

The Requirement of a Mahram for a Woman's Travel under the Contemporary Developments and Fatwas

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Abstract

This study addresses an important issue that has occupied the minds of Muslim men and women, both in the past and present, namely the question of requiring a mahram for a woman's travel. The current study deals with this issue through an examination of the sayings of the Prophet Mubammad—peace be upon him—and the statements of ancient scholars, as well as the opinions of contemporary scholars, in a detailed and analytical jurisprudential study. The study aimed to delve into and scrutinize the prophetic hadiths and the statements of scholars, reverting to their texts to understand the rationale behind the ruling, to arrive at a Sharia ruling that aligns with the prophetic hadiths, the rationale, and the benefit upon which the ruling is based, and to connect it with the contemporary context. The study concluded that scholars have differed on this issue both in ancient and modern times. Some adhered strictly to the apparent meanings of the mentioned hadiths, thereby prohibiting women's travel without a mahram, without any exceptions. Others have made exceptions for certain cases, such as an elderly woman who is not desired and a woman travelling with a group of trustworthy women, as well as the safety of the journey, and that this applies to every person travelling with the intention of obeying Allah, whether obligatory or non-obligatory, such as visiting and trading.

Keywords: *Mahram, Women's Travel, Jurisprudential, Prophetic Hadiths, Societal Changes, Islamic Sharia*

INTRODUCTION

The ruling on a woman's travel with a mahram or without one is among the issues subject to debate and debate among scholars, both in the past and in the current era. In the context of the rapid and ongoing developments witnessed by contemporary societies, there is a trend towards reviewing and reconsidering this jurisprudential issue, especially in light of the existence of advanced modes of transportation that are considered safer than traditional means of transport.

The Islamic Sharia came to realize the interests of the worshippers in this world and the hereafter, taking from the texts while linking them to the interests they entail. It is essential to reconcile the interest and the text at the same time without prioritizing one aspect at the expense of another. It must also take into consideration the conditions of people, their reality, and their different circumstances. Al-Khademi states: "Understanding reality is considered a second part of the system of rulings, in addition to the texts that came only to address reality, and their revelations were in the best manner, method, and straightest path. It is the duty of the mujtahid to be aware of the conditions of the ummah and to grasp the general foundations upon which Islamic Sharia is established, as he is asked about matters of which he may know nothing about their background, motivations, and their philosophical, psychological, or social basis, thus he may falter in adapting them and making a judgment" (Al-Khademi, Vol. 2, P. 139, 1998 AD). Among the rulings related to people's lives and reality is our issue, the requirement of a mahram for a woman's travel. Conditions have changed; the jurists of the past said that the principle is that a woman should not travel, meaning that cases of a woman's travel in their time were few and rare; requiring a mahram for her travel was a manageable matter. However, this has changed in our time in several aspects, including women going out to work in all fields and their need to travel for work, like

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travelling to conduct business deals or participating in conferences and seminars, as well as their need for education and obtaining degrees. Specializations may not be available in her country or are available, but she seeks the best. So, should she be prevented from traveling due to the absence of a mahram who is available for her at all times? This is what this study came to demonstrate.

In this study, we conduct an in-depth investigation of this issue based on Sharia evidence, various scholars' opinions, and the rationales upon which rulings are established, in addition to examining contemporary reality and the changes brought about by advanced means of transport on the concept of travel and the associated safety. Through this study, we hope to present a comprehensive viewpoint on this matter, contributing to clarifying the picture and providing appropriate Sharia guidance for Muslim women in our current era.

Problem Statement

The problem of this study lies in the need for women in this era to travel frequently and repeatedly, and the unavailability of a mahram in all cases; hence, this study aims to answer the primary question: Is it permissible for a Muslim woman to travel without a mahram?

It further seeks to answer the following sub-questions:

What are the opinions of ancient and contemporary jurists on the requirement of a mahram for a woman's travel?

What type of travel requires a mahram?

What is the rationale behind the requirement of a mahram for a woman's travel?

Does the significant advancement in transportation means affect the fatwa?

METHODOLOGY

The deductive analytical method is considered one of the most important techniques used in Islamic jurisprudential studies, and the following steps can be followed:

Identifying the jurisprudential issue: The ruling on the necessity or non-necessity of a mahram for the travel of a Muslim woman.

Study in the Sharia sources: This involves referring to the noble prophetic hadiths found in the Sunnah to search for texts related to the concerned issue.

Then moving on to the statements of the hadith commentators and the positions and interpretations of both ancient and contemporary jurists.

Analysis of opinions and evidence and making a preference: Among the presented opinions based on the Sharia evidence relied upon.

Documenting the evidence and sources: Ensuring the accuracy and reliability of the study.

Scope of the Study

The condition of having a mahram for the travel of a Muslim woman only, and the study does not deal with other travel rulings.

Study Terms

Mahram, with an open "meem": One whom she cannot marry, as affirmed by the narration from Abu Said reported by Muslim: "Except with her father, her brother, her husband, her son, or a mahram relative ", whether the prohibition is established by lineage, nursing, or affinity. (Al-Ayni, n.d., d. 855 AH).

Travel, linguistically: Indicates uncovering and clarity, and travel is so called because people uncover from their places (Ibn Faris, 1979 AD).

PREVIOUS STUDIES

Al-Masmeri (2007 AD), Riyad Muhammad, "Jame' Almughanam Fi Hukm Safar Almar'at Bila Muharam"," retrieved from <https://midad.com/article/>. The researcher discusses the ruling on a woman's travel without a mahram in both obligatory and non-obligatory travels, mentioning the opinions of ancient jurists on these two issues, their evidence, and preferring the most convincing among them. It also presents the views of contemporary scholars and some of their fatwas on a woman's travel by public transportation and preferring what he sees as suitable for her from his perspective. The researcher concluded the prohibition of a woman's travel without a mahram. This study brings further analytical readings of ancient and contemporary texts and fatwas.

Al-Qahtani (2019 AD), Sarah Mutla, "The Travel of a Woman Without a Mahram in Light of the Method of Investigation and Division in Reasoning: A Jurisprudential Study focusing on the objectives and purposes of Islamic law," *Journal of the Faculty of Dar Al-Uloom/University of Cairo*, Volume (36), Number (127), The research sheds light on the issue of a woman's travel without a mahram, reviewing the Sharia evidence on the matter and the statements of jurists regarding it, with a discussion of these evidences and statements in light of the method of investigation and division; to reach the rationale of the Sharia ruling for a woman's travel without a mahram, understand the purpose of Sharia in this issue, reconcile between the juristic endeavors, and focus on identifying the rationale of the prohibition of a woman's travel without a mahram through the method of investigation and division in Usul (principles of Islamic jurisprudence). The study concluded the prohibition of a woman's travel without a mahram. The study focused on the foundational aspect represented in explaining the rationale of the ruling, while this study focuses on the jurisprudential aspect among ancient jurists and contemporary ones.

Al-Sukkar (2016 AD), Muhammad Awwad, Muhammad Amin Al-Manasiyah, "The Travel of a Woman Without a Mahram Between the Jurisprudential Text and Contemporary Reality: A Jurisprudential Study Focusing on the Objectives and Purposes of Islamic Law," *The Jordanian Journal of Islamic Studies*, Volume (12), Issue 1. They addressed the issue through a purpose-oriented study to link it with reality and then make a preferential judgment, focusing on the purposeful aspect. Meanwhile, this study focuses on the jurisprudential analytical aspect.

Al-Azzam (2015 AD), Najah Mohammad Hussein, "Hadiths Regarding the Travel of a Woman with a Mahram: An Objective Analytical Study," *The Jordanian University Magazine*, Volume 11, Issue 2. The researcher focused on the hadith aspect without concentrating on the jurisprudential side, and the study concluded that she should not travel without a mahram.

Al-Shorman (2013 AD), Khalid Mouhammad, and Muhammad Ahmad Al-Shorman, "The Impact of Objectives on the Justification of Sharia Rulings: The Travel of a Woman Without a Mahram as a Model," a Hadith and Objectives-Oriented Study. They researched the Hadith and purposive aspects without linking them to comparative jurisprudential study, while connecting them with the jurisprudence of reality (the practical application of Islamic legal rulings and laws to the current and realistic circumstances that Muslims face in their daily lives), which we have endeavored to explain and clarify through this study.

This study is divided into two sections and a conclusion:

The Prophetic Hadiths related to the issue.

The jurisprudential rulings that are based on the Hadiths.

Terms and Concepts and Hadiths Related to Women's Travel

The stipulation requiring a woman to be accompanied by a mahram during travel is not mentioned in the Quran. Instead, its regulations are detailed in the hadiths narrated from the Prophet, peace be upon him. Therefore, it is necessary to mention and study this matter, and I will limit my discussion to the hadiths reported in Sahih al-Bukhari and Sahih Muslim.

Terms and Concepts

Firstly, in terms of language, "mahram" comes from (haram), which signifies prohibition and strictness. Thus, "haram" is the opposite of "halal" (Ibn Faris, 1979 AD). In terminological usage, a "mahram," with the opening of the "meem," refers to a male with whom she cannot marry at all. This is reinforced by the narration from Abu Saïd in Sahih Muslim: "except with her father, brother, husband, son, or a mahram relative," whether the prohibition is established by lineage, nursing, or marriage affinity (Al-'Ayni, n.d., d. 855 AH).

Secondly, "travel" in language indicates uncovering and clarity, and it is called travel because people uncover from their places (Ibn Faris, 1979 AD). In the Shari'ah context, it refers to a distance that changes legal rulings (Al-Qunawi, 2004 AD). According to the Hanafi school, it is setting out with the intention of traveling three days and their nights or more, by camel ride or walking (Al-Jurjani, 1983 AD), and their estimated by current measurement ranges between (83 - 100 km), with a highest mentioned value :(120 km). According to the Shafi'i school, it is a two-day journey, equivalent to four "burud," which is approximately (81 – 88 km) (A group of scholars, King Fahd Complex, 1442 AH).

Hadiths Related to the Condition of Having a Mahram for Travel of Three Days or More

On the authority of Ibn `Umar that the Prophet (Peace be upon him) said, "A woman should not travel for more than three days except with a Dhi-Mahram (i.e. a male with whom she cannot marry at all, e.g. her brother, father, grandfather, etc.) or her own husband)" (Al-Bukhari, 1422 AH).

And in the narration of Muslim, "on the authority of Ibn Umar, that the Prophet (Peace be upon him) as saying "A woman must not make a journey of three days unless she is accompanied by a mahram relative". In the three nights hadith, "it is not lawful for a woman who believes in Allah and the Hereafter to travel for more than three nights journey except when there is a Mahram with her". (Muslim, 261 AH).

As for its stipulation for more, it is mentioned in narrations from Abu Sa'ïd al-Khudri:

From Abu Salih from Abu Sa'ïd al-Khudri, who said: The Messenger of Allah, peace be upon him, said: "A woman who believes in Allah and the Last Day must not make a journey of more than three days unless she is accompanied by her father or her brother, or her husband or her son or her relative who is within the prohibited degree." (Muslim, 1911).

Qaza'a narrated from Abu Sa'ïd al-Khudri, that the Prophet, peace be upon him, said: "A woman should not set out on a journey extending beyond three nights but with a Mahram" (Muslim, 1911). He says "More than three (days) except in the company of a Mahram" (Muslim, 1911). In the narration of Abu Bakr: more than three, and Ibn Numair said from his father: "for three nights unless she is accompanied by a man" (Muslim, 1911).

The significance of the evidence here is that the Prophet, peace be upon him, in the narration of Abu Sa'ïd al-Khudri, specifically mentioned believing women in appearance and not the disbelievers. This stipulation excludes disbelievers, as some have opined. However, this is not the case; rather, it is a description to affirm the prohibition because it implies that if she travels without a mahram, then she contravenes the condition of faith in Allah and the Last Day. The reference to describing her in this manner indicates the obligation to avoid what she has been prohibited, and that faith in Allah and the Last Day dictates this for her. It also signifies the prohibition of a woman's travel without a mahram for a journey of three days or more, and prohibition implies forbiddance (Al-'Ayni, n.d. Vol. 7, p. 130). Therefore, scholars believe that if the duration of the journey is less than three days, a mahram is not required, a view adopted by the Hanafi school.

The Stipulation of a Mahram for a Two-Day Journey

The previous Hadith: "it is forbidden for a woman to undertake a journey over two days but with her husband, or with a Mahram" (Al-Bukhari, 1422 AH).

Scholars believe that the hadith, in its apparent meaning, indicates the Prophet's, peace be upon him, prohibition against a woman traveling without a mahram for the distance of two days' journey, and such prohibition implies

forbiddance. However, if the travel is less than the distance of a two-day journey, she may travel without a mahram.

The Journey of a Day or Night

The Prophet, peace be upon him, said: "It is not lawful for a Muslim woman to travel the distance of a night's journey unless she is accompanied by a man of her mahram" (Muslim, 1911). He further says: "It is not halal for a woman who believes in Allah and the Last Day to travel the distance of a day and night without a man who is her mahram". Scholars believe that the noble hadiths indicate the Prophet's, peace be upon him, prohibition against a woman traveling without a mahram for the duration of a day and night, and the prohibition in the form of "it is not lawful" implies forbiddance.

Travel in General

The Prophet, peace be upon him, said: "A woman should not travel except with a mahram, and no man should enter upon her unless she has a mahram." A man said, "O Messenger of Allah, I want to participate in such and such an army, and my wife wants to perform Hajj." He said: "Go with her" (Al-Bukhari, 1422 AH). Scholars believe that the hadith indicates the Prophet's, peace be upon him, prohibition against a woman traveling without a mahram under any circumstances, and the absolute prohibition implies forbiddance.

The Reason for the Variation in Narrations

As for the variation in reports regarding a day and a night, three days, and as narrated about two days, the meaning that reconciles these accounts is that they all were given in response to different questioners. It is as if one questioner asked him, peace be upon him, whether a woman may travel for a day and a night without a mahram? And he said: No. Then another asked about the same for two days, and he said: No. Then another asked about the same for three days, and he said: No. Thus, each one narrated from him, peace be upon him, what he heard (Al-Ayni, n.d., Vol. 7, p. 128) and there is no contradiction nor abrogation; because the principle is that a woman should not travel at all, meaning she should remain in her house and not be alone without a mahram (Ibn Battal, 2003 AD; Al-Nawawi, 1392 AH).

THE JURISPRUDENTIAL RULINGS BUILT ON THE HADITHS

This research is divided into several sections:

The Effect of the Variation in Narrations on the Legal Rulings

a. The Jurists' Disagreement on Determining the Distance for Shortening Prayers. This issue has had an impact on determining the distance for shortening prayers. Commentators of the hadith mentioned it when explaining the previous hadiths, and I will present it briefly; because it is not the subject of the research; but to benefit from the scholars' discussion in our matter: Ibn Battal (Ibn Battal, 2003 AD) mentioned that scholars have disagreed on the distance in which shortening the prayer is permissible: Firstly, Abu Hanifa held that the distance for shortening is the journey of three days, and this opinion was narrated from Ibn Mas'ud, and Al-Thawri. Al-Shafi'i said: I prefer not to shorten in less than three days (Al-Shirazi, n.d., Vol. 1, p. 193).

The Evidences:

The proponents of this opinion have cited the following evidence:

1. From the Prophet, peace be upon him, he said: "The resident may wipe over his socks for a day and a night, and the traveler for three days and their nights" (Al-Nasa'i, 1986 AD). It is established for every traveler to wipe for three days and their nights, and it cannot be conceived that a traveler would wipe for three days and their nights if the duration of travel was less than this period (Al-Kasani, 1986 AD). Researchers believe that the hadith specifies the time, which is three days, and does not specify the distance, and this is in the context of the conditions and circumstances of their time.

2. The prophet peace be upon him says: "A woman who believes in Allah and the Last Day must not make a journey of more than three days unless she is accompanied by her father or by Mahram". If the duration were

not set at three, then specifying three would have no meaning. The two hadiths are extensive and well-known, so it is permissible to abrogate the Book with them if constraining the unrestricted is considered abrogation, even though they have no argument in the verse “And when you (Muslims) travel in the land, there is no sin on you if you shorten your Salat (prayer)” (Surah An-Nisa, Verse 101): So, the verse does not specify a duration for travel (Al-Kasani, 1986 AD) and (Ibn Battal, 2003 AD).

They are refuted with the fact that the Prophet, peace be upon him, mentioned a day and a night, and explicitly stated it, so it is more appropriate than the evidence of your report that what is less than three days is contrary to it. (Ibn Battal, 2003 AD).

Secondly, Imam Malik held that the traveler may shorten [the prayer] in four Burud (mail-stages), which is forty-eight miles, and that is two days, as said by Ibn Umar, and Ibn Abbas, and this was also stated by Layth, and Al-Shafi'i in one of his opinions (Al-Shirazi, Vol. 12, p. 19), and it is the opinion of Ahmad (Al-Bahouti, Vol. 1, p. 504), (Ibn Battal, 2003 AD) (Ibn Rushd, 1988 AD). The Evidences:

The proponents of this opinion cite the following:

1. What was narrated from the Prophet, peace and blessings be upon him, in his saying: “Do not shorten the prayer for a distance from Makkah to 'Usfan ”(Al-Daraqutni, 2004 AD); and because it is the most prevalent among the sayings of the Companions, even if he traversed it, i.e., the distance, in a single hour; for it is truthful to say that he traveled four Burud [mail-stages/ distances] (Al-Bahouti, Vol. 1, p. 505). Researchers believe that the Malikis have defined it by the distance that a traveler covers, regardless of the time duration.

2. Owing to the fact that because at this level the hardship of travel is repeated, and at less than this level it is not repeated (Al-Shirazi, n.d., Vol. 1, p. 193).

Thirdly, Al-Awza'i said: Most scholars argue that it's the journey of a full day, and this is the position we adopt. It is reported from Malik that he mentioned shortening [prayers] for a journey of a day and a night, but then he retracted this view (Ibn Battal, 2003 AD).

The Evidences: The proponents of this view support their argument with the following:

Narrated Abu Huraira: The Prophet (Peace be upon him) said, "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. " He made the day and the night subject to a ruling different from that of being resident; thus, we learned that it is the time period distinguishing between the journey in which shortening [the prayers] is permissible and the journey in which it is not (Ibn Battal, 2003 AD).

Al-Asyli said: The evidence that a traveler may shorten [the prayers] in a day and a night is in the saying of Allah, the Exalted: “anyone is ill or on a journey the prescribed period (should be made up) by days later.” (Surah Al-Baqra, Verse 184). When Allah converted the traveler from the state of fasting to the state of breaking the fast in a day's journey, similarly, it is required to move from performing the full prayer to shortening it in that situation (Ibn Battal, 2003 AD).

Fourthly, Zahirism (a Sunnī school of Islamic jurisprudence) and Ibn Taymiyyah, and it has been reported from Ali bin Abi Talib that shortening [the prayers] is permissible in both short and long journeys, once one has passed the buildings of the city, even if one is heading to his garden, as narrated from Ali bin Abi Talib (Ibn Battal, 2003 AD). Similarly, the people of Mecca shortened their prayers behind the Prophet, peace and blessings be upon him, in Arafat and Mina, with approximately twenty-two kilometers between Mecca and Arafat.

Furthermore, neither the Quran nor the Sunnah specifies one journey over another, nor did the Prophet, peace be upon him, define a specific distance for shortening prayers, neither in terms of time nor place. The statements mentioned in this regard are contradictory, none of which has definitive proof, and are inconsistent. It is not possible to define that with a correct limit (Ibn Taymiyyah, 1987 AD).

Their Disagreement Regarding the Requirement of a Mahram for A Woman's Obligatory Hajj.

This issue was based on the Hadiths (narrations) regarding women's travel and it is a subject of disagreement among the scholars as follows:

Firstly, Abu Hanifa, Al-Nakha'i, Al-Hasan Al-Basri, Al-Thawri, and Al-A'mash have opined that a mahram is not required if the distance between the woman and Mecca is less than the journey of three days and their nights. The Hanafis have made the requirement of a mahram mandatory for the obligation of Hajj on a woman in case of long travel but not for short. They define long travel as being three days or more. If it is less than that, she may perform Hajj without a mahram. (Al-Kasani, n.d., Vol. 2, P. 300).

Abu Hanifa justified his position with what was narrated from Ibn Umar that the Prophet, peace be upon him, said: "A woman should not travel for more than three days except with a Dhi-Mahram (i.e. a male with whom she cannot marry at all, e.g. her brother, father, grandfather, etc.) or her own husband." However, it was objected that the Hajj does not fall under the type of travel which the Prophet, peace be upon him, prohibited. It is argued that this hadith applies to non-obligatory travels, and since Hajj is a mandatory act of worship, it does not fall under this prohibition. (Al-Ayni, n.d., d. 855 AH).

They were rebutted with the argument that the prohibition is general for all travel, supported by what was narrated by (Al-Bukhari and Muslim, 1422 AH). "I heard Ibn Abbas say: I heard the Prophet, peace be upon him, giving a sermon: 'A man should not be alone with a woman unless she has a mahram with her, and a woman should not travel except with a mahram'. Then a man stood up and said: 'O Messenger of Allah, my wife intends to perform Hajj, and I have enlisted in such and such expedition.' The Prophet said: 'Go and perform Hajj with your wife'."

This indicates that she should not perform Hajj except with him. Had it not been so, the Messenger of Allah, peace be upon him, would have said: Why does she need you for? because she is going out with the Muslims, and you proceed to what you have enlisted for.' Therefore, the Prophet's, peace be upon him, decision not to command him to do that, but instead ordering him to perform Hajj with her, serves as evidence that it is not proper for her to perform Hajj except with him (Al-Ayni, n.d., d. 855 AH).

Secondly, the majority, including Malik (Al-Muwatta, 1994 AD), Al-Awza'i, and Al-Shafi'i in the well-known view, have held that a mahram is not required but rather what is necessary is safety for herself. Safety can be achieved with a husband, a mahram, or trustworthy women. It may also occur that safety is so prevalent that she does not need anyone, but she may travel alone as part of a caravan and be safe. Al-Nawawi (2002 AD, Vol. 9, P. 104) mentioned this, and Malik stated in the Muwatta that in cases of necessity among women who have never performed Hajj, if there is no mahram to accompany her, or she has one who cannot go with her; she should not abandon the obligation of Hajj imposed by Allah on her and may go out in a group of women. (Al-Hattab, 1992 AD).

This was debated with the argument that the statement that trustworthy women can take the place of a mahram contradicts the authentic hadith narrated by Abu Sa'id: " A woman must not make a journey of a day and a night unless she is accompanied by a man who is within the prohibited degrees," and the hadith of Abu Huraira reported by Muslim: " It is not lawful for a woman to undertake three (days,) journey except when there is a Mahram with her. " (Al-Ayni, n.d., d. 855 AH).

Thirdly, Ibn Hazm held that a mahram is not required for Hajj (Ibn Hazm, n.d.).

The proponents of this view argue as follows:

The prohibition of a woman traveling without a mahram necessitates excluding from this prohibition what the text explicitly mandates for her in terms of travel, such as the obligatory Hajj, which must therefore be exempted from this general prohibition. Moreover, all these narrations were addressed to women who have husbands and mahrams because they permit or mandate Hajj with a husband or a mahram without doubt. It is utterly

inconceivable and impossible that the Prophet, peace be upon him, would mandate Hajj with a husband or a mahram for a woman who has neither a husband nor a mahram. Thus, those who have neither a husband nor a mahram remain obligated to perform Hajj and are exempt from this prohibition.

Ibn Hazm narrated this hadith from Ibn Abbas about "I have been enrolled for such and such an expedition." Then he said: The Prophet, peace be upon him, did not say, "Do not go out to Hajj except with him," nor did he forbid her from performing Hajj. Instead, he obligated the man to abandon his vow in jihad and obligated him to perform Hajj with her. Thus, the obligation in this matter is on him, not on her (Ibn Hazm, n.d.).

They responded to Ibn Hazm: He only said that to align with his view that a woman can perform Hajj without a husband or mahram. If she has a husband, it is obligatory for him to perform Hajj with her, and it is not as he understood. Rather, the hadith itself is evidence against him; because when he was told, "then go out with her," and commanded to accompany her, it indicates the impermissibility of her travel without him or a mahram. He was only obligated to abandon his vow because her ability to travel was contingent upon him (Al-Ayni, n.d., d. 855 AH).

Those who do not consider a mahram necessary for Hajj travel also argued with what is in Bukhari (Hadith number 3595) from the hadith of Adi bin Hatim, raised to the Prophet with the words, "A time will soon come when a woman will travel from Al-Hira to the Ka'bah, fearing no one but Allah," (Al-Shawkani, Vol. 4, P. 345) without a protector from the leaders to safeguard her from highway robbers, indicating the permissibility of her travel without a mahram.

He replied to them that it indicates the existence of this, not its permissibility. The answer to this is that it is reported in the context of praise and raising the light of Islam, so it is based on permissibility, and it is better to interpret it according to what the commenter said, combining it with the hadiths of the chapter, his saying: "Except with a mahram," meaning, then it is permissible for her to travel (Al-Shawkani, Vol. 4, P. 345).

They also argued with the traditions narrated from Aisha, may Allah be pleased with her, that she traveled without a mahram, and that Ibn Umar performed Hajj with women from his neighbors, and Al-Hasan Al-Basri said: A Muslim is a mahram, and perhaps some who are not mahram are more trustworthy than a mahram (Ibn Battal, 2003 AD). It was countered that the travel of Aisha, may Allah be pleased with her, and some of the Prophet's wives, peace be upon him, without a mahram was because they are the Mothers of the Believers. This is Abu Hanifa's response to Al-Razi's rulers (Al-Ayni, n.d., d. 855 AH).

Fourthly, regarding the Hanbalis, three opinions have been narrated from them: The first is that Hajj is not obligatory for a woman who does not have a mahram, the second is that having a mahram is a condition but not an obligation, and the third agrees with the Maliki and Shafi'i positions (Ibn Qudamah, n.d.).

The Reason for the Requirement of a Mahram for a Woman During Travel.

There are two types of rulings, if the ruling is ritualistic (ta'abudi), then it is accepted without considering its reason. This means the requirement of a mahram or husband for every travel. However, if the ruling is reasoned (ma'lul), and the ruling is tied to a reason, then it exists or not based on that reason. This necessitates examining the reasons provided by scholars, and the texts related to a woman's travel do not specify their reasons but are mentioned by scholars through ijtihad (independent reasoning). Among these reasons are:

First, fear for her during the darkness of the night and when the companions are asleep, and the femininity associated with the woman's weakness.

A woman is prohibited from traveling without a mahram due to her femininity and weakness, thus, as a means of precaution, she should not travel except with a mahram.

The reason is the overnight stay and the disappearance of visibility for a woman during the darkness of the night, and the overpowering of sleep upon her companions, making the devil their third companion. Thus, the means of precaution is strengthened, and fear for the women becomes evident (Ibn Battal, 2003 AD).

This is supported by what Ibn Battal mentioned in his commentary on the hadith, saying: And for that reason, peace be upon him, prescribed Hajj with a leader or a protective ruler, and an instructive imam who safeguards

the manor, gathers the stray, and returns the deviant. No one should isolate from the group, nor should all eyes be heedless or gather in sleep at the same time. There must be supervision by the group, so fear diminishes with the presence of many (Ibn Battal, 2003 AD).

Second: Security

A mahram is not required, but rather what is necessary is safety for herself so that if she is safe and at peace, she may travel alone as part of a caravan. Perhaps he looked at the reason and generalized the ruling (Al-Ayni, n.d., Vol. 10, P. 220). This is the opinion of the Malikis and one of the views among the Shafi'is and Hanbalis. Imam Abu Yusuf leaned towards disliking her traveling alone for the distance of one day, and the fatwa should be based on this; due to the corruption of the times, weakness of faith, and the increased fear of corruption, (Ibn Abdeen, 1421 AH). The opinion of Imam Shafi'i was debated, arguing that it contradicts the authentic hadiths; because the Prophet's, peace be upon him, speech definitively indicates the requirement of a mahram, and saying it is not required contradicts what the Prophet, peace be upon him, said. Saying that what is required is her safety is a claim without evidence. What evidence is there for this in this matter? The requirement of safety is not specific to women alone but applies to both men and women (Al-Ayni, n.d., Vol. 10, P. 220).

Researchers believe that they can be rebutted with the hadith of Adi bin Hatim, which described the state of security in the Muslim society; such that a woman can travel without a mahram or protection from anyone.

Third, The Hardship and Great Fatigue That Befalls Her During Travel.

The Hanafis hold that the travel for shortening prayers is three days, because a woman is allowed to go out for less than that due to the short distance and the lightness of the matter. However, the concession is in long travel which involves hardship and fatigue, and it was answered that if the reason were that, it would be permissible for a woman to travel for less than that without a mahram, but it is not allowed (Al-Qastalani, 1323 AH, Vol. 2, P. 292).

Fourth, The Time

This means that what is considered for the requirement of a mahram is the duration and not the distance covered. This is what Al-Qastalani mentioned, saying: The prohibition for a woman to travel alone is related to time. For example, if she travels for the duration of one hour in a complete day, the prohibition applies to her, unlike a traveler, for if he travels the distance of half a day over two days, he does not shorten his prayers, therefore, the two cases are different. (Al-Qastalani, 1323 AH, Vol. 2, P. 292).

Researchers believe that scholars have differed regarding the reason for the ruling. Some of them said that the reason is (femininity and weakness that are in the nature of women) and consequently, there is fear for her from people with weak faith in a state of darkness and sleep with company. This means that if there is no fear, it is permissible for her to travel without a mahram. Others said that the reason is security and lack of fear, while some said that the reason is hardship and fatigue, and others said that the reason is time, and the most correct view is what the Shafi'is, Malikis, Hanbalis, and Abu Yusuf said that the reason is the attainment of security and the lack of fear from those with weak faith.

Type Of Travel and The Requirement of a Mahram in It.

Travel is of two types: obligatory travel and non-obligatory (optional) travel.

a. For obligatory travel, a mahram is not required by consensus, as reported by Al-San'ani (Al-San'ani, n.d.), such as traveling to leave a land of disbelief if she fears for herself or her religion. An example also includes a man finding a woman in an uninhabited region, in which case it is permissible for him to accompany her until she reaches a place of safety (Al-Kharshi, 1417 AH).

This is evidenced by the well-known incident of the slander, when Safwan ibn Al-Muattal brought Lady Aisha, may Allah be pleased with her, to Medina after she was left alone behind the army (Muslim, 1911).

Similarly, it applies when a woman is afflicted with a severe illness that cannot be treated except by traveling, and she finds no mahram or does not have the means to afford the travel expenses for the mahram, and for a

woman who is required to observe the waiting period (iddah), paying off debts, returning deposits, and rectifying her state of disobedience (nushuz) are obligatory (Al-Zarkashi, Vol. 4, P. 111) (Al-Hattab, Vol. 2, P. 225) (Al-Nawawi, Vol. 7, P. 71) (Ibn Muflih, Vol. 3, P. 175).

b- The travel may be optional (non-obligatory), such as for trade, tourism, or visiting relatives, etc. Is a mahram required in this case?

There are two opinions on the matter:

The first: Not permissible, and this is the view of the majority of scholars, including Imam Malik (Ahmed, 1995 AD), some of the Shafi'is according to the predominant opinion among the two or multiple views according to the followers of Imam Shafi'i, and the Hanbalis (Ibn Qudama, 1408 AH; Al-Bahouti, n.d., Vol. 2, P. 394). Woman's travel is only permissible with a husband or a mahram. Al-Nawawi reported that it is not permissible for a woman to go out for other than Hajj and Umrah without a mahram except for a compelling migration (Al-Nawawi, 1392 AH).

Abu Hanifa and his companions said: A woman should not perform Hajj except with a mahram (Ibn Battal, 2003 AD).

The second: Permissibility, which is the opinion of some Shafi'is (Al-Nawawi 1392) and Malikis (Al-Hattab, 1417 AH) (Ibn Taymiyyah, 1408 AH). The Shafi'is say it is permissible for a woman to go out for voluntary Hajj, visitation travel, trade, and the like, from travels that are not obligatory, or with trustworthy women, as the proof of Islam (Al-Nawawi, 1392 AH).

The Malikis mentioned that if there is a trusted company of good number or an unbeatable army, then there is no fear in permitting her travel without a mahram in all travels, whether obligatory, recommended, or permissible "(Al-Hattab, 1417 AH).

Ibn Taymiyyah mentioned the permissibility of her travel without a mahram in every travel that involves obedience, (Ibn Taymiyyah, 1987 AD; Ibn Muflih, 2003 AD).

A group from the Zahirism (a Sunnī school of Islamic jurisprudence) opined that it is permissible for a woman to travel if the distance is short. However, if it is a distance of one Barid (the distance of a postal station) or more, she must not travel except with a husband or a mahram, and they argued with what was narrated from Abu Huraira, may Allah be pleased with him, who said: The Messenger of Allah, peace be upon him, said: "A woman should not travel one Barid (the distance of a postal station) except with a husband or a mahram" (Al-Ayni, n.d.).

Among those who permitted it, some distinguished between an older woman and a younger woman. Al-Nawawi transmitted from Al-Baji that this applies to a young woman, but as for an older woman who is not desired, she may travel as she wishes in all travels without a husband or a mahram. And what Al-Baji said is not acceptable; because a woman is subject to desire and lust, even if she is older and exposed to any risk. (Al-Nawawi, 1392 AH).

Section Five: Views of Contemporary Scholars

Contemporary scholars, like their predecessors, have differed in their rulings on a woman traveling without a mahram using modern means of transportation such as airplanes, trains, and ships, dividing into two opinions:

The first opinion: Prohibition, which is the view of a group of scholars, stating that a woman's travel without a mahram is forbidden regardless of the means of travel, whether it be an airplane, train, bus, car, or others because of the general evidences from Sharia that dictate the prohibition of her travel without a mahram. Among these scholars are Abdul Aziz bin Baz [<https://binbaz.org.sa>], in the Book "collection of Ibn Baz's Fatwas", volume 16, page 383, retrieved from Al-Shamela website, Muhammad bin Saleh Al-Uthaymein, Saleh Al-Fawzan, and others, as found on the Islamweb site, Fatwa No. (6219) dated 22 January 2004 AD.

The second opinion: Some scholars have permitted the travel of a woman without a mahram if the means of transportation is safe, like an airplane, or with a group of trustworthy women. Among the scholars who

issued fatwas permitting a woman's travel by airplane without a mahram is the Mufti of the Egyptian Dar al-Ifta (Mahmoud Rbee', Magazine of the Egyptian Dar al-Ifta), and this was also supported by Abdullah al-Mutlaq, member of the Council of Senior Scholars and the Permanent Committee for Islamic Legal Opinions, and advisor at the Royal Diwan, and Abdullah bin Jibreen. The Jordanian Fatwa Department mentioned the permissibility of a woman traveling without a mahram but with conditions, Decision No. (92) dated 04 August 2005 AD.

Among the contemporary scholars who also issued fatwas permitting the travel of a woman without a mahram is Yusuf al-Qaradawi, but not unconditionally, rather when there is a need or necessity and with the condition of security, peace of mind, and the presence of a safe and righteous company. He stated, summarizing: "The established principle in Islamic law is that a woman should not travel alone but must be accompanied by her husband or a male relative (mahram). However, if she cannot find a mahram to accompany her on a journey that is obligatory, recommended, or permissible, and she is with some trustworthy men or women, or the path is safe, especially since travel by means of transportation that gathers many people together means that the woman is not alone in any place, then there is no harm in her traveling, provided that this safe environment that suggests complete peace of mind is available.

Al-Qaradawi added to the justification of those jurists who permit a woman to travel without a mahram in cases of necessity and with the aforementioned conditions two significant principles:

The first: That attention to meanings and objectives is the foundation in the rulings related to customs and transactions, as opposed to the rulings of worship, where the foundation is devotion and compliance.

The second: That which is prohibited in itself can only be permitted in cases of necessity, whereas that which is prohibited as a precautionary measure to block the means (to sin) can be permitted in cases of need. Undoubtedly, the travel of a woman is considered prohibited as a precautionary measure. It must also be added that travel in our era is no longer like travel in past times, fraught with dangers due to its riskiness, but has become facilitated by means of transportation that typically gather a large number of people, such as ships, airplanes, and large or small vehicles that travel in groups. This creates a sense of trust, removing fear for the woman; because she will not be alone in any situation, and for this reason, there is no harm in her performing Hajj provided this atmosphere of tranquility and safety is present. (Al-Sharari, 2021 AD).

Saudi Arabia (the Ministry of Hajj) announced allowing women to perform Hajj without a mahram, as published on 06 January 2023 AD, according to the statement of the Saudi Minister of Hajj, Dr. Abdul Fattah Mashat, on 15 January 2023 AD.

Islamic Sharia is characterized by a straight and balanced approach, open to dialogue and reconsideration in many contemporary developments, signifying its suitability for every time and place. The issue of a woman traveling without a mahram under certain conditions, while adhering to the Sharia guidelines, does not contradict the general objectives of Sharia that align with the principle of bringing benefits and warding off harms. Thus, it was more appropriate to call for discussing such matters and broadcasting them in the media to clarify the rulings related to travel, especially the travel of a woman without a mahram. (Muhammad Ali, Quwaider, 2016 AD)

SUMMARY OF RESEARCH

Upon considering the matter, Researchers find in the statements of scholars that the issue is contentious among them, which allows for flexibility in the matter. This is supported by the fact that the realities of contemporary practical life sometimes make it difficult to require a mahram, as it is known that women have become workers in all fields of life, and may need to travel abroad, and do not find a mahram to accompany her in all that, or there might be within a single country but distances exist. And the opinion which one feels comfortable with regarding the ruling of the mahram: It is preferable and better for a mahram to be with the woman in every journey, and indeed in every place; however, it is permissible for her to travel without a mahram if the conditions are met and she adheres to the Shariah regulations specified by the early jurists and contemporary scholars, thus the matter is recommended and not obligatory (The recommended in Islamic law according to jurists refers to

what the legislator has encouraged to be performed as an act of recommendation, not as an obligation or necessity).

CONCLUSION: FINDINGS AND RECOMMENDATIONS

Findings

This issue has been contentious since the time of the early jurists, with the prevalent view in their era, according to their circumstances and realities, being the prohibition, alongside the existence of a secondary opinion that permits it but under certain conditions. In our times, the same disagreement has occurred, but due to changes in people's circumstances and realities, many contemporary scholars have stated the permissibility of a woman's travel without a mahram, provided that specific conditions they mentioned are met.

Recommendations

1. Conducting further studies by Islamic jurisprudential assemblies.
2. Organizing jurisprudential seminars in which a group of scholars participate; to discuss this issue in accordance with the evolution of transportation means, and the change of times, while adhering to the rules and principles of Sharia, and not deviating from the established fundamentals of Islamic jurisprudence.

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The Requirement of a Mabram for a Woman's Travel under the Contemporary Developments and Fatwas

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