliged to be part of co-education institutions. If they don’t join co-education institutions it will have a long-term negative impact in many fields including the non-availability of female medical professionals. Male and female interaction is inevitable in such an institution.

Islam is compatible with natural human instincts and tendencies and is called the religion of *Fitrah* (nature). It delineates the rights and responsibilities of men and women and outlines the guiding principles for all fields of life. It indicates that life has a purpose defined by its Creator. It also considers all aspects of life as integrated single “unity” where actions in one aspect affect others. These effects and impacts on the overall physical wellbeing and moral fabric of the society should be looked at in light of the five higher intents of Shariaah i.e. protection of Deen (religion), life, intellect, progeny, and wealth. Islam does not look at any section/field of life in isolation but in conjunction with others.

The Islamic law describes ethical codes of gender interaction to preserve modesty, chastity, honor, and progeny in line with the objectives set by the Creator of human beings. It restricts the freewheeling in gender relationships that not only leads to degradation of the moral fabric of the society but also destroys the societies in many other ways. In fact, the free intermixing becomes the starting point of re-modeling the behavior that eventually leads to transforming a humanistic society into an animalistic one. Islam not only disapproves of free mixing of gender, rather considers it punishable in this world and the hereafter.

The evidence from available data:

The impact of free intermixing on societies may be evaluated by available scientific data. In 2015, The American Association of Universities (AAU) published a report¹ regarding sexual assault among university students in which more than 150,000 male and female students participated. According to this report, the total percentage of sexual harassment among university students was 40.7%; whereas among girls it was 61.9%. The reason was usually relationships among students (69.9%) while in 15.8% cases unfortunately the teachers were the reason for sexual harassment. 16.5% of students reported rape or other similar acts which excludes instances where one party made an attempt but wasn't able to successfully carry out this satanic act. These statistics also exclude those instances which took place with the mutual consent of both parties. One can imagine the extreme of immorality as the report states that instances of rape against handicapped female students were almost double (31.6%) as compared to healthy girls (18.4%). In rape cases, girls were either physically abused by force or intoxicated

before the actual act. In 50% of the instances, students saw people intoxicated with alcohol advancing towards girls to fulfill their evil desires; however, those present around did not bother to do anything about it.

The revised 433 pages survey report of the AAU study was issued in Jan 2020² and the president of American Universities writes at the start of the report;

“The disturbing news from this year’s survey is that sexual assault and misconduct remains far too prevalent among students at all levels of study. The good news - made possible by comparing data from the 21 schools that participated in both the 2015 and 2019 surveys – is that students are more knowledgeable than they were four years ago about what constitutes sexual assault and misconduct, how to report it, and what resources are available for victims”

Another famous university of America; MIT, had published earlier a similar survey on sexual assault in 2014 which also contained almost similar cases and statistics.³

In fact, it is not only the case in America, rather the same is true for all those countries where nudity and gender intermixing is common. In a recent report from UK of 153 different educational institutions that took part in the survey on sexual abuse, 62% admitted sexual violence and the figures raised to 70% for female respondents, 48% of which had experienced sexual assault, and 70% of respondents with a disability where 54% experienced sexual assault.⁴

The desire for sexual satisfaction has become more intense and non-ending in countries with unabated intermixing. Sexual evils like homosexuality, same-sex marriages, and sodomy have been legalized in many countries and have become the “norms” of these societies. However, nothing could quench the “non-quenching” thirst for sexual lust. A recent report compared the acceptance of homosexuality as “normal” sexual behavior in the last two decades. Data from 2002 and 2019 revealed increasing acceptability trends of homosexuality in UK (74% to 86%), Canada (69% to 85%), USA (54% to 69%), South Africa (33% to 54%), and Japan (54% to 68%). The report also suggests that acceptance of homosexuality is more in those not affiliated with religion, and religiosity relates to lower acceptance of this behavior and is particularly unacceptable by Muslims.⁵ However, despite all this, sexual lust cannot be fulfilled and victims of sexual abuse and bestiality end up in psychological and other illnesses.

Some proponents of gender intermixing argue that separating boys and girls only makes the yearning stronger eventually leading to abnormal sexual relations. The development of positive behavioral and mutual respect is another argument in favor of free intermixing. These are unsound arguments and free intermixing is rather akin to the fueling of fire as evidenced by the above studies.

Islam distinctly differentiates human behavior from animal behavior. It encourages societies to grow on strong moral foundations that satisfy all human needs. It does not leave the sexual desires untamed and keeps them under discipline with modesty and decency and identifies ways and means to satisfy sexual desires. It provides

moral codes, regulations, and measures that on one hand fulfill the sexual needs /satisfaction and on the other does not allow immorality.

Islam does not isolate women from society. It provides them full opportunity to participate in educational and social progress and development. Islamic scholars have laid down principles of gender interaction that provide solutions to problems through the process of *Ijtihad* (deductions based on intense logical reasoning) as required in different situations.

Islam describes certain limits and etiquettes for gender interaction and forbids free intermixing at work to prevent moral decline. It aims at establishing a civilized society based on strong moral foundations. These guidelines should be viewed from the same perspective.

The subject of gender interaction is one of the most complex and challenging issues in the current time, particularly with reference to the medical profession. However, it is of immense importance for Muslim workers to be familiar with the general guidelines of Islam about this and recognize the practical solutions.

We have also considered the dearth of human resources, the specific nature of the medical profession, and the lack of required infrastructure facilities while developing these guidelines.

The Prophet (ﷺ) narrated: “O Allah! Purify my heart from hypocrisy, my deeds from any kind of show off (*Ria*), my tongue from lying, and my eye from treachery. For indeed only You know the treachery of the eyes and what lays hidden in the hearts”.

(Al-Baihaqi)

May Allah guide us to the right path.

Chapter-2

Some relevant aspects of Shariaah are described below for a better understanding of the approach of Islam to this important issue.

Higher intents of Shariaah:

The five higher intents (objectives) of the Shariaah (مقاصد الشريعة) are the protection of deen (i.e. Islam), life, progeny, intellect and wealth. Three of these are directly related to the field of medicine. Any human action should fulfill at least one of these objectives. Life is precious in Islam. Qur'an says that saving one life (irrespective of faith) is as if saving of the whole humanity²². Prophet (ﷺ) has declared that sanctity of life and honor of a believer is of greater value than that of the Ka'bah.²³ All those steps that lead to protection of these intents including progeny, are the purposes of Shariaah. Anything that damages the safety of progeny and intellect (emotional and psychological inclusive) is against Shariaah. The health managers should gear their services to protect all higher intents of Shariaah. It is of vital importance that authorities and representative organizations of doctors take it seriously and facilitate the working of both genders in a conducive environment. The higher intents may be important landmark guiding principles in this regard.

The unique status of women in Islam:

Allah rewards people on the basis of performing good deeds and piety irrespective of gender. However, women enjoy privileged status and rewards in certain situations even when

performed less or differently than men. For example, Jihad is not obligatory for women⁶ and they are rewarded for praying at home equal to congregational prayers of men who must perform it in the mosque⁷ unless there is a legitimate reason. Similarly, men are required to take care of all financial responsibilities of the family while women are absolved from this. The wife has a right in her husband's earnings while the husband does not have it in his wife's earnings except with her consent and permission⁸.

The balance between the rights and responsibilities and the role of men and women should not be looked at in isolation but the overall perspective of the development of a peaceful society.

Family (family system) is the fundamental unit of an Islamic society. In pursuit of establishing a society for the welfare of the whole of mankind, Islam has clearly defined the role and responsibilities of both genders to safeguard the "institution" of the family. Islam describes the rights and responsibilities of wife and husband in a manner that provides peace of mind and a comfortable environment enabling them to concentrate on the brought up of children.

Upbringing of children is the primary responsibility of a woman (mother). The mother is excused from financial and other responsibilities to fully devote herself to upbringing the children. Man (father) is also responsible to play his role. It is the obligatory responsibility of the husband to provide financial resources and other required facilities to his wife and the children. The wife has been given the financial autonomy and empowerment to use these resources for the family.⁹

It is the Islamic obligation [termed as *fardh-i-kifayah* - communal responsibility] of women to develop expertise in the different fields of education as per requirements of the society. Both genders should be enabled to work in a comfortable, socially acceptable, and conducive environment to fulfill the needs of their respective requirements in all fields of life particularly education, medicine, nursing, and other similar fields.¹⁰

The reasons and wisdom of assigning optional and obligatory responsibilities to men and women are possibly based on their physical and emotional differences. For example, when compared to men, there are anatomical differences in the size of heart¹¹, length of the bones, height, weight, number of neurons in the brain and strength of muscles, etc.^{12,13} The ability of women to tolerate pain and risk consciousness also differs from men¹⁴. The difference starts right at birth as shown by medical research¹⁵. The psychological and emotional behavior of women is also different from men which may partly be due to the differences in hormones. However, the difference in structure does not mean in any way that women are inferior to men. The traits of mercy and perseverance are generally more in women than men which may have been bestowed to them as part of their requirement of raising children. They are usually more loyal, sincere, and sympathetic, sophisticated, and love fashion and style.

Islam gives women a unique and prominent status. The Prophet Muhammad (ﷺ) and his honorable companions (may Allah be pleased with them) used to ask and accept suggestions of women on various important issues. For example, the Prophet (ﷺ) followed the advice of Umme Salmah to abandon Ahram (a special dress for Hajj and Umrah) in a critical situation during the Treaty of

Hudaybiyyah¹⁶. Hazrat Umar (RA) used to consult Ayesha (RA) regularly in different matters.¹⁷

During the era of the Prophet Muhammad (ﷺ) and also during the time of the rightly guided caliphs (may Allah be pleased with them), the women used to work in the fields of agriculture, trade, manufacturing, tailoring, and medicine. Islam does not prohibit women from earnings besides the domestic responsibilities¹⁸ however, unlike men these are not their obligatory responsibilities.

Chapter-3

Some important terminologies/definitions:

Islam provides specific injunctions and guidelines of gender interaction to protect and fulfill the emotional needs of human beings by minimizing the risk of going astray and contribute positively to self and societal development. To achieve this objective Islam has defined certain actions / terms that are specific to Islamic culture and shall be described below;

Haya (Modesty)

Haya is a specific term that is usually translated as shyness, decency or modesty, etc. in the English language. In Islamic perspective, it represents not only these personal traits but also a whole atmosphere that would promote a virtuous, safe and pleasant state for interaction and curb the chances of immorality, obscenity, and sins. It applies both to men and women. It includes maintaining honor, humility, self-respect, modesty, and exercise certain inhibitions to maintain an environment of dignity and modesty. It includes all etiquettes of gender interaction (like dress code, conversation, and examination, etc.) mentioned in this book. It encourages Muslims to avoid anything abominable and is one of the most important characters for gender interaction in Islam.

Haya is the central virtue of Islam and its cultural values and is considered an important part of faith (*Iman*). Muslims are required to practice it at all times. The Prophetic has greatly emphasized this and a few of his sayings (*Ahadith*) are given below;

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّ لِكُلِّ دِينٍ خُلُقًا وَإِنَّ خُلُقَ الْإِسْلَامِ الْحَيَاءُ

Every religion has some innate distinct character and moral value and the innate character (value) of Islam is Haya¹⁹

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّ مِمَّا أَدْرَكَ النَّاسُ مِنْ كَلَامِ الْمُبَوَّاتِ الْأُولَى إِذَا لَمْ تَسْتَحْيِ فَاصْتَعْمِ مَا شِئْتَ

One of the first messages of the Prophet-hood to the people is to observe Haya and if you cannot do that then it's up to you what (else) do you want to do²⁰

قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: الْحَيَاءُ لَا يَأْتِي إِلَّا بِخَيْرٍ

Haya does not bring anything except goodness²¹

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: الْحَيَاءُ خَيْرٌ كُلُّهُ

Haya is nothing but goodness²²

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْحَيَاءُ مِنَ الْإِيمَانِ

Haya is (like) half of the faith²³

Lowering the gaze (غض البصر):

The linguistic meaning of (غض البصر) is lowering the gaze. It does not mean just physically looking down to avoid looking at *non-mahram*. It includes restraining the eye from all types of evil glances that could be a source of sinful temptations. It also includes care of the body language. In fact, it symbolizes a system of modesty and respect for females.

Hijab (حجاب):

Linguistically, it means 'covering or concealing.' A hijab commonly refers to the cloth used for covering the head. The word Hijab is used by the jurist in linguistic meaning; i.e. concealing. It is the covering of a woman which is used outside her home while interacting with men and strangers. The literal meaning is using a piece of cloth by a woman in such a way that her whole body is covered. A shawl, 'abaya (long dress), burqa

(long overall that also covers the head) or any other dress covering the body may be used as Hijab. The rulings regarding Hijab are mentioned in Surah Ahzaab in the Holy Qur'an.

Khimar (خمار):²⁴

It is that piece of cloth that covers the head, both the temples, and the neck. Unlike Hijab (that covers the whole body), Khimar is smaller piece of cloth covering the described parts. The “scarf” used by women to cover these parts is Khimar.

Niqab (نقاب):

It refers to a piece of cloth used by a woman to cover her face.²⁵

Awra or (عورة) [Satar (ستر)]:

‘Awrah or Satar refers to the obligatory covering of some parts of the body. The satar can only be revealed in front of one’s life partner or in front of a doctor at times of necessity. The satar of a man is from the navel to the knees and the satar of a woman is the whole body excluding the hands and face. However, the satar of a woman from a woman is from the navel to the knees. Satar is from those people who have been defined as ‘mahram’ in Islamic law. All the commandments regarding satar have been mentioned in the Qur'an (Surah Al-Nur) and the traditions of the Prophet (ﷺ). Based on gender and age, the limits and extent of Awrah may differ.²⁶

***Mahram* (محرم) and non-Mahram (غير محرم):**

Shariaah law allows marriage with certain persons and forbids with others. A non-marriageable person is called *Mahram* and the marriageable non-mahram. (Annexure 2)

Chapter-4

The Principles and Guidelines for Gender Interaction in Medical Education / Health Care

Islam encourages establishing and developing separate institutions of education and health care for males and females. However, it permits working of both genders together based on necessity e.g., non-availability of separate institutions, lack of specialist and same-gender staff, etc. The principle of Fiqh “Hardships (necessity) begets mitigation” governs this concession, especially when it comes to saving human life. The Islamic scholars have provided verdicts in light of Shariaah and allowed such concessions where necessary. Allah says “Those who fear of Allah are Ulama (those with wisdom)”²⁷ (Surah Fatir:28). This “fear” and the “belief of accountability” on the Day of resurrection, ensure that the concessions are used appropriately without any ulterior motives.

It is the religious obligation of Muslim professionals and managers to plan for the development of human resource of both genders for addressing such issues on a long-term basis and make it possible to establish separate educational institutions and health care facilities. It is also imperative that till the establishment of such institutions, they should try and create awareness on such issues and organize training for the staff and students in coordination with religious scholars on working together in joint institutions.

Keeping in view the special circumstances and requirements the female should be provided with a conducive working environment including day-care facilities, relaxation in duty hours, relaxation rooms, and additional leaves during the service.

The book is an attempt to provide guiding principles based on Quran and Sunnah. Some relevant verses of Quran and narrations of the Prophet Muhammad (ﷺ) are given below which may also be the basis of “Ijtihad” in many cases of Islamic jurisprudence (Fiqh).

Quranic Ayah and Ahadith of the Prophet (ﷺ) relevant to gender interaction:

Translation of the verses is presented here and detailed exegesis can be studied in the relevant Tafseer of Quran. A detailed commentary on some of these Ayah and Ahadith is described in two very useful books on the subject.^{28/29} May Allah bless these authors for their admirable efforts.

Quranic Ayah:

There are many direct and indirect verses but few are quoted below;

يٰۤاَيُّهَا اٰدَمُ قَدْ اَنْزَلْنَا عَلَيْكَ لِبَاسًا يُّوَارِي سَوْآتِكَ وَيُرِيهَا وَرِيۤسًا وَلِبَاسٌ مِّنَ التَّقْوٰى ۗ ذٰلِكَ خَيْرٌۭ ذٰلِكَ مِّنۡ اٰيَةِ اللّٰهِ لَعَلَّهُمْ يَتَذَكَّرُوۡنَ (26) يٰۤاَيُّهَا اٰدَمُ لَا يَفْتِنَنَّكَ الشَّيْطٰنُ كَمَا اَخْرَجَ اٰبَوَيْكَ مِّنَ الْجَنَّةِ يَنْزِعُ عَنْهُمَا لِبَاسَهُمَا لِيُرِيَهُمَا سَوْآتِهِمَا ۗ اِنَّهٗ يَرِيۡكُمْ هُوَ وَقَبِيۡلُهٗ مِنْ حَيْثُ لَا تَرَوْنَهُمْ اِنَّا جَعَلْنَا الشَّيْطٰنَ اَوْلِيَّاءَ لِلَّذِيۡنَ لَا يُؤْمِنُوۡنَ -

O’ Children of Adam! Indeed, We have sent down to you a garment which covers your shame and provides protection and adornment. But the finest of all is the garment of piety. That is one of the signs of Allah so that they may take heed (26). Children of Adam! Let not Satan deceive you in the manner he deceived your parents out of Paradise, pulling off from them their clothing to reveal to them their shame. He and his host surely see you from whence you do not see them. We have made Satans the guardians of those who do not believe.³⁰

لِنِسَاءِ النَّبِيِّ لَسْتُمْ كَأَحَدٍ مِّنَ النِّسَاءِ إِنِ اتَّقَيْتُنَّ فَلَا تَخْضَعْنَ بِالْقَوْلِ فَيَطْمَعَ الَّذِي فِي قَلْبِهِ مَرَضٌ وَقُلْنَ قَوْلًا مَّعْرُوفًا³² وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَىٰ وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ وَأَطِعْنَ اللَّهَ وَرَسُولَهُ إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا-

O wives of the Prophet, you are not like anyone among women. If you fear Allah, then do not be soft in speech [to men], lest he in whose heart is disease should covet, but speak with appropriate speech. (32) And abide in your houses and do not display yourselves as [was] the display of the former times of ignorance. And establish prayer and give Zakah and obey Allah and His Messenger. Allah intends only to remove from you the impurity [of sin], O people of the [Prophet's] household, and to purify you with [extensive] purification.³¹

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَ لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ (30) قُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَائِ بُعُولَتِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ أَبْنَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّبَاعِيْنَ غَيْرِ أُولِي الْأَرْبَابَةِ مِنَ الرِّجَالِ أَوْ الطِّفْلِ الذَّيْنِ لَمْ يَظْهَرُوا عَلَىٰ عَوْرَاتِ النِّسَاءِ وَلَا يُضْرَبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ السُّؤْمُونَ لَعَلَّكُمْ تُفْلِحُونَ (31)

(O Prophet) Enjoin believing men to restrain their gaze and guard their private parts. That is purer for them. Surely Allah is well aware of all what they do. And say to the believing women that they cast down their looks and guard their private parts and do not display their ornaments except what appears thereof, and let them wear their head-coverings over their bosoms, and not display their ornaments except to their husbands or their fathers,

or the fathers of their husbands, or their sons, or the sons of their husbands, or their brothers, or their brothers' sons, or their sisters' sons, or their women, or those whom their right hands possess, or the male servants not having need (of women), or the children who have not attained knowledge of what is hidden of women; and let them not strike their feet so that what they hide of their ornaments may be known; and turn to Allah all of you, O believers! so that you may be successful.³²

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا -

O you who believe, fear Allah and speak in straightforward words.³³

وَالَّذِينَ هُمْ عَنِ اللَّغْوِ مُعْرِضُونَ -

And (successful are those) who avoid whatever is vain and frivolous.³⁴

Ahadith:

There are many narrations of the Prophet (ﷺ) that prohibits a male and female to be alone and also prohibited touching the body parts, including hands of *non-mahram*. Some are quoted below;

The seclusion of males and females is forbidden:

I have not left behind me a trial more harmful to men than women.^{35/36} No man should ever be alone with a woman except when she has a *mahram* with her.³⁷

In two other Ahadith from Bukhari, it is quoted that a companion of the Prophet asked the Prophet about going for Jihad (the holy war) or accompanying the wife for Hajj, and in both cases, the Prophet asked them to join their wives for Hajj instead of going for Jihad^{38/39}

Touching of *non-mahram* females is prohibited:

Narrated by Ayesha, may Allah be pleased with her said: "The Prophet's hands never touched those of a woman⁴⁰ and in another Hadith, she (may Allah be pleased with her) narrated that;

"I swear on Allah that the Prophet never shook hand with women".⁴¹

Umaimah (RA) narrated that the Prophet (ﷺ) said "I do not shake hand with *non-mahram* women"⁴²

Islamic scholars opine that when looking at *non-mahram* is not allowed then touching should be prohibited to a greater degree.

Undisputed principles:

There is general agreement on some basic principles of gender interaction by almost all Islamic scholars. These include the following;

- 1. Guarding the gaze is essential**
- 2. Seclusion is prohibited**
- 3. Body Touch of *non-mahram* is prohibited**
- 4. Covering of Awra is obligatory**
- 5. Concessions are allowed in cases of necessity**
- 6. Intention is the key to availing mitigation.**

Chapter - 5

This part includes the basic etiquettes of gender interaction with special reference to Medical Education and Clinical Practice.

Etiquettes for dress code:

It may be quite relevant here to describe the purpose of dress code for human beings. This is nicely explained in the commentary of Ayah 7:26,27 in Tafheem Ul Qur'an as summarized below;

First, the need to cover oneself is not an artificial urge in man; rather it is an important dictate of human nature. Unlike animals, God did not provide man with the protective covering that He provided to animals. God rather endowed man with the inherent instincts of modesty and bashfulness. Moreover, the private parts of the body are not only related to sex but also constitute "سوات'-*Sawat'* that is, something the exposure of which is felt to be shameful. This might be the reason why human beings use the resources made available to them by Allah to procure dress for themselves.

Second, man instinctively knows that the moral purpose behind the use of dress takes precedence over the physical purpose. The exposure of private parts is not a matter of shame for animals and hence their nature is altogether devoid of the urge to cover them.

Third, the Qur'an emphasizes that it is not enough for the dress to cover the private parts and to provide protection and adornment to the human body. Man's dress ought to be the dress

of piety. It should be reasonably presentable and neither too shabby and cheap nor overly expensive and extravagant relative to his financial standing. Nor should the dress smack of pride or hauteur, or reflect the pathological mental state in which men prefer characteristically feminine dresses and vice versa, or that the people belonging to one nation mimic people of other nations to resemble them, thereby becoming a living symbol of collective humiliation and abasement.

Fourth, dress constitutes one of the numerous signs of God which is visible virtually throughout the world. When the facts mentioned above are carefully considered it will be quite clear as to why the dress is an important sign of God.

With this backdrop in our minds, we understand that doctors and nurses have to look after and interact with opposite gender patients, attendants, and hospital staff during their professional responsibilities. This is unavoidable in current circumstances. They need to observe the Islamic etiquettes with some of the following important points regarding dress code:

- The dress should cover the whole body except the parts permitted by Shariaah.
- It should neither be so thin (see-through dress) where it reveals the body parts nor so tight-fitting where it reveals the contour of the body.
- It should not resemble the dress, specific for the opposite gender. Men and women are prohibited to mimic the dress of the opposite gender.
- It should not imitate the dress precisely depicting the ideology of non-Muslims.

- Dress should be used with humility and not be so expensive or decorative to become a potential source of arrogance.
- It should not be so decorative to be a source of temptation to non-*mahram* and better be unadorned.

Etiquettes of medical examination:

The purpose of examining patients is to make a correct diagnosis and offer treatment to save lives and relieve hardships. The following may be considered while examining patients.

- Patients have the right to choose a care provider of their choice depending on the specific situation, specialty, experience, expertise, and trust in the doctor.
- The presence of a third person (a female in the case of a female patient or *Mahram*) is essential during the examination.
- The seclusion of males and females should be strictly avoided. In the absence of a female attendant or *mahram*, one may ask for the presence of another female from staff or even the patient. However, confidentiality and consent should be given due consideration.
- Examine only the body parts that are necessary and relevant for assessment/diagnosis.
- Take care of gaze/heart and avoid looking at unauthorized parts as far as possible.
- Guide the patients to consult doctors of the same gender for examination where possible.
- Physical assistance may be provided by the same-gender assistant or accompanying mahram however one may help himself/herself where needed.

The etiquettes of conversation with opposite gender:

The primary purpose of the conversation with patients and health care workers is to obtain required information for patients' care. The following may be considered while communicating with the opposite gender,

- Good Intention is the key and there should be no ulterior motives.
- Create a safe environment that is free from or does not have the potential of violating the guidelines.
- The conversation should be purposeful and limited to professional needs.
- It should be professional and courteous outwards with a sense of piety inwards
- Irrelevant discussion and details should be avoided.
- Creating a space for ulterior motive even while observing all etiquettes is hypocrisy and a great sin.
- Take care of gaze (eye and body language). Lustful gaze and body language is absolutely prohibited and must be avoided in all circumstances. Only first unintentional glance may be permissible but unrequired gaze is forbidden.
- Female health care providers should avoid extreme softness and leniency in their tone. They should be rather firm, to the point, and straightforward to prevent any misunderstanding with the opposite gender. This does not mean to be rude or unkind.
- Male doctors should talk to female patients, in the presence of another female or a *mahram*.

- Take extra care while discussing sexual diseases and speak in terms that do not require the usage of explicit words. The use of seductive words must be avoided.

Instructions/Commandments regarding “Satar” and Hijab

Health care providers sometimes need to physically handle or look at the body parts of patients of the opposite gender during a medical examination or certain procedures. The interaction may occur in the following four situations:

1. **Men to women**
2. **Women to men**
3. **Men to men**
4. **Women to women**

The following may be used as a guideline in such situations when necessity demands;

Men looking at or examining women:

It is not permissible for men to look at *non-mahram* women, except for necessary health care needs or medical witnesses in court or similar important occasions/conditions.

It is permissible to look at or examine mahram women, excluding the body parts between the naval and the knee i.e., the area described as “*satar*”. However, it is not permissible if there is a fear of temptation/indulgence in a sinful act.

Women looking at or examining men:

It is permissible for women to look at the body of mahram men except for the *satar* area or when fear of temptation.

Women can look at the body of *non-mahram* men unless they fear of indulgence in a sinful act. However, women may look at or touch the *satar* areas of *non-mahram* men in the time of dire necessity or considered essential for making a diagnosis.

Men looking at or examining men:

Men can look at and touch all parts of men except for the *satar* area unless there is a fear of sinful temptation. However, at the time of dire need, it is permissible to look and touch the *satar* area to the essentially required extent.

Women looking at women:

A woman can look and touch all parts of another woman except *satar* area when there is a fear of sinful temptation. However, at the time of dire need, it is permissible to look and touch the *satar* area to the essentially required extent.

The Etiquettes of traveling, workshops, conferences, and educational meetings:

The students in medical schools might have to travel as part of their training requirements and sometimes as unavoidable educational needs. This need may be grossly reduced because diverse available resources (audiovisual and digital) can be used without affecting the standards of education. However, when required the institution should consider the following guidelines;

- a) The trips should be for essential educational/ training needs.
- b) A male teacher may accompany the male and female teacher the female students.

- c) The accompanying teachers should preferably be senior and trustworthy faculty members.
- d) Boys and girls should preferably travel in separate groups.
- e) It is preferable that the Mahram accompanies women during the journey whenever possible. However, in case of educational needs or other necessities women may travel in groups and students accompanied by a senior teacher when required as explained in point (b) and (c) above.
- f) Etiquettes of dress code should be strictly observed.
 - a. The above may also be observed by students and staff while participating in medical conferences and other professional activities.

(Note: Please see annexures 3 and 4 for the role of mahram in traveling.)

The ways and means of minimizing interaction / intermixing:

To minimize the chances of unnecessary gender interaction in the hospital/health care facilities and medical schools the following measures may be considered:

Hospitals and health care facilities

- Specify the time and duration of visiting hours and observe it strictly.
- Inform and train staff on how to maintain the privacy of patients particularly during the visiting hours.
- Provide screens or curtains for each bed.
- In the general wards where screen/curtain may not be available, the ward-staff should inform the female patients

in advance that male attendants are going to visit their patients. It will provide them reasonable time to manage themselves.

- Buzzer/bell should be available at the entrance of female wards. The male doctors should ring the buzzer before entry to the ward to provide the necessary time to female patients and their attendants to ensure their privacy.
- Male members should guard their gaze and ensure the privacy of patients while visiting female wards.
- The stay in wards should be as brief as possible. So are instructions of the Prophet Muhammad (ﷺ).
- It is preferable to have separate entry and exist of main premises and wards.
- Provide separate waiting areas cafeterias and washrooms for males and females.
- Separate offices should also be provided for male and female staff working in hospitals.

Medical schools:

Following measures may help in co-education institutions;

- Make separate groups of boys and girls for laboratory work in college and clinical rotations in hospitals.
- Arrange lectures in separate classrooms. If that is not possible ensure separate seating arrangements in classrooms on the pattern of communal prayers in the Mosque, where males sit in the front and females in the back rows.
- It is preferable to have separate arrangements for libraries and dining. If that is not possible then specify separate tables/areas for males and females.

- Provide separate common rooms, boarding, lodging, and transport, etc for students and staff.
- Provision of separate offices for male and female staff.
- Provision of separate lawns for boys and girls with comfortable seating and sports arrangements. If separate lawns are not possible the playing time/days should be separate for both genders.

Chapter-6

Questions and Answers about gender interaction in the field of medicine

(Note: It is recommended to study the annexures before reading this section)

The doctors, nurses, and other health care workers were asked to send their queries/questions about gender interaction / intermixing while working in hospitals or medical schools. This approach provided an opportunity to address the issue faced by a health care professional in various practical situations and develop guidelines accordingly. Many questions were received which have been categorized in two sections for the sake of convenience and similar questions have been merged to avoid repetition.

- (A) Matter relating to the medical education
- (B) Matters concerning hospital and health care.

The following subgroups were made to categorize various questions to facilitate the readers and avoid repetition;

A: Matters related to the Medical education

- Issues and problems of students and teachers in co-education institutions
- Interaction during conferences and meetings
- Priorities in the selection of specialty

B. Matters related to Hospitals and Health care

- Issues about patients and relatives
- Mutual interaction of health care workers and with patients of the opposite gender.

- Gender interaction in specific situations like operation rooms, labour rooms, radiological and other diagnostic services
- Interaction through email and social media tools.

A. Issues and problems of students and teachers in co-education institutions

- 1. Question:** Does Islam permit co-education? If yes, is it generally permissible or only in some specific conditions and circumstances? Is it allowed at all levels of education?
- 2. Question:** There are not enough “only for girls” medical schools in Muslim countries while there is an extreme shortage of lady doctors. Does Shariaah allow women to join co-education Medical Schools in such circumstances? Should the religious women leave this field to secular and irreligious people who have no regard for Islamic values?
- 3. Question:** Is it obligatory for Muslim Girls to get admission in “only for girls” medical colleges? What would they do when there are mostly male teachers even in these colleges and also male doctors and other staff in the attached teaching hospitals?

Answer: Medical education is an essential need of the society. Women may seek admission in co-educational institutes, particularly in medicine till there are separate institutions available for both genders. However, they should abide by the etiquettes of gender interaction and other such regulations mentioned earlier.

Islam discourages intermixing of men and women, that’s why co-education is generally not permitted in Shariaah. However, it is

permissible at the primary level i.e., before the age of maturity of boys and girls.

The governments of Islamic countries including Pakistan have developed separate education for males and females at a lower level but ironically there is mostly co-education at the university level, the age with the highest risk of falling prey to sexual temptations (see introduction). Reforming the system at a higher level is the need of the hour.

The Prophet Muhammad (ﷺ) used to address separate gatherings of women, but at some occasions, he addressed both genders together and also replied to their questions. There are similar examples in the era of the companions (may Allah be pleased with them) of the Prophet. However, it must be emphasized that even in religious teaching and learning, there was never a free intermixing of genders that is prevalent today. The fundamental of Islamic law is to develop separate institutions for both genders.

- 4. Question:** Can a teacher discuss a curricular topic or co-curricular activity in his/her office or any other place in seclusion, with a student of the opposite gender?

Answer: It is not permissible for men to communicate with *non-mahram* women in seclusion. The Messenger of Allah (ﷺ) said; “a man is not alone with any woman except that the third one among them is the Satin.”¹⁶

Teachers should not discuss such things with the student of opposite gender in seclusion in any place including office. If a

female student must meet in the office, the presence of another female student should be ensured and better keep the door open. The same is true when a male student wants to meet female teachers in their office.

- 5. Question:** A candidate may be asked to uncover and examine the satar (awrah) of the patient during the examination. The examiner may fail the student in case of non-compliance. What is Shariaah's guidance in such a situation?

Answer: Unfortunately, no attention is paid to observe Shariaah's injunctions in medical education and the healthcare system even in Muslim countries. It is common to observe that in many situations Shariaah's commandments are violated without any necessity or genuine reason. This is primarily due to ignorance because it is neither part of the teaching and learning in curricula of medical school nor given any importance in the health care system. This question is reflective of the same situation.

It is unbecoming of a Muslim examiner to insist on an act that is against the teachings of Islam especially when an equally good alternative is available e.g. using a mannequin in the given situation.

However, if a student/trainee is asked to uncover or examine the satar of the opposite gender during the training or examination and is fearful of harmful consequences in case of non-compliance (e.g., failure or lower grade) it may be permissible to perform the required examination. This is based on the principle of Fiqh (Islamic jurisprudence) of "choosing the lesser evil" to avoid a bigger evil in case of an unavoidable

situation⁴³. It is hoped that he/she will not be held accountable for this act but better repent to Allah and ask for forgiveness.

- 6. Question:** Is it permissible for a teacher of the opposite gender to act as a mentor, particularly in the situation of non-availability of teachers of the same gender or incapability of the same gender mentors? It may be important to mention that the interaction is more intimate during the process of mentoring.

If the administration has to permit it under compelling circumstances, then what are the Shariaah guidelines?

Answer: It is preferred that the same gender mentors are appointed for students. However, in a real difficult situation, the concession may be availed in appointing a mentor of the opposite gender. While appointing a mentor, integrity, honesty, and piety may be given priority⁴⁴ over capability. It is usually possible to improve the capability but is very difficult to change the character traits. A senior teacher with older age may also be preferred. The teacher should strictly follow the etiquettes described earlier.

- 7. Question:** While counselling the students on different matters, sometimes the teacher of the opposite gender may be obliged to discuss some sensitive matters like sexual behavior. What are the Shariaah guidelines/limitations for discussing such matters?

Answer: One should be more cautious but these matters may be discussed to the extent of necessity. Care should be taken to keep the discussion to professional requirements using technical terminologies avoiding lewd terms and better use indirect words. Islamic teachings encourage the use of indirect words to express

the meaning in such situations to maintain modesty and piety in such circumstances but express the required meaning and minimize the risk of possible delinquency. For instance, the word “*mas*” (مس) means “touch” but Quran sometimes uses it for intercourse⁴⁵. Another verse uses the word “cover” for intercourse⁴⁶

Traveling for educational purposes:

8. **Question:** If a female teacher is required to take students on a study tour, what injunctions of Shariaah, she has to follow?
9. **Question:** Can a woman travel outside the city with other male staff without a *mahram* for official work?
10. **Question:** If a female teacher is required to travel with female students for a study trip to a distant place, can she refuse on the plea of non-availability of *mahram*?

Answer:

Female teachers may be allowed to take students on an educational trip for essential professional requirements. However, it is preferred to return for the night. The etiquette of traveling and mutual interaction should be kept in mind during the trip.

A lady may travel with accompanying trustworthy women of her confidence or *mahram* for essential office work. It is generally not permissible for a single woman to travel with male staff members without a *mahram*.

It must also be remembered that such essential needs are rare and alternative arrangements may be available in many cases. Once the institutional staff and managers are aware and

willing to follow Shariaah's guidelines, it is usually possible to figure out an amicable solution.

The lady teachers can only be compelled to accompany the female students on a journey provided it is an essential professional requirement and it is included in her job description and service contract. She should request the management politely for an alternate arrangement. However, if there is a risk of adverse entry in service record or job security, she may perform the duty.

It is also the responsibility of the institution to ensure alternative arrangements and try its best to follow Shariaah guidelines.

11. Question: I am a male teacher in medical school. In Qur'an, men are instructed to lower their gaze while encountering women. It is usually required to talk to female students with eye-to-eye contact while teaching them, particularly at the bedside and in small group discussions. What should do in such cases as it becomes hard to explain things effectively without eye contact?

Answer: The Holy Quran has instructed to safeguard the gaze to provide an overall environment of chastity/modesty. It is not merely a physical act. In the mentioned situation it may be allowed and shall not be considered a violation of Shariaah (see definitions).

12. Question: Can a female teach male students or vice-versa? What are the Shariaah guidance/conditions in this regard?

- 13. Question:** Can a teacher of the opposite gender teach the medical students since several “sensitive” topics are also discussed in the medical education?
- 14. Question:** The female teachers keep their tone soft with students for a better and friendly teaching environment. In some institutions, this is part of the teacher assessment through students’ feedback. Qur’an instructs females to speak firmly with men to ensure their intentions are clear and not to encourage men who may have impure intentions to curb such notions in their minds and hearts. Shariaah Guidance is solicited in this regard.

Answer: It is permissible for teachers to teach the opposite gender when needed. They should observe the Islamic etiquettes elaborated on earlier.

The speech and style (body language) should be professional and not seductive. Young teachers should be more careful in this regard.

The Quranic verse referred to here is probably Verse 32 of Surah Al- Ahzab that states; *“Wives of the Prophet, you are not like the other women. If you are God-fearing, do not talk in a soft voice lest the man of the diseased heart should cherish false hopes from you, but speak in an unaffected manner”*. (Tafheem Ul Quran by Modoodi). In this ayah, the women [wives of the Prophet (ﷺ)] have been forbidden from talking to “non-mahram men” in too soft or seductive tone.

The tone should be firm and professional but it does not mean rudeness or being unkind. A polite demeanor and caring

attitude towards weak students to help them cope with the curriculum and academic stress and consistent academic encouragement are qualities of a kind teacher that shall be surely rewarded by Allah as well.

Subjects about the sexual organs should be taught by teachers of the same gender. It will not only facilitate an environment of modesty but also provide an opportunity to shy/reticent boys and girls for an open discussion in an open learning environment.

- 15. Question:** Is a combined class of girls and boys allowed in such a way where both of the groups are sitting separately? Shall the girls be seated at the back only or can they sit side by side and if yes can this relaxation be availed in larger gatherings in auditoriums on the occasions of a guest speaker?
- 16. Question:** Can boys and girls be taught in one group/class? This can also be due to necessity, for example in the operation theatre where there is only one opportunity available to see the procedure.
- 17. Question:** How should be the seating arrangement be in the library, examination hall, lawns, and cafeteria, etc?
- 18. Question:** What should be the arrangement in co-curricular activities in colleges?

Answer: Health providers have to care for patients of opposite gender and it is an essential part of the training of students to interact with both genders. Thus medical profession has specific and unique situations/issues when compared to others.

In principle, male and female students should have separate classes with same-gender teachers. However, this is not possible in the present circumstances and teachers of both genders may be allowed because of necessity. Combined classes may be allowed if separate classes are preferable.

The preferred seating arrangement in classrooms should be on the pattern of communal prayers in the mosque i.e. boys in front and girls in back rows. However, side by side separate rows may also be arranged where required. The same principle applies to medical conferences and educational functions in auditoriums.

In the operation theatre, the students are required to stand around the operation table, they may stand on separate sides, but the better option would be to have separate groups for boys and girls.

The co-curricular (extra-curricular) activities like debates and sports and other competitions are healthy activates and important parts of student life. However, these are neither essential requirements of professional training nor come under the definition of “necessity”. A separate arrangement should be made for girls and boys.

The institution should provide separate lawns, cafeteria, common room, and other such facilities for male and female students. If that is logistically not possible then area and or seats may be reserved for both genders.

19. Question: Our curriculum books are mostly written by non-Muslim authors who are not aware of our religious values

including demonstrating pictures of private parts of the body. Whereas Islam has the concept of covering these parts called Awra (satar). What should the teachers/students do while studying such books?

Answer: The basic purpose of the book is education. It is permissible to keep and teach such books for a better understanding of the subject. However, Muslim doctors should come forward and write books with better illustrations and also care for Islamic values where possible.

20. Question: What are the Islamic teachings on listening / hearing women's voice? Please explain in the context of interaction between teacher, student, patient, and doctor.

Answer: Purposeful conversation is allowed with the opposite gender. (See etiquettes of conversation)

21. Question: What should be the dress code for female teachers/students and male teachers/students?

Answer: There is no specific dress for males/females in Shariaah. It can be of any form with respect to weather conditions and the culture of the people. However, the etiquettes of the dress already elaborated should be observed.

22. Question: Does Islam permit co-education in the medical field in the prevailing circumstances? If no, then how to overcome the short-term and long-term consequences of a shortage of female doctors for the Muslim society? If yes, then what are the minimum requirements of Shariaah?

Answer: In a Muslim Society, it is the responsibility of the government to establish separate educational institutions for boys and girls. Acquiring medical education is a societal need and obligation, so till such arrangements are available, co-education is permissible in the medical field. However, Muslim men and women should follow Islamic etiquettes in these institutions.

23. Question: There is usually only one mosque in educational institutions for offering prayer, can the female students pray in this mosque? Should the entrance to the mosque be kept separate for females?

Answer: Men and women may pray in the same mosque. The women will offer prayers in rear rows. The entry to the mosque may be the same but is preferable to have separate entrances for men and women if possible.

A separate ablution and prayer place may also be allocated for females.

24. Question: Can boys examine female patients and girls, male patients, during medical training?

Answer: Yes, they can, because it is an essential part of their training. However, they must be aware of and practice the essential Islamic etiquettes including the respect and privacy of patients during medical examination.

Gender interaction in conferences, meetings, and other social gatherings

- 25. Question:** What are the minimum Shariaah guidelines for organizing public programs, medical conferences, and exhibitions (including arrangements of stalls), etc.?
- 26. Question:** Is it permissible for men and women working in an institution to attend mixed social gatherings, office meetings, conferences recreational gatherings, sports and entertainment functions, or celebrations of achievements with due consideration of the moral values of the institution?
- 27. Question:** Can male and female students jointly attend such gatherings in the presence and supervision of the teachers?
- 28. Question:** Can men and women take part in joint discussions in medical conferences, academic council meetings, Shura [consultative meetings], or small group educational meetings?

Answer: They may attend the essential and highly beneficial conferences together.

It is better to have separate seating arrangements and preferably entry and exit as well in such meetings.

Both genders may attend joint meetings of the academic council or Shura where collective input is needed. They may also attend educational and research conferences of academic nature which are part of their professional responsibility. They should observe Islamic etiquettes discussed earlier.

As regards public programs, exhibitions, and stalls, these cannot be included in the list of essential activities/necessities; hence mixed arrangements should be avoided. In case these are

arranged as part of co-curricular activities, then the exhibition and stalls should be arranged in separate venues. However, if, due to unavoidable circumstances, it has to be on the same venue, then arrangements may be made for separate times of attendance for both genders.

Recreational gatherings, sports, literary functions, social gatherings etc. are not under the domain of necessity and both genders should be provided with separate arrangements.

29. Question: Can female and male students of the same institution exchange gifts with each other or can they gift books etc. as a token of gratitude to opposite-gender teachers?

Answer: There is evidence in Sunnah that the Prophet accepted a gift (a cup of milk) from Umm Fadhl binth Harith (may Allah be pleased with her) on the day of Arafah.¹⁸ Hence the evidence that taking the gift from a non-*mahram* is not prohibited. The same may be true in the mentioned case. However, it is subject to good intention, and should better exchange gifts in public and not privately. Moreover, gifts should preferably be limited to educational material. Both parties should also ensure that such exchange of gifts does not create space for more intimate relations or temptation of sinful relation.

30. Question: Is it permissible for a female to become stage secretary in a mixed gathering?

Answer: Generally, the job of the stage secretary is to attract the attention of the audience with his / her eloquent talk and dialogues, and also invite and introduce the speakers. There

appears to be no need for making a woman stage secretary in the mixed gathering to perform these functions. Being a non-essential task, it is not permitted in the Shariaah. The Assembly of Muslim Jurists of the USA in their meeting stated that “placing women in public gathering as program introducer or a host of the guest or the like isn’t included among the acceptable needs, while there are in the gathering men that can assume these actions with the same degree of performance”⁴⁷

- 31. Question:** Ladies with a veil are trained enough not to reveal themselves if confronted with an unavoidable mixed gathering environment. Is it permissible for such women to present their research papers in “mix” international conferences?
- 32. Question:** Can female speakers address a joint scientific gathering of men and women?

Answer: Such conferences are of great educational value with short and long-term beneficial implications on standards of healthcare and medical education. Women can present their research papers in these conferences with observance of Islamic etiquettes.

Selecting a specialty

- 33. Question:** Are there any limitations or guiding principles of Shariaah for males and females in selecting a specialty? Can men specialize in women-specific specialties (Obstetrics and Gynecology) especially when a sufficient number of female doctors are available and more are specializing in these fields?

Answer: Most of the diseases are common to both women and men that is why both genders should strive for attaining education and specialization to treat patients of their own gender.

However, in specific matters related to a male or female, respective gender should acquire expertise in those fields. In the presence of a sufficient number of lady doctors, it would not be permissible for men to choose Obstetrics / Gynecology as a specialty. The same would be true for lady doctors specializing in men-specific issues like andrology.

34. Question: Some female doctors choose the field of surgery for providing an opportunity to women to be treated by a female surgeon especially in cases of women-specific diseases. However, during the surgery, it is difficult to keep a distance from the male assistants.

The same situation may be encountered by female students and trainee doctors in medical schools during surgical rotations. What is the Shariaah ruling regarding this?

Answer: Female doctors' who select the field of surgery for the given reasons, will hopefully be rewarded double for their work i.e. for their professional service as well as the intention and efforts of following Islamic values. It is desirable that a qualified female staff assists female surgeons during the surgery. However, if female assistants are not available, then male assistants may do the job. The administration should arrange/hire female surgeons for the training of female staff and patients care. However, till such arrangements are made available the female students and trainees are permitted to learn surgical skills from male teachers.

Examination of patients in hospitals and mutual interaction of staff.

- 35. Question:** Women are generally more sympathetic than men and take better care of the patient. Moreover, in some countries, only a limited number of seats is available for boys in nursing schools and there is always a shortage of male nurses. Resultantly female nurses are appointed in male wards for patients care. Does Islam permit this practice?
- 36. Question:** There is generally a shortage of female professionals and it may not be possible to appoint the same gender doctors or nursing staff for indoor care. What are the Shariaah relaxation/restrictions in such a situation?

Answer: One of the major intents of Shariaah is “protection of life”. The Islamic law provides concession in several impermissible matters at the time of necessity. There is a consensus of Islamic scholars on the Shariaah principle of “necessities bring mitigation” (See annexure-1). This may be applied as the guiding principle of Shariaah in the prevailing situation for better and appropriate patient care.

The appointment of female nurses in male wards and vice versa may be permissible in the stated situation. However Muslim administrators, managers, and others at the helm of affairs should plan for training of both genders in the nursing profession and arrange for long-term implementation of same-gender nursing staff in respective wards.

It is highly desirable to appoint the same gender staff in the respective units but when it is not possible mitigation is

allowed due to “necessity”²¹ and the Prophet (ﷺ) allowed female health care providers to treat male patients during necessity (war).

37. Question: Should a lady doctor examine a female patient in front of male students or vice versa, during their training in a hospital?

38. Question: It is sometimes extremely necessary for a male or female student to examine the private organs of the patient of the opposite gender. How would the student, consultants, and teacher observe the Islamic limits in such a situation?

Answer: The basic principle is that the satar of the opposite gender should not be exposed.

It is usually not required during medical education to expose the satar. However, in the case of obligatory requirements in a specific clinical examination, it may be permissible to the required extent and limit. This permission is based on the principle of “necessity” and the examination shall be restricted only to the essential requirements.

Exposing the private parts of the patient to a group of students of the opposite gender is far worse. If possible, pictures, videos, and manikins may be used for this purpose. These substitutes usually meet the need for direct examination.

However, if the examination is considered mandatory for training purposes and there is no alternative permission may be granted under the principle of necessity. In such situations, the patient should be counseled about the need for examination in the

presence of the student and consent of the patient obtained. Modesty, respect, and dignity of the patient must be ensured. The patient should be fully covered during the examination and only required body parts may be exposed. Irrelevant chit-chat and gossip should be completely avoided during the process.

39. Question: Should the female doctors expect a reward from Allah, if they treat male patients in the hospital despite the availability of male doctors and vice-versa?

Answer: Some diseases are common to both men and women. Generally, there is a shortage of doctors in many Muslim societies but the situation is worse in the case of female doctors. It is imperative that more and more female doctors get expertise in various fields of medicine. It will facilitate the women patient to get treated by a female doctor.

A female doctor should preferably treat female patients and vice-versa. However, patients have the option to select a doctor of their choice including that of opposite gender based on specialty, expertise, professional competence, experience, and trust. Treating patients irrespective of gender may also be part of the job description. We have an example from Sunnah of the Prophet who allowed his female health care providers (companions) to treat male patients in many situations, particularly in wars. Hence such lady doctors who observe the Islamic etiquettes of medical practice should expect rewards from Allah.

The same applies to the male doctor treating female patients.

40. Question: Can a male doctor talk to the female attendant of the patient regarding the treatment of the patient while male attendants are available?

Answer: Shariaah has permitted discussing urgent and important matters with the opposite gender at the time of “necessity”. In the mentioned query, when a male attendant is available then it is preferable to converse with him. However, if the male attendant does not have appropriate knowledge of the patient condition or does not appear to be wise enough, then discussion with a female attendant would be permissible and the conversation should be kept limited to the extent of need.

41. Question: In some cultures, male entry is generally prohibited in Obstetric /Gynae Units except for ward rounds. Should the male doctors directly talk to the women attendants in these wards or should they convey the (patient-related) information through the female nursing staff, especially when the information is not of essential nature?

Answer: Doctors may convey/acquire any significant information about the patient as they deem appropriate. If a woman wants to get information about her patient, she can ask the male doctor or the nursing staff and vice-versa. This is permissible in Shariaah because such information is usually related to patient management.

42. Question: How should a lady doctor convey sensitive information regarding the female patient in the context of

Obstetrics / Gynecology to the male attendants, keeping herself within the Shariaah limits?

Answer: It is preferable to discuss such issues with female attendants because they may be more familiar with the concerned issues and help in subsequent management. If the female attendant is not wise enough to understand the situation, direct communication with the male attendant may be appropriate. Care should be taken to observe the guidelines of gender interaction.

43. Question: Are male visitors allowed to take care and visit their female patients in the female ward; especially when the other visitors are women?

Answer: The privacy of females is the top priority. Generally, women visitors should visit female patients on a required basis and men may visit during specific hours or on-demand. Men should safeguard their gaze and abstain from mixing with women.

The following may be considered to minimize intermixing and keep the privacy of female patients;

Hospital administration should provide curtains around each bed to ensure the privacy of the patient. This will facilitate male visitors to comply with Shariaah's injunctions while visiting their female patients.

Male visitors/staff entering female wards may be provided with doorbells at the entry of the ward, to caution the female staff and patients and thus provide the appropriate time/ opportunity to manage themselves.

Keep the visiting hours for men for a short duration and strictly follow the schedule.

Provide separate entry and exit points for both genders if possible.

44. Question: Can the male staff look after a female patient and vice-versa?

45. Question: Should the laboratory, radiology (and other diagnostic units) staff do positioning or physically manage /assist patients of the opposite gender?

Answer: It is preferable and advisable that physical interaction be done by the same gender staff to all possible extents. However, in the case of necessity and or non-availability of the same gender staff, the opposite gender may do the needful.

In the case of radiology, it is usually sufficient to instruct the patient verbally to attain the required position without physical handling. Alternatively, an accompanying female attendant or *mahram* can be asked for assistance. If none of this is possible then male staff may do required physical interaction with full observance of described guiding principles.

46. Question: What are the Islamic guidelines for male doctors while examining a female patient in presence of female doctors / female staff?

Answer: The Shariaah guidelines of conversation and examination already mentioned in this book should be followed.

47. Question: What are the Shariaah guidelines while obtaining information from the opposite gender about sexually transmitted diseases or diseases involving private parts?

Answer: Discussion regarding sexual issues is more sensitive than usual history taking. However, obtaining relevant information is permissible whenever necessary. One should be more careful because there is a greater risk of breach of privacy and modesty. More care should be observed not to offend patients by using inappropriate words/language. Take care of gaze, tone, and body language to curb chances of any undesired expectations. Limit conversation to the extent of necessity.

48. Question: The patients sometimes desire to be examined by a male doctor despite the availability of a female doctor. Would this act be considered against Shariaah in such a situation?

Answer: There is relaxation in the rules based on the need and choices of the patient. So, in a given situation when a female patient trusts the male doctor more than the female doctor, he may examine the patient and the same be true for vice-versa.

49. Question: In certain emergency situations, male doctors have to examine the private parts of a female patient for making an accurate diagnosis. He might have to examine this during the follow-up visits as well for continuity of care and sometimes the patient insists on the same. Should he examine the patient even when the emergency is over? Will his act be considered sinful?

Answer: It is allowed in emergency situations as already stated. However, when the emergency is over and the doctor does not consider the examination necessary, he may educate the patient for examination by a female doctor. Whenever a competent lady doctor is available, he should strongly suggest the female patient get examined by her. The preaching of the virtue and prevention of vice is an obligation on every Muslim. However, in the absence of a competent female doctor, or chances of significant harm due to delay in the treatment, a male doctor may proceed with the treatment or re-examine the patient during follow-up with full consideration of required etiquettes.

50. Question: Is it permissible for a female/male physician to routinely examine patients of the opposite gender, or is it only allowed in emergency situations?

Answer: Treating the opposite gender is permissible in an emergency but it is also allowed in many other situations that come under the definition of necessity, though examination by the same gender is preferable. The choice of the patient is also an important factor in such cases, as explained earlier.

51. Question: What is the general framework of Islamic law regarding the examination of patients of the opposite gender? What are the roles and limitations of the male and female doctors in Islamic law regarding the medical care of patients?

52. Question: What are the guiding principles of Shariaah regarding the examination of a patient of the opposite gender, including the private parts when required?

Answer: There are five basic higher intents or objectives (*Maqasid*) of Islamic Shariaah.⁴⁸ Three of these objectives of Shariaah are directly related to the health care system i.e. protection of life, progeny, and intellect. The other two i.e. wealth and *deen* (faith) are related indirectly.

The following general principles should be given due consideration in this regard:

Medical care should preferably be provided by the same gender whenever possible.

During an emergency situation, one may forego all restrictions and do the needful to save the life of patients. It is called *Idhtirar* in Islam. It includes the examination of private parts of the opposite gender.

In the routine examination, the private parts of the patient should only be exposed by the same-gender doctor.

The Islamic etiquettes enlisted at the beginning of this book may be observed.

53. Question: What is the ethical obligation of Shariaah for doctors and patients regarding the patients' information?

Answer: Doctors are trustees of patients' information. It is their religious obligation not to reveal any information with others except with the permission of the patient. This is considered as Amanah (Trust). The Prophet (ﷺ) said: All meetings should be confidential except three: (i) for unlawful shedding of blood, (ii) for committing fornication, and (iii) for acquiring property unjustly"⁴⁹

Privacy and confidentiality are basic rights of patients in Islam and the health providers must protect them. There may be exemptions in certain conditions especially when public interest is involved or there is a threat to another individual. For example, the spouse may be informed about the HIV status of the partner or the concerned authorities may be informed about the condition of a person applying for a driving license that may be a threat to public life (e.g. epilepsy or defective eyesight). Doctors may also disclose sexual fitness and alike conditions when asked by the intended marriage partner. The guiding principle in such situations is the Hadith of the Prophet Muhammad (ﷺ); “give honest advice when asked”⁵⁰

The basic principle is that the health care providers and students should not disclose any information (observed or heard), of patients without their prior permission unless necessary (as in the above conditions), or to another colleague when required for patient’s management. Details may be read in the article on confidentiality in the FIMA yearbook⁵¹

54. Question: What are the Shariaah guidelines for the doctors and other staff including trainees, about attending and examining patients in labor rooms or operation theatres?

Answer: They should follow the general instructions for examining patients and also ensure maximum care of privacy while exposing the satar. In the presence of competent female doctors, it is not permissible for male doctors to observe and/or provide care to patients during childbirth. However, they may

attend to such patients in emergency in the absence of lady doctors.

As a principle, wherever possible, separate staff, and operation theatres should be provided for male and female patients. The staff may expose the required parts only to the extent of need and the rest of the body should be covered. Only the essential staff of the opposite gender may be present in the operation room. In case of examination in presence of other staff and trainees (if it is an obligatory requirement of teaching), prior permission and consent of the patient are essential. The privacy of the patient should be ensured at all costs.

55. Question: How can we assess or decide the “necessity” of the examination of the ‘awrah (satar) of the same or opposite gender?

Answer: This is purely a professional issue. A conscientious and God-fearing doctor can decide about the matter in light of the Shariaah guidelines. When a patient is suffering from severe illness or the patient is unable to assess the real nature and extent of illness, the doctor may examine patients of the opposite gender. In certain conditions, the doctor has to primarily rely on the patient’s assessment e.g., severity of headache or pain in an organ, etc.

The decision of uncovering the private parts of the opposite gender for examination shall also be based on Islamic principles of “necessity and mitigation” which generally means an allowance in all those conditions where there is fear of death or loss of a vital organ or severe hardship. (See Annexure-1)

- 56. Question:** Are there any restrictions or limitations in Shariaah regarding the examination of Muslim patients by non-Muslim doctors or non-Muslim patients by Muslim doctors?
- 57. Question:** Are there any restrictions for Muslim patients with regards to getting treatment from a non-Muslim doctor?
- 58. Question:** What should be the priority of female Muslim patients in consulting a non-Muslim female physician and a Muslim male physician?

Answer: Medical treatment is an important need and necessity to sustain human life. The Messenger of Allah (ﷺ) encouraged people to get treatment from qualified persons. Getting treatment from either a Muslim or a Non-Muslim doctor is allowed in Shariaah.²⁸The following may be considered in priority by female patients seeking medical advice;

- a) A Muslim lady doctor
- b) A Non-Muslim lady doctor
- c) A Muslim male doctor
- d) A Non-Muslim male doctor

In all the above-mentioned circumstances, the Muslim patient has the right to demand that Shariaah guidelines and observance of etiquettes of Shariaah during the examination may be followed. The same is the obligation of Muslim doctors. The patient may also demand medicine or food supplements with Halal ingredients.

Patients shall not consult non-Muslim doctors for advice regarding religious issues like fasting and prayers in relevant diseases/ conditions. It is desirable for female patients to consult a God-fearing and knowledgeable Muslim doctor for this purpose.

59. Question: The Prophet (ﷺ) stated that even talking to a Muslim brother with a smile is charity. It still becomes more relevant and important for the satisfaction and better care of patients. However, if a female doctor talks to a male patient in this manner, it may create problems for her and the same may be in the case of a male doctor talking to a female patient. What is the most appropriate way of acting on this Hadith in the medical profession?

Answer: Health care providers are required to interact with the patient in a cordial and friendly manner. This Hadith is probably for interaction with the same gender, however, this surely includes interaction with the opposite gender at the time of necessity. The etiquette of conversation with the opposite gender should be followed.

If one comes across suspicious behavior or unexpected and inappropriate conduct on the part of the opposite gender, one should be more firm, straightforward in conversation and avoid soft tone or smiles and shun any suspected behaviors right in the beginning. It is usually possible especially when communicating in presence of another person. This may be more important while dealing with young patients and health care providers.

The Islamic medical ethics demand that doctors should adopt a sympathetic and soft tone while dealing with patients; however, this should not become a source of temptation or immoral and unsound behavior and actions.

60. Question: What should be the working hours for female staff in health care facilities with a majority male staff and patients? Should they be asked to do night duties?

Answer: The best and proper way is to assign duties of same-gender staff in male and female wards. It may look difficult in the prevailing scenario but is being practiced in some hospitals. It is well said where there is a will there is a way. There is a need for better comprehension and determination to implement Islamic guidelines in health care facilities.

The female staff should not be given night duties in male wards except in dire needs. Male colleagues should facilitate them in doing their night duties and hospital managers should also give it due consideration while assigning duties.

61. Question: Can male and female doctors sit together in the same staff room after duty hours or during the break, especially when there is only one staff room available in the ward?

Answer: Male and female should avoid sitting in seclusion in any place including staff room especially when one to one. The hospital administration should arrange separate staff rooms for them. The male doctors may keep the room reserved for female staff and try for an alternate place within or outside the ward or the same room may be divided into two parts when possible. If none of the above is possible for some unavoidable reason then they may sit in the same room avoiding seclusion and preferably keep the door open.

62. Question: Is it permissible for the male and female doctors to sit together during duty hours for taking tea or chit-chat on a day-to-day issue not related to the job?

Answer: *Non-mahram* men and women can talk about their job-related matters and should avoid discussing other issues. Mere “chit-chatting” with the opposite gender is not permissible in Shariaah.

63. Question: Can male medical students perform duty in the Obstetrics and Gynae units and labour room during the training period and learn the required skill? It may be important to mention that high-quality mannequins are available for learning the relevant required skills.

Answer: Male students may examine female patients under the rule of “necessity” (see Annexure-1) and they may perform duties in the Obstetrics / Gynaecology wards for necessary educational needs. When good quality videos, models, and manikins are available for learning the essential skills, the male student need not learn these skills in the labour room and may not be allowed to these learn skills in the labour room.

64. Question: Can a female doctor refuse to do the ultrasound examination of male patients when it is part of her job description and essential training requirements and not her discretion? Can she impart training to male trainees on the procedure?

Answer: The wisdom of relieving hardship and the rewards of saving human life should always be the foremost consideration when doing or refusing an action.

A lady doctor should do the ultrasound / examine female patients when its' her discretion. In the mentioned scenario as it is part of the job description as well as obligatory training requirement so she may do the ultrasound. The trust of patients is also an important consideration in such situations as explained earlier.

The trainee may also do the procedures when it is an essential requirement of training.

The same is true for male doctors. It should be done in case of essential needs of patients and training requirements of trainees.

It is the responsibility of the managers to arrange training through same-gender instructors. It is not permissible to force a health care worker to do an ultrasound or any other diagnostic investigation of the opposite gender except based on "necessity".

65. Question: Can a female physician do a laser procedure on a male patient as it does not involve touching the patient body.

Answer: The basic principle is a necessity. The need for such procedure shall be determined on the basis of resultant harm to the patient in case of refusal and also consider the non-availability of a same-gender specialist. However mere cosmetic lasers of the opposite gender should be avoided.

66. Question: A female hospital administrator has to keep contact with men of different educational, moral, cultural, and religious backgrounds. What are the Shariaah guidelines for performing her duties? Should she opt for a job that demands interaction and mixing with men-folk? If such

women have to interact with a man known for his immoral character, what should be her option in such a situation?

Answer: A lady administrator can take firm action in such cases to ensure the moral integrity and also values of the institution. In dealing with men of questionable character she may have short, firm, and focused communication with him in the presence of other people. She may avoid direct interaction and have indirect contact or issue him written instructions/orders.

The provision of material / financial **resources** for the family is the sole responsibility of men in Islam and women **are absolved** of economic responsibilities. The wisdom may include minimizing the chance of coming across such situations. However, sharing of financial responsibility may be required or become unavoidable when the income of male members is not enough to meet the expenses.

Both genders should try for jobs where they may have better conditions of compliance with Shariaah regulations.

Interaction in Operation Theatre (OT)

67. Question: Can a lady doctors perform scrubbing (a procedure to scrub hands and arms to get rid of germs etc. during which the sleeves are rolled up) in the presence of male doctors or other staff members when there is no separate arrangement for them in the operation theatre?

Answer: Separate arrangement for the scrubbing is generally provided in many hospitals where they can perform scrubbing in privacy. In case no such arrangement is available, the administration

may be requested to provide such arrangements and it is part of their right to privacy.

Alternatively, men and women can perform scrubbing even at the same place at different times when feasible. When a separate arrangement is not possible, the female staff may do scrubbing in a modest way using the sterilized OT gown to cover themselves.

It is against the standard practice to perform and surgical procedure without proper scrubbing and if none of the above-mentioned arrangements is possible, lady doctors may perform scrubbing in the presence of men as patient safety is the first priority.

It is regretful to see that in a Muslim society, the female health providers are confronted with such challenging situations, and the managers are unconcerned about the issues of women's modesty and privacy.

68. Question: Is it permissible for a lady doctor to wear the specific dress of the operation theatre that has been made for men, especially when she is not allowed to make/use her own dress?

Answer: The principles and guidelines of Shariaah have already been elaborated (see etiquettes of dress code) and Shariaah does not describe any specific dress. The requirement is to cover certain parts of the body by both genders. The OT dress is generally not specific for males or females and wearing the OT dress is permissible.

- 69. Question:** Should a surgeon insist on the availability of a female anaesthetist for the female patient when available? Will it be sinful if he does not ask for it?
- 70. Question:** Many surgeons scrub (clean) the concerned part of the body of the patients themselves irrespective of the patient being male or female. "Awrah" may be exposed during this process. Is it permissible or should they request for providing the same gender staff for this purpose? Sometimes the performance of same-gender staff may not be satisfactory, what should be done in such a situation?
- 71. Question:** If such parts don't come under the definition of "awrah" (like the hand, foot, face, etc), can the staff of the opposite gender perform the scrubbing?

Answer: It is preferable to do scrubbing by the respective gender. When same gender staff is available for the scrubbing and anaesthesia, doctors should demand that. If the managers do not provide that despite the request, it will not be considered a sin on part of the doctor but the managers. However, in case of non-availability or unsatisfactory professional competence, the opposite gender staff may do the job.

Islam allows exposure of any part of the body when necessary but the common practice of exposing the satar without necessity should be strongly discouraged. The sanctity and privacy must be ensured at all costs including those of anaesthetised patients.

Use of social media and online technology for communicating with patients

Online technologies provide opportunities and challenges for professional development, especially for Muslim health care providers. E-communication provides an innovative, speedy, and efficient mode of networking between doctors and patients. It has a positive impact on the health care sector. However, there is a potential risk of breaching the Shariaah regulations.

It is not the use but the misuse of technology that may be important from Shariaah's point of view.

- 72. Question:** Can doctors maintain contact via social networking (websites and mobile applications) with patients of the opposite gender and their relatives? What are the ethical guidelines of Shariaah for this?
- 73. Question:** Are the teachers allowed to interact with medical students of the opposite gender through such technology?
- 74. Question:** Is it a Shariaah requirement/ obligation for physicians to acquire knowledge of these technologies to improve their professional capacity and keep close contact with their patients for better follow-up, monitoring, and treatment?

Answer: Shariaah does not forbid teachers and doctors to communicate through various electronic means for purpose of teaching, learning, and treatment. However, the contact with *non-mahram* persons should be limited to professional use and needs only. The following may be followed in this regard in order of priority:

- If email can meet the requisite requirement, direct contact may be avoided.
- If the written statement does not clarify the issues, an audio call may be used for communication.
- Video calls may also be used but preferably in the presence of *mahram* or another person of the same gender.
- Avoid unnecessary questions about personal life.
- Avoid contact on social media if any fear of temptation.
- The etiquettes of conversation must be observed.

Shariaah encourages doctors to acquire essential knowledge of new technologies that are helpful in the management of patients. It provides them an opportunity to keep abreast with the latest advances in the medical field. Muslim doctors/professionals should proactively introduce new technologies and do research to combat diseases. However, they should be aware of its evil potential/consequences and keep away from that.

Chapter-7

Annexure-1

The principles (legal maxims) related to “making medical decisions including gender interaction”.

This annexure comprises some of the important concepts about human life and the five basic principles of Fiqh (Islamic jurisprudence) that may be important in decision making in medicine. It is also relevant to know that there are five higher intents of Shariaah which are based on “protection” and these are “*protection of Deen*”, “*protection of life*”, “*protection of intellect*”, “*protection of progeny*” and “*protection of wealth*”. All these ultimately lead to the protection of human beings in all respects.

Introduction:

Islam is a complete code of life. Every Muslim physician must acquire basic relevant knowledge of Islam for its application in the medical profession. By the nature of his job, a Muslim physician is required to fulfill his responsibilities with complete devotion and excellence. They are obliged to take care of all patients irrespective of color, race, religion, and gender and take into account their sensitivities, faith, and beliefs.

Unfortunately, even essential basic concepts of issues relevant to clinical practice and research are not part of the medical curricula in Islamic countries. Consequently, Muslim doctors are deprived of acquiring knowledge of Islamic tenets relevant to their profession and thus lose connectivity to the centrality of these tenets to the judicious discharge of their professional duties. They have little or no concept about their

duties and obligations as true Muslims and do not possess appropriate knowledge to practice medicine in light of the divine guidance, for the larger benefit of humanity.

Sanctity of human life:

This is at the core of any medical decision. Islam desires to protect life at all costs. Mufti Taqi Usmani has quoted eight Ayah from the Qur'an and forty Ahadith of the Prophet in his book – "The sanctity of human life in the Qur'an and Sunnah"⁵²

Life is regarded as an invaluable gift from Allah. Allah declares in Qur'an "For this reason, We decreed for the children of Isra'il that whoever kills a person not in retaliation for a person killed, nor (as a punishment) for spreading disorder on the earth, is as if he has killed the whole of humankind, and whoever saves the life of a person is as if he has saved the life of the whole of humankind. Certainly, our messengers have come to them with clear signs. Then, after all that, many of them are there to commit excesses on the earth."⁵³ It includes the life of all human beings irrespective of religion or race. Islamic scholars have particularly emphasized this point that it includes the unjust killing of any human being.⁵⁴

Explaining the sanctity and value of human life the holy Prophet Muhammad (ﷺ) said, "O Kaa'ba (the most sacred place in Islam) you are very precious, beautiful and your fragrance is also very lovely, you are of the highest value and honor, but I say on oath to the one (Allah) who hold the life of Muhammad that human life and possessions are more honorable to me and we should always be positive about Momins (Pure Muslims)"⁵⁵ In another Hadith, the Prophet (ﷺ) said "The destruction of the

whole world is of less importance for Allah than the murder of a true Muslim”⁵⁶

Thus, it is clear that nothing can be more sacred in Islam than human life. No action can be more rewarding in Islam than saving human life and nothing can be more condemning than killing a person. It is for the same reason that there are many principles, legal maxims, and instructions about saving human life that is threatened. Saving a life is therefore not the only responsibility of concerned individuals but in Islamic Shariaah, it is also the collective responsibility of the society and the State.

Lack of this basic understanding of the value of life may lead to unnecessary complexity when deciding issues in medical education and patients care. At times a doctor may be doing something which would not be permissible in the circumstances of the case while in other instances avoiding something that might be legitimate requirement of the situation. Both these behaviors may have consequences not only in this world but also in the hereafter.

With this backdrop in mind, we shall now attempt to briefly describe some basic principles of Fiqh related to medical decisions including gender interaction. It is hoped that comprehension of these will principles will facilitate Muslim doctors to decide in line with Islamic teachings. It may sometimes be imperative to take on spot decisions in an urgent situation and Islamic scholars may not be immediately available for advice and it may be difficult to find the required opinion in Islamic literature due to paucity of time.

1. The Islamic concept of human actions:

Islam categorizes human actions into obligatory permissible (Halal), recommended (Mustahab), neutral (Mubah), discouraged (Makrooh), and forbidden (Haram). This categorization is equally applicable to health care. Understanding the limitations imposed through this categorization and the exemptions allowed in real-life situations; collectively enable Muslim physicians to fulfill their responsibility as vicegerent of Allah in their relevant professional field for the overall benefit and welfare of humanity. It also enables him to adhere to the dictates of Shariaah and achieve the ultimate objective of life i.e., pleasure of Allah through service to humanity.

The actions may also be categorized as Obligatory (Fardh/Wajib) , Prophetic traditions (Sunnah), or Optional / supererogation (Nafil) .⁵⁷

2. The concept of permissible and forbidden (Halal and Haram):

The Prophet Muhammad (ﷺ) explained this elaborately in a hadith; “Whatever has been declared allowed by Allah in His book (Qur’an) is “permitted” and whatever declared prohibited is “forbidden” (for you) while about others He remained silent, so those are pardoned (to use). Accept Allah’s relaxations (in these things) because Allah neither forgets nor makes any mistakes (but He intentionally remained silent to create relaxation for you).⁵⁸

In another Hadith, the Prophet (ﷺ) said “Permissible and Forbidden are clear but others are doubtful and most of the people do not know about those. Those who want to save their

honor and Deen should avoid them. If one indulges in these (doubtful) things one might end up committing unlawful. It is like grazing one's animals on the boundaries of a forbidden pasture that will endanger entering into the prohibited area. So is the pasture of Allah that consists of unlawful things (and avoid being on its boundaries)" ⁵⁹

A Muslim doctors sometime encounter ambivalent situations in clinical practice and has to take decisions in the best interest of patients. This requires that they must have reasonable knowledge of Allowed (Halal) and Forbidden (Haram) as described in Shariaah. It is primarily the knowledge, intention, and piety (*taqwah*) that are the deciding factors in such situations.

The Prophet (ﷺ) instructed a companion that in doubtful situation you should ask your "Heart" (conscious) whether it is satisfied with your decision or not? He said "O Wasibah ask your heart, you're conscious. Good is one where your heart and conscious are satisfied and sin is where your heart is hesitant to accept. This is even for instances when someone may give you a decree or has already given that"⁶⁰ It is clear from this Hadith that it is primarily one's own conscious that plays the decisive role. However, it is important to understand that the Prophet (ﷺ) is referring to the "heart" or "conscious" of a Muslim that is in search of finding the facts and continuously exerts to acquire knowledge about such issues. It is not about a "dead" heart that does not care for such issues and the Prophet (ﷺ) said about such heart that it becomes black and then cannot differentiate between truth and the falsehood⁶¹.

It should be crystal clear that if an order is evidently described in Qur'an or Hadith or a consensus decree already given by Islamic scholars about an issue, then a person cannot go against it on the pretext that "his/her" conscious considers it otherwise. Decisions cannot be based on the whims and wishes of individuals (doctors and patients) otherwise one may go astray and commit wrongs and sinful actions.

A health care provider should consider these dimensions while deciding in favor or against, in a particular situation. This is one of the basic guidelines for decision-making by a Muslim doctor in clinical practice.

In summary, the following three principles/parameters may be used for taking decisions in line with Islamic teachings;

(a) Human life is sacred and must be respected and protected at all costs even if it comes to the use of absolutely forbidden actions and things to save a life.

(b) The extent of permissible and forbidden and exceptions have been defined by Almighty Allah and His Prophet

(c) The areas which are not occupied by authoritative diktats (Nas) on permissible and forbidden are left open for decisions according to the circumstances.

The extent of the space available for exercising the options of prescribing exemptions is based on Shariaah principles some of which are outlined in subsequent pages.

3. Customs: (عرف)

This is an important principle while deciding on a particular perspective in a society.

Every society has some specific cultural values and customs. It gives people a sense of belonging and identity. The various norms and customs prevalent in a society or a social setup influence the Shariaah approach to various issues. It is no surprise that Islamic law pays much attention to the customs and enshrines it as an institution worthy of regard in law.⁶²

Custom (*Urf*) is defined as the norm (habits) of the majority of a society whether applied in speech or deed⁶³, it may also be the consistent practice of a group of people.⁶⁴ It is generally very well-known and is accepted by the people. The one common to all the people are called “General customs” and the ones belonging to a specific group (like doctors or businessmen) are called “Special or specific customs”.

Customs that are in line with Islamic Shariaah or not against Shariaah are called “the true or right customs” and Islamic scholars use these as the basis of Islamic Law⁶⁵. While customs that are against Islam / Shariaah are regarded as “noxious” and are not acceptable.⁶⁶⁶⁷ The prevailing law in a particular time may be subject to change with the change of relevant customs of that society.⁶⁸ The term customs and habits are usually synonymously used by Islamic scholars⁶⁹.

Customs may be used as the basis of judgment⁷⁰ when these become a permanent part of the culture of a society with

time (العَادَةُ مُحَكَّمَةٌ). However, they shall not be against Nas (“texts” of Quran and Sunnah). The companion of the Prophet Muhammad (ﷺ), Abdullah Ibn e Masood (may Allah be pleased with him) narrated that “Anything which is generally considered and accepted as good in a Muslim society shall also be liked by Allah and the one considered bad shall be disliked by Allah”.⁷¹ The same is true for rejecting things/actions based on prevailing customs. A legal maxim of Fiqh states that “What is rejected customarily is rejected in reality.”⁷²

Examples: The consent of the patient is a mandatory requirement for initiating examination and treatment. It is customarily understood that the patient attending a clinic has consented to be examined and the doctor may not ask for written consent in routine clinical practice. However, he is expected to take consent when an out of routine examination (e.g. private parts) or a procedure (endoscopy or other medical/surgical procedures, etc.) is required.

Another example is about Muslim physicians working in non-Muslim countries (Europe or America) in current times. They may face clinical situations where they have no choice but to adapt to the local cultural and social norm in terms of medical examination and management. They might have to face issues like the legality of homosexuality and abortion. The same would be the case of gender interactions. It is good to know that in many situations the caring physicians may refuse things (e.g. abortion) that are against their faith but in certain situations may have to face hardship as well. However, when the same doctors return to their Muslim homeland, they need to change their norms of

practice following the needs, culture, and customs of society with maximum possible compliance of Shariaah practices.

Customs are given so much importance that some Islamic scholars equate them to “text” (the orders in the Qur'an and Sunnah) in the implementation of a certain issue.⁷³ This realizes the importance of creating easiness and allowing societies to retain their cultures, social values and make it the basis of their routine decision. Customs must be widespread in the society and not just adopted by a minority.^{74/75}

Customs are not only given due importance in a particular society but are also considered as legal evidence/proof.⁷⁶ It is partly for this reason that Shariaah's rulings may change with time and place⁷⁷.

In some situations, local culture may require certain relaxations in gender interaction. The healthcare workers might be expected for closer interaction (both by patients and the colleagues) where it would be practically hard to determine and differentiate between need and necessity all the time. These matters are usually directly related to patients' care. In such cases, more frequent gender action may be allowed with lesser emphasis on necessity but care must be taken to observe the etiquettes of interaction, and violation of basic principles must be avoided.

4. **Blocking pretenses (سد ذرائع)**

It means prohibition of the evasive legal devices. The spirit is to block the means of harm or stop the harm before it occurs. Islam is a strong promoter of preventive strategies. It sometimes

even forbids allowed action on the pretext of consequent significant chances of harm to the person or public interest. The Prophet wished to formally include *Hatheem* (the walled area adjacent to Kaa'ba which is actually part of Kaa'ba) as part of Kaa'bah but did not do so because he feared it may become a point of conflict amongst the tribes,⁷⁸ although it was a sacred task for him.

Allah orders in the Qur'an about adultery "Do not go close to fornication. It is indeed a shameful act, and an evil way to follow"⁷⁹ The verse does use the word "Don't do" it rather says "do not go near it" because it may ultimately lead to committing adultery. This is a preventive measure. The same is further clarified in a Hadith by the Prophet Muhammad (ﷺ);

"Allah fixed the very portion of adultery which a man will indulge in. There would be no escape from it. The adultery of the eye is the lustful look and the adultery of the ears is listening to voluptuous (song or talk) and the adultery of the tongue is licentious speech and the adultery of the hand is the lustful grip (embrace) and the adultery of the feet is to walk (to the place) where he intends to commit adultery and the heart yearns and desires which he may or may not put into effect."⁸⁰

Though adultery has been specifically mentioned here but it has general applications as mentioned in another Hadith of the Prophet (ﷺ) to avoid doubtful things because that might end up in committing unlawful.⁸¹

Public interest is given top priority in preventing harm. In a Hadith, the Prophet has forbidden quackery i.e. any clinical

practice for which the person is not qualified and declared such person liable for damages⁸². The Islamic scholars forbid an unqualified person to do medical practice and allow the government to ban and fine if they disobey. Banning quackery is mandatory under Islamic Law to prevent harm to the public.⁸³

Any action even if lawful but has the potential of “going wrong” is to be avoided. The Seclusion of men and women *per se* should not be a problem. However, Islam strictly forbids it because of its potential chance of more intimacy and creating space that may ultimately lead to a sinful act. The same applies to many situations explained in this book. It applies to all potential actions with consequent physical, emotional, or moral harm to individuals and communities. These preventive strategies have a short and long-term impact on the society.

This principle is very relevant to gender action in medicine and appropriate application would restore the moral fabric of the medical profession and help to create a safe, modest, and conducive working atmosphere for health care providers as well as patients.

The scholars of Islamic jurisprudence (*Fiqh*) have defined related legal maxims for practical application of this principle in diverse circumstances. Some are enumerated below;

Legal Maxims related to “blocking pretenses”

1. Something that may lead to a forbidden act is also forbidden⁸⁴
2. The causes (grounds) of forbidden are also forbidden⁸⁵
3. Facilitating sinful is also sin⁸⁶

4. Helping someone in performing a prohibited act is prohibited ⁸⁷
5. The means “the objectives shall be governed by the same ruling/verdict”⁸⁸

These maxims explain that all those actions, underlying causes, helping factors and, facilitations in gender interactions that ultimately lead to sinful endings shall be prohibited.

These are in line with the Quranic teaching; “And cooperate in righteousness and piety, but do not cooperate in sin and transgression and fear Allah; indeed, Allah is severe in penalty.”⁸⁹

Hospital managers, departmental heads, and other relevant persons should recognize that they may be very poised and exhibit excellent manners however if they do not take appropriate preventive steps to facilitate others (under their responsibility) in curbing moral and physical harm to patients and staff they fail in fulfilling their responsibilities. Shariaah demands that they take all possible preventive measures not only to facilitate best practices like infection control etc. but also appropriate steps to prevent moral and social harm. Becoming Shariaah-compliant only in personal life but failing to prevent unlawful activities in the institution where we work, is like taking care of personal hygiene but not providing a hygienic working environment to staff and patients to prevent disease.

5- Necessity and Mitigation:

The principles governing mitigation primarily consider the level of hardship to eliminating or minimize harm. The other important considerations are; determining the objectives of mitigation,

exercising discretion judiciously, and intentions while remaining within the bounds of permissible and forbidden as determined by the Qur'an and Sunnah. The succeeding paragraphs provide some insight into the concept of Necessity (*Dharurah*) and Mitigation (*Rukhsah*) which is built around the philosophy of saving human lives. Mitigation is meant to allow concessions in severe harm and addressing inescapable hardship through the creation of allowances by expanding the scope of permissibility.

There is no situation of hardship where an amicable solution is not available. Islam does not create hardship for human beings rather it provides them relief in difficult situations. As a practical religion, it takes care of natural human needs and creates ease for people wherever and whenever required. There are plenty of Verses in Qur'an and narrations of the Prophet Muhammad (ﷺ) about this and some are quoted here;

Evidence from Quran:

Allah has said about creating easiness in many places in Quran. Some examples are quoted below. Detail explanation is not given here and can be studied in the relevant commentaries of the Qur'an by various Islamic scholars.

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا

Allah does not burden any human being with a responsibility heavier than he can bear.⁹⁰

يُرِيدُ اللَّهُ أَنْ يُخَفِّفَ عَنْكُمْ ۗ وَخُلِقَ الْإِنْسَانُ ضَعِيفًا

Allah wants to lighten your burdens, for man was created weak.⁹¹

وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرُّتُمْ إِلَيْهِ

He has forbidden you (to use certain things) unless you are constrained to do that.⁹²

وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ

And He has not laid upon you any hardship in religion.⁹³

فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ وَأَسْمِعُوا وَأَطِيعُوا وَأَنْفِقُوا خَيْرًا لَأَنْفُسِكُمْ

So hold Allah in awe as much as you can, and listen and obey, and be charitable, that is better for you.⁹⁴

Evidence from Sunnah:

The Prophet Muhammad (ﷺ) has emphasized the same in many of his sayings (*Ahadith*). Some relevant *Ahadith* are quoted below:

وَبَشِّرُوا وَلَا تَنْفَرُوا وَيَسِّرُوا وَلَا تَعْسِرُوا

Presage good and not bad news and create easiness and not a hardship⁹⁵

ثُمَّ يَقُولُ فِطْرَةَ اللَّهِ الَّتِي فَطَرَ النَّاسَ عَلَيْهَا لَا تَبْدِيلَ لِخَلْقِ اللَّهِ ذَلِكَ الدِّينُ الْقَوِيمُ

Islam is a natural religion and follow it the natural way. This is the straight (right) religion.⁹⁶

ان الله يحب ان توفق رخصة كما يكره ان توفق معصية

Allah likes concessions (easiness) as much as he dislikes sins⁹⁷

ان خير دينكم ايسر ولا ان خير دينكم ايسر

The best about religion is its easiness and concessions⁹⁸

In a Hadith narrated by Jabir Ibni Abdullah (may Allah be pleased with him) the Prophet narrated the basic principle for

leniency in action “Anyone who acts would find easiness for (his or her) action”⁹⁹

In another Hadith Hazrat Ayesha (may Allah be pleased with her) said that whenever the Prophet (ﷺ) faced two simultaneous situations, he would opt for the easier option, provided it was not a sin. If it was sinful then he would keep away from it more than anyone else¹⁰⁰

The Islamic Jurisprudence (Fiqh) primarily provides practical solutions to problems based on the principle of leniency with full consideration of time and circumstances of the situation.

The limits of leniency and mitigation:

As explained earlier there is no condition where Islam does not provide an amicable solution. However, it must be understood that it creates ease for people within the bounds defined by Allah and His Prophet and does not encourage transgression. Some important references from Quran are quoted below;

تِلْكَ حُدُودُ اللَّهِ فَلَا تَقْرَبُوهَا

These are the limits of Allah and don't go near these¹⁰¹

تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا ۚ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ

These are the limits of Allah and whosoever overrules these limits is a transgressor¹⁰²

وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ

And those who transgress the limits of Allah are doing injustice to themselves¹⁰³

Important consideration:

Before discussing the principles governing necessity and mitigation, it is essential to define the two concepts for better clarity and understanding.

Necessity (*Dharurah* ضرورة):

The Islamic scholars (Hamoomi, Abubakr Jassas, and Al Syoothi) define it as a situation where not taking an action may lead to death or almost near to death ^{104,105} while others (Imam Shatibi, Wahabt Alzuhailee and Allama Ali Haider) consider it encompassing all situations that lead to severe disruption of life.¹⁰⁶

Mitigation is based on the level of hardship. So, it is imperative to have a clear concept of “hardship” and its level /classification.

Hardship / Harm:

Full comprehension of the level and scope of hardship would provide a better understanding to Muslim doctors on deciding the required mitigations in various issues. It will enable them to make Shariaah-compliant informed decisions in difficult situations. The primary objective of mitigation in hardship is to save human life and avoid or minimize harm. The level of harm/hardship would determine the extent and nature of mitigation. Hardship may be classified as under;

Classification of Hardship:

Harm or hardship is classified according to the level of gravity and the extent of its impact on individual health. The short and long-term impact on the community may also be important.

Harm is classified into three levels corresponding to the degree of hardship.¹⁰⁷ These levels act as a guide for allowing corresponding concessions/mitigation in actions or the use of certain objects/medicines to save a life.

1- Severe Harm:

This level endangers human life or leads to damage/loss of a vital organ like heart, brain, kidneys or liver, etc. In such harm, it is not only allowed but even desirable rather mandatory to use anything including forbidden items to save a life, when a permissible items or methods are not available.¹⁰⁸ Use of medicines with forbidden contents (alcohol and pork ingredients) in life-saving situations or abandoning “obligatory fasting” in renal failure etc. are such examples. Even eating pork is allowed in life-threatening situations, which is otherwise absolutely forbidden in Islam. So may apply to some etiquettes of gender action in life-saving situations.

2- Moderate Harm:

It is also significantly severe harm but not to the extent of endangering life or a vital organ. This level is not life-threatening but severe enough that is out of proportion to the routine hardship in life. In this level of harm, it is usually the discretion of the patient to avail concession or opt to exercise restraint in the

situation as per his capacity. Some examples include fasting in conditions like fever or body aches.

In certain situations, it may be primarily the patients' discretion to decide about availing concessions or not e.g. the capacity to tolerate pain. It's the patient to decide about the intolerability of headache and take the decision (e.g. breaking fast) and not the doctor.

In this level of mitigation, the use of forbidden substances and unlawful actions is generally not allowed.

3- Minor Harm:

It is a kind of hardship that is tolerated easily without endangering any body organ. Mitigation is not allowed in this level of harm. It includes simple and common ailments like mild fever, common cold, or tolerable simple headaches. There has to be some hardship in doing any work and Shariaah does not allow any concession in this level of hardship¹⁰⁹. This level of hardship can be easily tolerated without any significant difficulty. For example, there is some level of hardship in performing many *Ibadah* but mitigation is not allowed in such cases. Mild fever or common cold etc. will also not render any mitigation in routine *Ibadah*.

Mufti Taqi Usmani (May Allah's mercy be on him) described three important conditions to determine necessity. If any one of these is not present it will not fulfill the conditions of defining a situation as a necessity.¹¹⁰

1. There should be a potential threat to life or a vital organ
2. The necessity is factually present and not expected incidence or based on a hypothetical situation.

3. That subsequent removing harm shall not at the expense of harming another person.

In addition, it shall be ensured that Halal alternate is not available

Impact of Harm on the Community:

It is important to consider the overall current and long-term impact of hardship on the community. This consideration ensures that implementation of decisions are not against ground realities and do not become practically impossible or lead a severe difficulty for the community. Therefore, the hardship may also be classified on the basis of prevailing circumstances in a community.

Example: Male and female doctors are fundamental need of the society. Currently, there are not enough “only for women medical schools” to provide separate education to females. If females are not allowed to study in co-education institutions there will be no immediate threat to the life of any individual but this will have a long-term impact on the health care system of the society. It will also deprive females of their fundamental right of education as allowed to them by Islam¹¹¹. Although in such circumstances there is no immediate threat to anyone’s life, keeping in view the long-term impact of depriving females to study medicine in co-education in prevailing circumstances, Shariaah allows males and females to study together in the same institution with observance of required etiquettes.

Another important term/consideration is “Requirements” (*Hajah* - حاجة). It pertains to a situation where the non-fulfillment shall have no harmful effect on the higher intents of Shariaah. In

contrast to this non-fulfillment of actions under “Necessity” would infringe harm on one of the higher intents of Shariaah.¹¹² Forbidden action and things are allowed when there is an immediate potential threat to the life of an individual¹¹³

In the above example of co-education, the situation appears to be Hajah but is dealt with as a necessity. The same principle will apply to gender interaction and other similar conditions when the matter implication on the general public.

Legal Maxims related to necessity and Mitigation:

The scholars of Islamic jurisprudence (Fiqh) have prescribed many legal Maxims for application of the principle of “necessity and mitigation”. These provide the guidelines for making appropriate decisions in various situations of hardship. Knowledge of these Maxims will enable medical professionals to refrain from transgression and indulgences in the prohibited domain. Some of these are given below;

1) Necessity renders prohibited things permissible:

(الضَّرُورَاتُ تُبَيِّمُ الْمَحْظُورَاتِ)

In general terms, this principle means that in emergency situations it may be allowed to undertake actions and use things that are prohibited in ordinary situations in Islamic Law. It means that actions and things that are otherwise forbidden may be allowed to save a life in case no Halal alternate is available. It includes prohibited medicine contents, foods and beverages, and exigencies in medical treatment.¹¹⁴

Taking alcohol and eating pork is strictly forbidden in Islam. However, these may be allowed in cases where human

life is endangered. Medications derived from pork (Heparin) are allowed e.g., in pulmonary embolism and similar life-threatening situations. Allah allowed even eating pork meat in severe hunger where no other food is available¹¹⁵. Likewise, in ordinary conditions examination of the “satar area” of the opposite gender is forbidden but it may be allowed if an examination is obligatory to make a correct diagnosis especially in life-threatening situations e.g. road traffic accident and pelvic trauma .

Doctors are the best judge to decide the issue of necessity and mitigation by assessing the chances of resolving the situation amicably by allowing the concession

2) Hardship begets facility:¹¹⁶ (الْبُسْفَةُ تَجْلِبُ التَّيْسِيرَ)

The principle postulates that in case of hardship one may use such means that would remove (or reduce) the hardship. Islam generally encourages and facilitates to create ease. It is stated in Quran that, “Allah wants leniency for you and not a hardship¹¹⁷. The Prophet (ﷺ) said “Allah likes for the best religion for Abraham that is easy (to follow).¹¹⁸ This principle is further augmented by another legal Maxim that states “whenever there are constraints in a situation it shall be removed by providing relaxation¹¹⁹ (الْأَمْرُ إِذَا ضَاقَ اتَّسَعَ)

When the same gender or equally skilled and experienced doctor is not available, it is allowed to examine and treat patients of the opposite gender.¹²⁰ The same would be true for general interaction and communication with the opposite gender for professional needs.

3) Forbidden becomes permissible in case of absolute necessity:¹²¹ (لِحَرِّهِمْ يُسْتَبَاحُ لِيَضْرُورَةً).

This principle further explains the preceding two principles and establishes the allowance of the permissibility of even absolute forbidden things in case of dire necessity when it comes to saving human life.

4) Necessity is determined by the extent thereof:¹²²

(الضَّرُورَاتُ تُقَدَّرُ بِقَدْرِهَا) :

An action that is taken in the exigent situation may continue till it is considered necessary for saving a life. Relaxation should not extend once the necessity is over. This maxim is corroborated by another one which prescribes that “whatever is rendered lawful due to direct exigency must be proportionate to the need ¹²³. (مَا أُبِيحُ لِلضَّرِّ وَرَقَّةٌ يُقَدَّرُ بِقَدْرِهَا).

One may continue using a forbidden medication because of necessity but should discontinue it when the life-threatening situation is over or a “permissible” alternate becomes available.

5) Whatever has been allowed (because of a specific situation) shall stand invalid when that situation is over:¹²⁴

(مَا جَازَ لِعُدْوَرٍ بَطَلَ بِزَوَالِهِ) .

Doctors may examine the private parts of patients of the opposite gender in a life-threatening situation to make a proper diagnosis and save a life. However, once the emergency is over the concession will automatically cease.

6) When an impediment is removed it reverts back to prohibition:¹²⁵ (إِذَا زَالَ الْعَانِمُ عَادَ الْمَنْعُومُ):

If a matter is prohibited but allowed due to a specific situation, the prohibition would restore when permissibility is no more required.

A lady may not observe the Islamic code of *Hijab* while being examined by a male doctor in case of necessity but the normal etiquettes would return once the examination is over.

7) Need whether public or private may be treated as necessity:¹²⁶ (الْحَاجَةُ تُنْزِلُ مَنْزِلَةَ الضَّرُورَةِ عَامَّةً كَانَتْ أَوْ خَاصَّةً)

This principle explains that the significant need of a person or society may be treated as a necessity in certain situations and can allow forbidden things to become permissible. This also clarifies that “needs” may sometimes be treated equivalent to the necessity for the purpose of permissibility although the needs may not be directly categorized as lifesaving.

This maxim also applies to medical education for females and males in the same institution because this is the need of individuals and the community.

8) Necessities are generally considered exceptions (and not rule):¹²⁷ (مَوَاضِعُ الضَّرُورَةِ مُسْتَشْنَاءٌ إِذَا بَدَأَ)

In all the above examples the concession allowed (for gender interaction in medical education and health care) are considered exceptions due to specific circumstances and professional needs but are not allowed in routine life. The allowance should be considered on case-to-case basis and cannot be applied to all routine conditions and only for problems where hardship is enough to beget concession.

9) When complete compliance is impossible then possible partial compliance should not be disregarded: ¹²⁸

(الْبَيْسُورُ لَا يَسْقُطُ بِالْمَعْسُورِ)

It means that one should be Shariaah-compliant to whatever extent it is possible. It necessitates exposure of patients during an examination to the required extent without exposure of the whole body.

Basic Rules Governing Mitigation:

Islamic jurisprudence prescribes basic rules for assessing situations of necessity to make an informed decision for mitigation. These fundamental rules serve as guidelines for finding solutions to situations of hardship^{129,130} and determine availing and or continuing mitigation in specific circumstances. Some of these principles have bearing on decision making in medicine and are very briefly outlined below;

1. Mitigation is an exception and not the rule:

Mitigation is generally restricted to a particular situation and cannot be used as an analogy for other issues and situations.

2. The decision is to be based on the merit of each situation:

Each situation and issue has to be judged independently to access the principle of mitigation.

3. Level of mitigation:

Mitigation corresponds to the level of Necessity.

4. The extent of Permissibility:

It will depend on the level of hardship.

5. Mitigation is to be based on ground realities and not hypothetical state¹³¹:

A decision to avail mitigation has to be based on the actual situation and not on presumptions and surmises or assumptions about a future condition.

6. Knowledge and Comprehension:

Only those who have full comprehension of the issue and knowledge of Islamic principles in decision-making can apply the principles of Necessity and Mitigation. Otherwise, they would be obliged to solicit the opinion of people who have the knowledge¹³².

7. The intention of availing Mitigation should be compliance with guidance provided by Islam and not transgression:¹³³

The mitigation is to remove hardship and provide an amicable solution to an on-ground situation. The opportunity should not be used for “enjoyment” and exploit the situation for other purposes.

8. Option to avail a choice:

This is especially true in cases of moderate hardship. In severe hardship, mitigation should be availed and patients should be fully counseled about the potential threat to life or a vital organ.

9. Applied for a limited time only:

Mitigation should discontinue when the specific situation is over.¹³⁴

10. Applied only when an alternate is not available:

The principle of mitigation cannot be used for permitting the use of forbidden when permissible alternates are available.

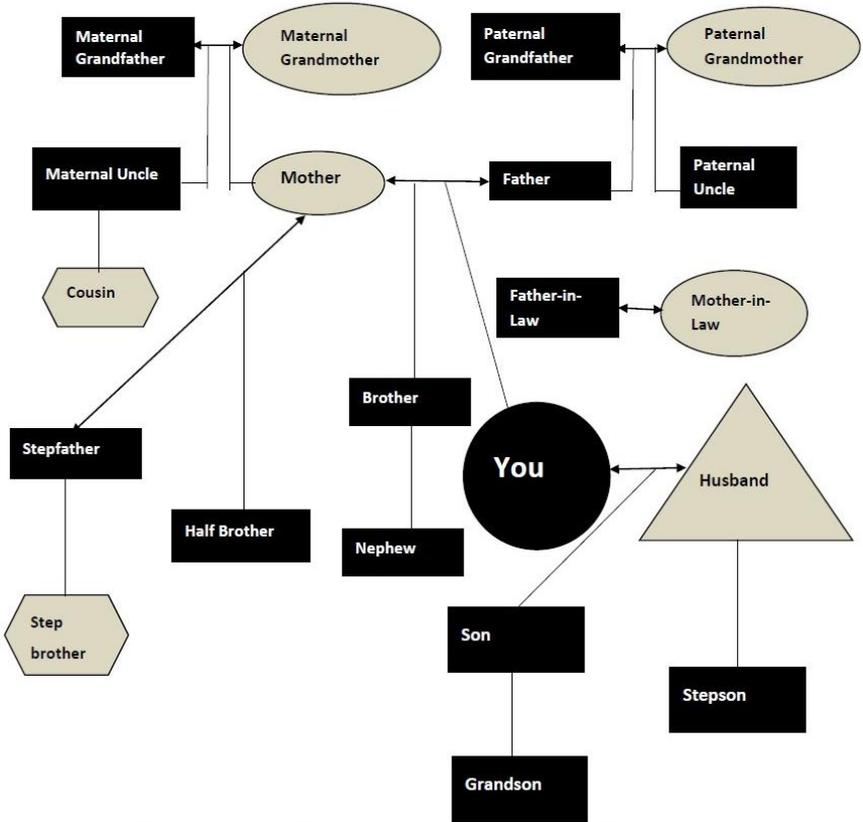
11. Mitigation is obligatory in certain circumstances:

Accessing mitigation is obligatory in all life-threatening situations and certain conditions of public facilitation.

As a general principle, all mitigations ordered by the Allah or His Prophet (ﷺ) should be availed irrespective of the underlying reason and philosophy.

Annexure -2

Mehrams



Adapted from: A guide to male-female Interaction in Islam
by Dr. Hatem Al Hajj

Journey of Women without a Mehram

(Note: The allowance given in these opinions is based on necessity and does apply to routine / leisure travelling)

The issue of the permissibility of traveling of women with mahram only has two different opinions. One does not allow traveling without mahram while the other permits it especially in the current time when there is no issue of safety. The opinions are based on the following;

First opinion: It is not permissible for women to travel without a mahram

The first opinion is primarily held by Imam Abu Hanifa and Imam Hanbal (may Allah bless them). It is based on the narrations of the Prophet (ﷺ) who ordered the companion to leave the holy war and accompany the spouse traveling for Hajj.^{135,136} This is used as a piece of evidence that when the Prophet (ﷺ) even asked to leave the holy war how could it be allowed to travel without mahram in any other circumstances. In another narration the Prophet said “

"It is not permissible for a woman who believes in Allah and the last day to make a journey of one day¹³⁷ and night unless she is accompanied by a *mahram*" While in other narration it is mentioned as two¹³⁸ and three days¹³⁹. It is direct evidence in favor of this opinion.

Second opinion: Permissibility for women to travel without a mahram in specific circumstances

This opinion is held by scholars from the school of Imam Shafi'i, Imam Malik, and by most contemporary scholars like Sheikh Yusuf Al Qardhawi, The European Fatwa Council, Darulifta' of Egypt, and scholars from Al Azhar Egypt. It primarily allows this concession only in cases of "necessity".

These scholars have examined the narrations keeping in view the reasons [why Hadith was narrated by the Prophet (ﷺ)], and the chain of narrations. They believe that accompanying mahram was considered necessary because there were safety issues at that time and if they could be effectively addressed, the prohibition may be relaxed/lifted. In support of this, a Hadith is quoted that states "And if you live a long life, you will surely see women traveling alone from Heera and reach Kaa'bah and do Tawaf, fearing no one except Allah" and the companion of the Prophet Aadi (may Allah be pleased with him) says that later saw the lady who traveled from Heera alone and did Tawaf of Kaa'bah¹⁴⁰

This supports the view that if safety can be ensured, women can travel without a mahram and the reason for not traveling without a mahram is insecurity and the possibility of harm to women.

The Caliph `Umar ibn al-Khattab, may Allah be pleased with him, allowed Hadhrat Ayesha (رضي الله عنها) to travel for Hajj in a group of people and asked Hadhrat Uthman (رضي الله عنه) and Abdul-Rahman ibn `Auf (رضي الله عنه) to accompany her.

It may be pertinent to mention that in the above-quoted Ahadith (reference 136, 137 and 138) the Prophet said 1 to 3 days at different times. It is argued that it is similar to the saying of the Prophet (ﷺ) calling different professions as the best profession in different narration. The scholars interpret it that it's the need of the society that would determine which is the best profession in those circumstances at the time of the narration of the Prophet. The same principle may be applied to the above Ahadith stating a different number of days at different times. This highlights that it is the necessity/need that would determine the duration of staying alone.

Therefore, this opinion permits a woman to travel without a mahram if she observes the following:

1. Ensures safety for going and returning without any harassment.
2. She has trustworthy companions throughout the journey.

Detail Fatwa of well-known scholar Yousaf Al Qardhawi¹⁴¹ (also annexed) explains various aspects in support of this opinion which also describes the traveling of Hadhrat Ayesha for Hajj in the company of trustworthy people.

The recent resolution in a conference of Islamic Fiqh Academy held on 3/4th October 2021 has also allowed traveling of women without Mahram in “necessity” conditions subject to their safety.

Islam does not consider women to be the weaker gender. The principle behind the narrations from the Prophet (ﷺ) on traveling with a mahram is to honor, protect the dignity and ensure special care for women.

The conclusion is that there are two different opinions on the subject and both have their own reasons and arguments based on the Prophetic traditions. The difference of opinion is based on; interpreting the logic of the Ahadith, consideration of special circumstances at that time, the concurrence of various Ahadith, practical examples of the Caliphs, and opinions /interpretations of good scholars of Islam.

As a principle when there is more than one opinion about an issue, one may adopt any one of these according to the need and prevailing circumstances. Every woman can decide in light of the above narration the best course for herself on case-to-case basis.

Allah knows the best.

What is The Ruling Regarding a Women Going to Hajj without a Mahram*?

July 3, 2009, answered by Dr. Yusuf al-Qaradawi | Translated by Sister Marwa
<https://www.virtualmosque.com/islam-studies/faqs-and-fatwas/what-is-sharia-ruling-regarding-a-women-going-to-hajj-without-a-mahram-dr-yusuf-al-qaradawi/>

The original rule stipulated in Shariaah that a woman is not to travel alone. Rather, she has to be accompanied by her husband or any other mahram of hers. This rule is supported by narrations of Bukhari and others that Ibn-Abbas (RA) said, that the Prophet (PBUH) said, “A woman should not travel except with a mahram, and no man should visit her except in the presence of a mahram.”

Abu-Hurairah related the following on behalf of the Prophet (PBUH), “It is not permissible for a woman who believes in Allah and the Last Day to travel for one day and night except with a mahram.”

Abu-Sa’id reported that the Prophet (PBUH) said, “A woman should not travel for two days except she is accompanied by her husband or a mahram.”

Ibn-Umar reported, “She should not travel for three nights except with a mahram.”

Different narrations are due to the context of the questioner. So, answers were given according to each question.

Abu-Hanifa, however, considered the narrations of Ibn-Omar as more probable. He believes that a mahram is considered a necessity only within the distance of qasr (shortening of prayers). This is according to the narration of Ahmad.

**- Note: This annexure provides the basis of an opinion on women traveling with/without Mahram*

These Ahadith are about all kinds of travels, whether an obligatory journey such as for a visit or trade, seeking knowledge, or else.

This ruling is not because Shariaah mistrusts women as some people may fancy. On the contrary, this is a precaution for the sake of her reputation and dignity. Shariaah seeks to protect her in case the sick at heart should seek to harm her. It is to protect her from transgressors, brigands, especially in an environment in which a traveler crossed deadly deserts in a time that security and civilization were yet to prevail.

But what is the Shariaah ruling if a woman did not find a mahram to accompany her in a legitimate journey, whether obligatory, preferable, or allowed travel and she had some trusted men or women or the way was safe?

Scholars investigated this issue when they came across two problems: the obligation of women to perform Hajj vs. the Prophet's (PBUH) prohibition of a woman's travel without a mahram. Some of them adhered to the superficial meaning of the reported Ahadith. Thus, they prohibited a woman from traveling without a mahram, even for fulfilling the obligation of performing Hajj. Some of them like Abul-Walid al-Yajy, a Maliki judge, excluded elderly women from this prohibition. "This is a specialization of the general when looking to the meaning," said Ibn-Daqq al-Eid.

Some of them excluded a woman accompanied by a trusted group of women. Some said it suffices to have a company of a Muslim, and trusted woman. Some said it suffices to make sure that the road is safe. This is what the great scholar Ibn-Tamiya

preferred. Ibn-Muflih said in al-Furu', "A woman could perform Hajj without a mahram as long as she is safe." "This applies to all kinds of travel (for good cause)," he added.

This is also what Al-Karabesi cited from ash-Shafi'i in the section of "Voluntary Hajj". Some of his followers said that it also applies to all kinds of non-obligatory travel, like visiting somebody or for trade. Al-Athram reported that Imam Ahmad said, "Having a mahram is not a prerequisite for obligatory Hajj," he added, "this is because a woman can go to Hajj with women (in general) and also with anyone she feels safe with." Ibn-Sirin said, "She should go with good Muslims." Al-Awza'y said, "She should go only with persons of good reputation."

Malik said, "She should go with a group of women."

Ash-Shafi'i said, "She should go with a free, Muslim, and trusted woman." Some of his followers said, "She could go alone in case she is secured."

Al-Hafidh Ibn-Hajar said, "In the Shafi'i Mazhab it is required for a woman to put the presence of her husband, a mahram, or trusted women as a prerequisite to perform hajj." Some others say, "Only one trusted woman is enough."

"She can travel alone if the road is safe." This is another opinion cited by al-Karabesi. He corrected it in al-Muhathab.

If this applies to hajj and umra, then it should apply to all kinds of travel as it has been reported by some scholars, because the main aim is to protect women and secure them. Therefore, as

long as the road is safe, and there are trusted women or men, she can go without a mahram.

There are two pieces of evidence that a woman can travel without a mahram as long as she is safe and accompanied by trusted people:

First, it has been reported by al-Bukhari in his Sahih, that Omar (RA) permitted the wives of the Prophet (PBUH) to perform Hajj. He sent Othman Ibn-Aaffan and Abdul-Rahman to accompany them. Omar, Othman, Abdul-Rahman and along with the Prophet's wives (RA), all approved it. None of the companions denied what they did. This is considered a unanimous resolution.

Second, what has been reported by Bukhari and Muslim regarding the hadith of Adyy Ibn-Hatem, to whom the Prophet (PBUH) talked about the future of Islam and how it will spread throughout the world. Among of what he said was, "... you will certainly see that a lady in a Howdah traveling from al-Hira, heading for Makah, without her husband, fearing none but Allah..." This hadith implies not only that what the Prophet (PBUH) said would happen, but also that it is permissible. It was mentioned within the context of praising the widespread of Islam and the security it would provide.

Here, we want to add two important rules:

First, rulings regarding human interactions are meant to take into consideration the meanings and aim behind them. Unlike the rulings of worship, whose origin is to worship and submit to Allah, without thinking about their implications. This was clarified and assured by al-Shatibi.

Second, whatever has been prohibited for itself could be permissible only if there is a necessity. Whatever has been prohibited for the sake of preventing evasive legal devices (Sad al-Zara'i), could be permissible only if there is a need for it. Surely, women's traveling alone was prohibited for the sake of preventing evasive legal devices.

Moreover, travel in our time is different from what it used to be in the past. For then, travel was full of danger. People had to cross deadly deserts, sometimes encounter robbers or brigands and the like. Nowadays, however, we travel by ships, airplanes. Usually, these vehicles take large numbers of people. This is what eliminates the fear for a woman traveling alone, because she will not be alone in any particular place.

Therefore, there is no harm in a woman performing hajj (without mahram), as long as the circumstances are settled and safe.

May Allah grant us success.

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References:

- ¹Report on the AAU Climate Survey on Sexual Assault and Sexual Misconduct Report on the AAU Climate Survey on Sexual Assault and Sexual Misconduct; (<http://www.aau.edu/climate-survey>)
- ²[https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/Revised %20Aggregate %20 report%20%20and%20appendices%201-7_\(01-16-2020_FINAL\).pdf](https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/Revised%20Aggregate%20report%20%20and%20appendices%201-7_(01-16-2020_FINAL).pdf)
- ³<http://web.mit.edu/surveys/health/MIT-CASA-Survey-Summ> Survey Results: 2014 Community attitudes on Sexual Assault
- ⁴<https://revoltsexualassault.com/research/>
- ⁵https://www.pewresearch.org/global/2020/06/25/global-divide-on-homosexuality-persists/pg_2020-06-25_global-views-homosexuality_0-02/
- ⁶ Ibn Majah 2901, Bukhari 2875, Masnad Ahmad 24932
- ⁷ Masnad Ahmad 1125, Sahih Ibn Khuzaimah 1689, Abu Daud 567
- ⁸ Najib ul Haq “Woman’s share in inheritance” ;Meesaq Aug 2016
- ⁹ Ibid
- ¹⁰ Abida Ali Dr; Women in light of Qur’an, Sunnah and history; Edi 3, Qur’an Manzil Lahore; p 151-164
- ¹¹ Carol J. Salton, BA et al; Gender differences and Normal Left Ventricular Anatomy in an Adult Population Free of Hypertension A Cardiovascular Magnetic Resonance Study of the Framingham Heart Study Offspring Cohort ‘ Journal of the American College of Cardiology Vol. 39, No.6, 2002 page 1056-60
- ¹² R. Ferber et al. Gender differences in lower extremity mechanics during running; Clinical Biomechanics 18 (2003) 350-357
- ¹³ Bente Pakkenberg, Hans Jorgen G. Gundersen; Neocortical neuron number in humans: Effect of sex and age
- ¹⁴ L.S. Chesterton er al: Gender differences in pressure pain threshold in healthy humans: Pain 101 (2003) 259-266
- ¹⁵http://highered.mheducation.com/sites/0072820144/student_view0/chapter15/index.html
- ¹⁶Brief biography of Umme Salam; p3 www.quransearchonline.com/HTML/Biography/ilyref/usalmaraz.html
- ¹⁷Abida Ali Dr; Women in light of Qur’an, Sunnah and history; Edi 3, Qur’an Manzil Lahore;
- ¹⁸ Ibid p 143-153
- ¹⁹Sunan Ibne Maja Hadith No 4182
- ²⁰ Sunan Ibne Majah 4183
- ²¹ Bukhari Hadith No 6117
- ²² Muslim Hadith No 157

- ²³ Muslim; Hadith No;154 and Thirmizi; Hadith No 2615
- ²⁴. *Encyclopedia of Fiqh – Ministry of Islamic matters of Kuwait (Urdu translation) Vol 17 p21-33]*
- ²⁵ ibid
- ²⁶.ibid Vol 31 p 73]
- ²⁷ 35:28
- ²⁸Hathem Al Haj Dr; A guide to male-female interaction in Islam; Eng. Edi 1 (2014) IIPH, Riyadh Saudi Arabia
- ²⁹ Asif Hirani Dr; principles of men-women interaction in Islam; 2nd Edit 2020; ILF NY; USA
- ³⁰Translation – Modoodi, Tafheem 7:26,27)
- ³¹Translation Sahih International 33: 32,33
- ³².Modoodi Translation, Tafheem 24:30,31
- ³³ 33:70 Translation Taqi Usmani
- ³⁴ 23:3 Modoodi Tarjuma Tafheem
- ³⁵. Bukhari 5096 <https://shamilaurdu.com/hadith/bukhari/5096/>
- ³⁶.Muslim 6948 <https://shamilaurdu.com/hadith/muslim/6946/>
- ³⁷Muslim 3274.<https://shamilaurdu.com/hadith/muslim/3274/>
- ³⁸.<https://shamilaurdu.com/hadith/bukhari/1862/>
- ³⁹<https://shamilaurdu.com/hadith/bukhari/5233/>
- ⁴⁰.<https://shamilaurdu.com/hadith/nisai/4186/>
- ⁴¹<https://shamilaurdu.com/hadith/bukhari/2713/>
- ⁴²Sunnan Nisaae 4186 <https://shamilaurdu.com/hadith/nisai/4186/>
- ⁴³Shahrul Hussain; A treasury of sacred Maxim; Kube publishing limited; UK: “when two evils are present the greater evil is disregarded in favor of lesser evil’ p 72-5;
- ⁴⁴28:26
- ⁴⁵19:20
- ⁴⁶7:189
- ⁴⁷<http://www.amjonline.org/en/declarations/20-declarations/52-decisions...>
- ⁴⁸Kasule Omar Islamic medical education resources<https://i-epistemology.Net/v1/medicine/813-Islamic-medical-ethics-with-special-reference-to-maqasid-al-shariat.html>
- ⁴⁹Sunnan Abu Dawood; Vol: 5; Hadith No. 4869; Chapter: transmitting what others have said; Translation by Nasiruddin Al-Khattab; Darussalm Publishers (Saudi Arabia)
- ⁵⁰ ibid; No 4869
- ⁵¹Haq N; Medical confidentiality: FIMA Year book 2018
- ⁵² Usmani T M M; The sanctity of human life in the Qur’an and Sunnah; Maktabah Ma’riful Qur’an; Karachi Pakistan p7-32

- ⁵³- Qur'an 5:32
- ⁵⁴Mufti Taqi Usmani; Tafaseer Asan Quran: 2009
- ⁵⁵- 3932; Ibn-e-Maja: <https://shamilaurdu.com/hadith/ibn-e-maja/3932/>
- ⁵⁶-2619; Ibn-e-Maja: <https://shamilaurdu.com/hadith/ibn-e-maja/2619/>
- ⁵⁷ Sano Q Moustapha; Concurrence of Jurisprudence fundamentals terminology Arabic-English; 3rd edition; Darul Fikr USA. 2006
- ⁵⁸- Abul Hassan Ali Bin Umar; Sunan Aldar Qutni; Kitab Alradha; Kitab Ur Radha Hadith 4396; Muassah Alrisalah, Beirut; Lebanon; 2004 Vol 5, p302
- ⁵⁹-Bukhari;251<https://shamilaurdu.com/Hadith/Bukhari/2051/>
- ⁶⁰-Masnad Ibn-e-Abi-Shaibah: 753;Darul Watan, Riyadh Vol 2;p259
- ⁶¹Ibn-e-Maja;4244:<https://shamilaurdu.com/hadith/ibn-e-maja/4244/>
- ⁶² Shahrul Hussain; A treasury of sacred customs; Kube publishing England; 2016; p85oustapha
- ⁶³ Zaydan A K; Synopsis of the Elucidation of Legal Maxims in Islamic Law; translated by Rahman H U, Ismail A; p117; IBMF, Kualampur;2015
- ⁶⁴ Ibid p118
- ⁶⁵ -Latif Abdul; Mabadiat Usool Fiqh (Urdu) p 167
- ⁶⁶ Islamic Fiqh academy; New Issue and decisions: India p 80
- ⁶⁷ Muhammad N Qawaid Alfiqian (New edition) Almaarif Karachi 2014; p159
- ⁶⁸-Ghazi Mehmood Ahmad; Mahadhirat Fiqh (Urdu) 2005, Alfaisal; Lahore 2005;p109
- ⁶⁹-Nauman Muhammad Qawaid Alfiqian (New edition) Almaarif Karachi 2014; p157
- ⁷⁰-Ibn-e-Nujaim; Alashbah Wa Alnazir aala Madhab Abi Hanifah Al Nauman Darul Kitab alaalmia Beirut Lebanon (Arabic) 1999; p 79
- ⁷¹-Al Tibrani Al Mujamul Kabir Hadith No 8583;Maktabah Ib-e-Taimiah Cairo, Egypt Vol 9 p112
- ⁷² Shahrul Hussain; A treasury of sacred customs; Kube publishing England; 2016; p 91
- ⁷³Ihsan M A, Qawaid Alfiqiah; Karachi; Vol 1; p 71 (التَّعْيِينُ بِالْعُرْفِ كَالْتَّعْيِينِ بِالْيَمِينِ)
- ⁷⁴Mujallah Al Ahkam (Urdu) Maktabah Rasheediah;2016; Nowshehra; Vol1;p 53
- ⁷⁵- Ibn-e-Nujaim; Alashbah Wa Alnazir; (Urdu) 2015; Translator Anees Ahmad Maktabah Rahmania Lahore p 101
- ⁷⁶.ibid p 292
- ⁷⁷- Mujallah Al Ahkam (Urdu) Maktabah Rasheediah;2016; Nowshehra; Vol 1; p 113
- ⁷⁸1583; Bukhari:<https://shamilaurdu.com/hadith/bukhari/1583/>
- ⁷⁹ 17:32
- ⁸⁰<https://shamilaurdu.com/hadith/muslim/6753/>

- ⁸¹<https://shamilaurdu.com/hadith/bukhari/52/>
- ⁸²<https://shamilaurdu.com/hadith/ibn-e-maja/3466/>
- ⁸³ Qasmi M Islam, Ethical codes rules and regulation in light of Islamic Fiqh (Urdu) p20,1998; Darul Quran; Karachi Pakistan
- ⁸⁴ Aldamishqi, Abu Muhammad A Salam, Qaawaid Alahkam Fi Masalih ul Anam (Arabic) p218,1991; Cairo Egypt
- ⁸⁵ Alkasani A Abubakr; Badaai Wasanaai fee tarteeb alsharaai p 119, Vol 6; 1986 Darul Kutub Cairo Egypt
- ⁸⁶ Albor N, Sadafi N Maosuaat ul Qawaid Fiqhi; p211, vol;2; Maktabtu Altobah Riyadh Saudi Arabia
- ⁸⁷ Shad M S "An exploratory review of Qawaid Fiqhi "Darul Alsiddiq Swabi P413
- ⁸⁸ Abdullah M A, Alfiquil Mayassar p124 Vol; 13; 2012; Darul Watan Linnashr; Riyadh Saudi Arabia
- ⁸⁹ 5:2
- ⁹⁰ Qur'an 2:286
- ⁹¹ Qur'an 4:28
- ⁹² Qur'an 6:119
- ⁹³ Qur'an 22:78
- ⁹⁴ Qur'an 64:16
- ⁹⁵ Bukhari;69:<https://shamilaurdu.com/hadith/bukhari/69/>
- ⁹⁶-Bukhari;4775:<https://shamilaurdu.com/hadith/bukhari/4775/>
- ⁹⁷Masnad ahmad;5866; Moasatu Alrisalah; 2001; Vol 10 p107
- ⁹⁸Masnad ahmad;5866; Moasatu Alrisalah; 2001; Vol25: p284
- ⁹⁹Muslim;6736:<https://shamilaurdu.com/hadith/muslim/6736/>
- ¹⁰⁰ Bukhari; 6126: <https://shamilaurdu.com/hadith/bukhari/6126/>
- ¹⁰¹ Qur'an 2:187
- ¹⁰² Qur'an 2:229
- ¹⁰³ Qur'an 1:65
- ¹⁰⁴. Ahmad Alhamoomi bin Muhammad Alahanfi; Ghamz aayoon albasair 52-11darat ul Qur'an wa Uloom Islamiah Karachi
- ¹⁰⁵ Alhasas Abubakr Alhanafi Ahkam ul Qur'an1986 Dar Ahya Altarat Alarabi; vol 1:p
- ¹⁰⁶ Ali Haider Dr al Ahkam Vol 1 p 38 Almaktabtul Arabia Quetta
- ¹⁰⁷. Ghazi Mehmood Ahmad; Qawaid Kuliah and their evolution and their subject-wise study (Urdu);2014; Shariaah Academy Islamabad: p102
- ¹⁰⁸. ibid
- ¹⁰⁹-Ghazi Mehmood Ahmad; Qawaid Kuliah and their evolution and their subject-wise study (Urdu);2014;

Shariaah Academy Islamabad: p101

¹¹⁰ Mufti Taqi Usmani, *Usool ul Afta w adabho*; 2011, Maktabah Maarif al Qur'an Karachi p 268-9

¹¹¹ Ibn-e-Maja 224: <https://shamilaurdu.com/hadith/ibn-e-aja/224/>

¹¹² -Mehmood Ahmad; *Qawaid Kuliah and their evolution and their subject-wise study (Urdu)*;2014;

Shariaah Academy Islamabad: p113

¹¹³ -Nauman Muhammad *Qawaid Ul Fiqh 2014 Idarah Almaarif* , Karachi:p116

¹¹⁴ Zaydan Abd Al Karim; *synopsis on elucidation on legal maxims in Islamic Law*, translated by Habib Ur Rehman and Azman Ismail p75-76; Kuala Lumpur IBFIM, 2015

¹¹⁵ Quran 2:173

¹¹⁶ - Nauman Muhammad *Qawaid Ul Fiqh 2014 Idarah Almaarif* , Karachi:p37

¹¹⁷ 2:185

¹¹⁸ Bukhari; *Dar Toq Alnajah, Beirut, Lebanon 2001, Vol 1*,p16

¹¹⁹ Mujallah Al Ahkam (Urdu) Maktabah Rasheediah; *Nowshehra; Vol 1*; p 39

¹²⁰ - Haq Najib ul; *Issues in Gender Interaction (Urdu) and Shariaah guidance*: p15

¹²¹ -Almar Gheenani; *Alhidayah Sharh Albdaiyah Almubtadi, Al Maktabtu Ul Islamiyah; Vol 2*; p 144

¹²² -Mujallah Al Ahkam (Urdu) Maktabah Rasheediah; *Nowshehra; 2016; Vol 1*; p 41

¹²³ Hussain Shahrul, *A treasury of sacred maxims* p63, Kube Publishing England 2016

¹²⁴ - ibid; p 42

¹²⁵ Zaydan Abd Al Karim; *synopsis on elucidation on legal maxims in Islamic Law*, translated by Habib Ur Rehman and Azman Ismail; Kuala Lumpur IBFIM, 2015

¹²⁶ -Mujallah Al Ahkam (Urdu) Maktabah Rasheediah; *Nowshehra; Vol 1*; p46

¹²⁷ - Ibn-e- Nujaim; *Bahrul Khalaq; Darul Kitab Al Islami; Cairo; Vol 8*; p525

¹²⁸ -Alsubki; *Tajuddin; Al Ashbah Wal Nazair (Shafiee)*;1991; *Darul Ilmiyah Beirut Vol1*: p172

¹²⁹ Mehmood Ahmad; *Qawaid Kuliah and their evolution and their subject-wise study with additions; (Urdu)*;2014; *Shariaah Academy Islamabad*: p181

¹³⁰ - Nauman Muhammad *Qawaid Ul Fiqh 2014 Idarah Almaarif* , Karachi:p107

¹³¹ - Mujallah Al Ahkam (Urdu) Maktabah Rasheediah; *Nowshehra; Vol 1*; p 74-5

¹³² -Qur'an; 16:43

¹³³ -Qur'an 2:173

¹³⁴ -Nauman Muhammad *Qawaid Ul Fiqh 2014 Idarah Almaarif* , Karachi:p107

¹³⁵ Bukhari 3006; <https://shamilaurdu.com/hadith/bukhari/3006/>

¹³⁶ Bukhari 5233; <https://shamilaurdu.com/hadith/bukhari/5233/>

¹³⁷ Bukhari 1088; <https://shamilaurdu.com/hadith/bukhari/1088/>

¹³⁸ Bukhari 1197; <https://shamilaurdu.com/hadith/bukhari/1197/>

¹³⁹ Bukhari 1087; <https://shamilaurdu.com/hadith/bukhari/1087/>

¹⁴⁰ Bukhari 3595; <https://shamilaurdu.com/hadith/bukhari/3595/>

¹⁴¹ <https://www.virtualmosque.com/islam-studies/fags-and-fatwas/what-is-sharia-ruling-regarding-a-women-going-to-hajj-without-a-mahram-dr-yusuf-al-Qaradawi/>