CHAPTER 42

Al-Sarakhsī (d. ca. 490/1096) on the Protocol of the Gaze

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1 Introduction

The *Comprehensive Book* (*K. al-Mabsūṭ*) by the Transoxanian jurist Muḥammad b. Aḥmad al-Sarakhsī (d. ca. 490/1096) is a milestone in the literature of the Ḥanafī legal school, one of the four Sunni schools of law that have survived into modern times.[1] Al-Sarakhsī's work is a commentary on the *Sufficient Book* (*K. al-Kāfī*) of Muḥammad b. Muḥammad al-Marwazī, known al-Ḥākim al-Shahīd (d. 334/945). Al-Ḥākim al-Shahīd's *Sufficient Book*, in turn, is an epitome of al-Shaybānī's (d. 189/905) *Book of the Root* (*K. al-Aṣl*), the foundational text of Ḥanafī jurisprudence.

Not much biographical information is available about al-Sarakhsī. In the introduction to the *Comprehensive Book*, al-Sarakhsī states that he dictated his work from prison. From the prosopographical literature, we know the names of several of his students. According to Talal Al-Azem, it is thanks to al-Sarakhsī and his teacher al-Ḥalwānī (d. 448/1056–7) that the Transoxanian branch of Ḥanafīsm was established, resulting in "the ascendence of the Ḥalwānī-Sarakhsī school in Transoxiana at the expense of older lines and modes or Ḥanafism" (Al-Azem, 67, 71; see also Calder).

Like al-Ḥākim al-Shahīd did before him, al-Sarakhsī discusses the rules regulating the gaze (*naẓar*) in a chapter entitled *The Book of Legal Preference* (*K. al-Istiḥsān*) (al-Sarakhsī, 10:145–85, at 145–59; cf. al-Ḥākim al-Shahīd, fols. 156a–157a). *Istiḥsān* is a characteristic mode of reasoning of Ḥanafī jurists, for which they were often criticized by members of the other legal schools. Al-Sarakhsī seems to place the issue of gazing under the heading of *istiḥsān* because, for him, it is a prime example of how legal norms should be derived not only by way of analogical reasoning (*qiyās*) on the basis of the revealed texts (the Qurʾān and the Sunna of the Prophet Muḥammad), but also

1 The research for this chapter was funded by the ERC Consolidator Grant "The Senses of Islam: A Cultural History of Perception in the Muslim World (SENSIS)" (project no. 724951).

according to considerations of human well-being (see Johansen, 31). *Istiḥsān*, in al-Sarakhsī's definition, is "to abandon *qiyās* and to hold fast to what is more becoming for people" (*mā huwa awfaq lil-nās*) (10:145.3–4). Accordingly, in several instances in his discussion of the legal protocol of the gaze, al-Sarakhsī invokes the notions of need (*ḥāja*) and necessity (*ḍarūra*), as well as the principle of "well-known custom" (*ʿāda ẓāhira*, *ʿurf ẓāhir*), to justify his normative judgments (see, e.g., 10:145.17, 146, and passim). For example, looking at and even touching certain persons is allowed if it takes place in a courtroom, that is, out of the necessity to ensure the implementation of Islamic law. As al-Sarakhsī maintains, "necessity renders licit what is forbidden" (*al-ḍarūrāt tubīḥu l-maḥẓūrāt*) (10:154.6; see Hsu, 79).

Al-Sarakhsī structures his discussion as follows: (§ 1) the rules concerning the way men should look at other men; (§ 2) the rules concerning the way women should look at women; (§ 3) the rules concerning the way women should look at men; and (§ 4) the rules concerning the way men should look at women. § 4, by far the longest, is further subdivided: (§ 4.1) men looking at their wives and female slaves; (§ 4.2) men looking at their female unmarriageable relatives; (§ 4.3) men looking at slave girls other than their own; and (§ 4.4) men looking at free, unrelated (and therefore marriageable) women.[2]

In addition to the argument about necessity, two of al-Sarakhsī's arguments deserve to be highlighted. First, al-Sarakhsī is willing to allow gazing, with the exception of a gaze directed at a certain taboo part of the human body, on the condition that it happens without lust (*shahwa*) or desire (*raghba*)[3] and that there is no danger of temptation (*fitna*). This basic principle applies equally to men looking at women and women looking at men (see also Hsu, 76). Secondly, al-Sarakhsī consistently links gazing to touching. As a general rule, one may touch what one may see. However, there are exceptions to this rule. A man is allowed to look at the faces and hands of unrelated women, on the condition that he does so without desire. However, if these unrelated women are young

2 The translation below, for reasons of space, skips a couple of paragraphs. For example, I do not include several paragraphs of § 4.2, in which al-Sarakhsī elaborates on the category of "female unmarriageable relatives." These are women who are unmarriageable by virtue of being blood relatives (mothers, grandmothers, sisters, brothers' daughters, and sisters' daughters); women who are unmarriageable by virtue of a foster relationship (foster sisters, foster nieces); and women who are unmarriageable by virtue of affinity (sisters and nieces born out of an illegitimate union) (al-Sarakhsī, 10:150; see Hsu, 64–5). The translation also skips much of § 4.3, where al-Sarakhsī discusses various disagreements about the extent to which a man is allowed to look at an enslaved woman not owned by him.

3 On looking as a sexual act in the Ḥanafī tradition, see Ali, 224 n68, who states that the "intersections of the scopic and the sexual merit substantial further investigation."

and attractive, he is not permitted to touch their hands or faces, regardless of whether he feels desire. However, touching an unrelated woman who is of advanced age and undesirable is allowed (see also Hsu, 76–7).

While al-Sarakhsī's protocol of the gaze is restrictive in a general sense, his views are relatively permissive in comparison with the views of the jurists of other schools of law in Islam. Concerning the gaze, there are certain differences between the classical doctrines of the four Sunni schools of law (for a succinct summary, see al-Jazīrī, 1:169–70 [trans. 250–4]). As per al-Sarakhsī's discussion, only the Ḥanafī jurists allow Muslim women to show the back of their feet in public. In the case of men looking at other men, the Shāfiʿīs do not include the knee in the definition of a body's shame zone, or *ʿawra*. However, what all the schools have in common, according to Baber Johansen, is that over the centuries, they have "constantly enlarged and extended the norms that prohibit the gaze on and restrict the visibility of free women" (Johansen, 41). Thus, in the 11th/17th century, the Damascene Ḥanafī al-Ḥaṣkafī (d. 1088/1677) argues, against earlier Ḥanafī doctrine, that young women have to cover not just their hair, but also their faces. "This is not," al-Ḥaṣkafī states, "because the face is part of *ʿawra* but because of the fear of *fitna*, just as when it is touched, even if he [the man who touches it] is immune against lustful desire" (al-Ḥaṣkafī, 1:298; see Johansen, 42). In sum, according to Johansen, Muslim jurists of the later Middle Ages up to the modern period gradually narrowed the male-female gaze.

Further scholarship on the Islamic legal protocol of the gaze is a desideratum. In addition to the study by Shiu-Sian Angel Hsu (1994), which focuses on the doctrines regarding the gaze of the Ḥanafī jurists al-Sarakhsī, al-Kāsānī (d. 587/1189), and al-Mārghīnānī (d. 595/1196), one may consult the articles by Eric Chaumont (2006) and Ze'ev Maghen (2007), both of which deal with the Mālikī jurist Ibn al-Qaṭṭān (d. 628/1231), the author of a lengthy monograph dedicated to the gaze. The studies of Eli Alshech (2004) and Simon O'Meara (2007) deal with a range of other, related aspects of the Islamic legal protocol of the gaze, especially with the question of gazing into other people's house. Shāfiʿī and Ḥanbalī jurists who wrote works of the *aḥkām al-naẓar* type, such as Muḥammad b. ʿAbdallāh al-ʿĀmirī (d. 530/1136) from Baghdad, or the two Syrian authors, Burhān al-Dīn al-Subkī (*fl.* 8th/14th century) and ʿAlī b. ʿAṭiyya al-Ḥamawī (d. 936/1530), are also beginning to attract the attention of scholars.

The translation below includes added information on legal terminology used and jurists mentioned by al-Sarakhsī, but not on the many Companions of the Prophet who are mentioned in the context of Prophetic *ḥadīth*s, nor are these *ḥadīth*s traced to the *ḥadīth* collections in which they appear. For

such information, one may conveniently consult the paraphrase offered by Hsu (Hsu, 46–88).

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2 Translation

Shams al-Aʾimma Muḥammad b. Aḥmad al-Sarakhsī, *K. al-Mabsūṭ*, Cairo: Maṭbaʿat al-Saʿāda, 1906, *K. al-istiḥsān*, vol. 10, pp. 146–53.

[*p. 146*] [*§ 1.*] *Men Looking at Men*

Men are allowed to look at other men, to the exception of their *ʿawra*. A man's *ʿawra* is what is between his navel until one reaches the knees. This is according to the *ḥadīth* of ʿAmr b. Shuʿayb > his father > his grandfather > the Prophet, who said: "The *ʿawra* of men is what is between their navel and their knee." According to a different transmission, [the wording] is: "[The *ʿawra* of men is] what is below (*dūna*) their navel until just under the knee."

On this basis, it becomes clear that the *navel* is not included in the *ʿawra*.

This is against the opinion of Abū ʿIṣma Saʿd b. Muʿādh, who declared that the navel is one of the two end points of *ʿawra* (*aḥad ḥaddayal-ʿawra*), and that therefore it is [a part] of *ʿawra* just like the knee, or even more so, because there is more desire involved than in the case of knees.

Our proof (*ḥujja*) consists in what is related from Ibn ʿUmar, may God be pleased with him, namely, that his navel showed when he put on a loincloth.

Abū Hurayra said to al-Ḥasan, may God be pleased with both: "Show me the spot [on your body] that the Messenger of God used to kiss!" He exposed his navel, and Abū Hurayra kissed it.

The way people usually behave in front of each other is that, when they put on a loincloth in the bathhouse, they expose their navel, without censoring one another. This is an indication (*dalīl*) that the navel is not part of *ʿawra*.

The area just below the navel is *ʿawra*, according to the clear meaning of the report that we have cited.

Abū Bakr Muḥammad b. Faḍl used to say: "Up to the point where hair begins to grow there is no *ʿawra*." [He defended this position] on the strength of people's common praxis (*li-taʿāmul al-ʿummāl*), that is, letting [the area below the navel] show when they put on a loincloth, [arguing that] to disregard common praxis [needlessly] imposes a restriction. However, this is far-fetched: praxis is not taken into account when it goes against a revealed text (*naṣṣ*). It is [only] taken into account when there is no revealed text.

As for the *thigh* (*fakhidh*), we hold it to be *ʿawra*.

The Ẓāhirīs[4] say that a man's *ʿawra* is the area of the navel, not including the thigh. This is because the Exalted says: "Their pudenda (*saw'a*) became manifest to them" (Q 7:22),[5] by which He means: their *ʿawra*.[6] In addition, there is a *ḥadīth* that the Prophet was once in the walled garden (*ḥā'iṭ*) of one of the Helpers [in Medina] and put his [leg up to his] knee into a water-tank, exposing his thigh. Abū Bakr arrived, but the Prophet did not change his position. Then ʿUmar arrived, and again the Prophet did not change his position. Then ʿUthmān arrived, and the Prophet changed his position and covered his thigh. Asked about it, he said: "Am I not to feel bashful in front of the person in front of whom even the angels feel bashful?" If the thigh were part of *ʿawra*, he would have covered it in front of Abū Bakr and ʿUmar.

Our proof regarding this consists in what is related about the Prophet: that he passed by a man called Jurhad, who was praying with his thigh exposed. He said to him: "Cover your thigh! Do you not know that the thigh is *ʿawra*?" The *ḥadīth* of ʿAmr b. Shuʿayb serves as a[nother] revealed text about this.

As for the *ḥadīth* that they [the Ẓāhirīs] relate: In some transmitted versions, it is [stated] that the knee was revealed [but not the thigh]. Thus, the [correct] interpretation [of the *ḥadīth*] is that having arrived, Abū Bakr and ʿUmar sat down where they could not see [p. 147] the body part that the Prophet had exposed. When ʿUthmān arrived, nowhere remained [for him to sit] from where his knee would not be seen. Therefore, he [the Prophet] covered it.

As regards the verse [of the Qurʾān], *saw'a* means "heavy *ʿawra*" (*al-ʿawra al-ghalīẓa*). This is what we say: the "heavy *ʿawra*" is *saw'a*, but the legal rules concerning *ʿawra* also apply to what is around the two *saw'a*s [i.e., the genitals and the anus], on the basis of proximity [to them]. However, the *ʿawra* rules for [these areas] are less strict.

The *knee*, according to us, is a part of *ʿawra*.

Al-Shāfiʿī [d. 204/820] said that it is not part of *ʿawra*, because of the *ḥadīth* transmitted by Anas [b. Mālik]: "The Messenger of God never exposed his knee in the presence of someone sitting next to him." His intention in relating this was to draw attention to [the Prophet's] excellent character (*shamā'il*). If the knee were *ʿawra*, covering the knee would be a legal duty and not [just] one of

4 The Ẓāhirīs, a theologico-juridical school in medieval Islam, were known for their principle of only accepting as veridical knowledge based on Qurʾānic revelation or flowing from direct sensory, rational, or linguistic insight.

5 Qurʾān passages are quoted, with minor adjustments, from the translation by Alan Jones (2007). At Q 7:22, Jones translates *saw'a* as "bare bodies."

6 The verse refers to Adam and Eve, whose "shameful parts" were revealed to them after eating from the forbidden tree in Paradise. See Hsu, 50.

the excellent character traits. Being the end point of *ʿawra*, however, like the navel the knee is not part of *ʿawra*. The limit of something is not included in the thing that is limited.

Our proof regarding this consists in the *ḥadīth* related by Abū Hurayra, that the Prophet said: "The knee is part of *ʿawra*." The wording of the *ḥadīth* related by ʿAmr b. Shuʿayb, "until just beyond the knee," [also] indicates that the knee is part of *ʿawra*.

The knee is where the shank bone and the thigh bone meet, the latter being *ʿawra* but not the former. That is, in the knee, aspects that make it necessary to consider it *ʿawra* and to *not* consider it *ʿawra* coexist. Out of circumspection, [the aspect] that makes it necessary to consider it *ʿawra* prevails. As the Prophet said: "When permittedness and forbiddenness coexist in a thing, the forbiddeness prevails over the permittedness."

As regards the *ḥadīth* transmitted by Anas [b. Mālik], the [correct] transmitted version is: "The Messenger of God never stretched out his legs in the presence of someone sitting next to him." This was one of his excellent character traits. The exposure of the knee, as is related in some transmitted versions, is [merely] a figurative way of speaking about the same thing. […]

The same rules apply to touch (*mass*). One is allowed to touch what is not *ʿawra*, just like one is allowed to look at it.

[*§ 2.*] *Women Looking at Women*

This corresponds to [the rules pertaining to] men looking at men, on account of membership in the same gender (*jins*). Do you not see that women wash [the corpse of] a woman after she died, just like men wash [the corpses of] men?

Some people argue that women looking at women is like men looking at their female unmarriageable relatives (*dhawāt maḥārimihi*), so that women are not allowed to look at another woman's back or belly. This is because of the *ḥadīth* related by Ibn ʿUmar, that the Prophet forbade women to enter a public bath, whether with a loincloth or without a loincloth. Ibn ʿUmar used to say: "Do not let women enter a public bath, except when they are sick or giving birth, but let them cover themselves."

We, however, say that the intention [of the *ḥadīth*] is to discourage women from going out and [to encourage them] to stay at home. With this, we agree [in principle], but it is a common practice (*ʿurf ẓāhir*) [p. 148] in all countries to build public baths for women and to allow them to enter them. This indicates that what we have said is correct. Women need to go to the public baths more than men because the aim [of going there] is to embellish oneself. Women require this more than men. Men can perform full body lustration in rivers or ponds, while women are unable to do so.

[*§ 3.*] ***Women Looking at Men***

This corresponds to [the rules pertaining to] men looking at men. As we have explained, a man's navel and what is above it, as well as the leg below the knee, is not *ʿawra*. Everything that is not *ʿawra* may be licitly looked at by men and women, for example [body parts covered by] clothes or something else.

In the *K. al-Khunthā* (*Book on Hermaphrodites*), he[7] pointed out that women looking at men is like men looking at their female unmarriageable relatives, so that women are not allowed to look at a man's back or belly. He stated: "Is it not the case that hermaphrodites are to undress themselves neither among men nor among women?" The point of this is: when different genders are involved, the rules pertaining to the gaze are severe (*ghaluẓa*). Do you not see that it is forbidden for a woman to wash a man's corpse? If her gaze were analogous to that of a man, she would be allowed to wash him.

Looking at these body parts is allowed as long it is known that, by looking, desire will not be aroused, and if there is [absolutely] no doubt about this. However, if it is known that desire will be aroused, or if this seems likely, then looking is forbidden, because looking out of desire is a kind of adultery (*al-naẓar ʿan shahwa nawʿ zinā*). The Prophet said: "The eyes commit adultery, their adultery is looking; the hands commit adultery, their adultery is touching (*baṭsh*); the feet commit adultery, their adultery is walking; and the genitals (*farj*) confirm all of this or prove it wrong." All types of adultery are forbidden. The Prophet also said: "Desire's gaze is the Devil's arrow."

[*§ 4.*] ***Men Looking at Women***

This is fourfold: men looking at their wives and female slaves; men looking at their female unmarriageable relatives; men looking at slave girls other than their own; and men looking at free, unrelated adult women.

[§ 4.1] Men Looking at Their Wives and Female Slaves

This is allowed from top to toe, whether out of desire or without desire. This is based on the *ḥadīth* of Abū Hurayra, according to whom the Prophet said: "Avert your gaze, except in the case of your wives and slave girls!" ʿĀ'isha said: "I used to bathe with the Prophet from one container. I would say: 'Save the water for me,' and he would say: 'Save the water for me.'" If looking [at the entire body] were not allowed, neither of them would have stripped naked in front of the other.

7 Referring, one presumes, to either al-Ḥākim al-Shahīd or al-Shaybānī (see above, Introduction).

Furthermore, [men and their wives and female slaves are] allowed to touch and have sexual intercourse, both of which are more serious than looking [that is, looking is allowed *a fortiori*]. The Exalted says: "[Prosperous are the believers] who guard their private parts, save from their wives or what their right hands possess" (Q 23:5–6).

Nonetheless, it is preferable if they do not look at their partner's *ʿawra*, based on the *ḥadīth* related by ʿĀ'isha, who said: "In spite of cohabitating with the Prophet for a long time, I have not seen anything of the Messenger of God [i.e., his *ʿawra*], nor has he seen anything of me [i.e., my *ʿawra*]." The Prophet said: "When one of you goes to his wife, he should cover [his *ʿawra*] to the extent possible. The two of them should not strip naked like donkeys."

Furthermore, looking at *ʿawra* causes forgetfulness. One of the excellent character traits of [Abū Bakr] al-Ṣiddīq [p. 149] was that he never looked at his own *ʿawra*, nor touched it with his hand. If this is how he dealt with [looking at his] own *ʿawra*, how do you think he dealt with [looking at the] *ʿawra* of others?

Ibn ʿUmar used to say: "It is preferable that [men] look [at their wives' and slave girls' *ʿawra*], in order to attain the highest level of pleasure."

[§ 4.2] Men Looking at Their Female Unmarriageable Relatives

We say: Men are allowed to look at the loci of their apparent and hidden adornments, for the Exalted says: "[Tell the believing women] to reveal their ornaments only to their husbands," to the end of the verse (Q 24:31).[8]

This [command] does not refer to the actual adornment, the one that is bought in the marketplace and seen by [all kinds of] unrelated men. Rather, what [the command] aims at is the body part on which the adornment is displayed: the head, hair, neck, bosom, upper arm, forearm, palm, shank, foot, and face. The head is the body part on which crowns and diadems are placed. In the hair, there are hair-locks.[9] The neck is the body part around which necklaces are hung. The bosom is like the neck, because both light and heavy necklaces reach down to the bosom. The ears are for earrings, the upper arms for

8 In full, Q 24:31 reads (trans. Jones): "Tell the believing women to lower their gaze and to guard their private parts, and to show only those ornaments that normally appear, and to draw their coverings over the openings in their garments, and to reveal their ornaments only to their husbands or their fathers, or the fathers of their husbands, or their sons, or their step-sons, or their brothers, or the sons of their brothers or sisters, or their women or what their right hands possess, or their male attendants who have no desire, or children who have no knowledge of women's nakedness. And let them not stamp their feet so that the ornaments which they conceal are known. O believers, all of you turn in repentance so that you may prosper."

9 Arab. *al-shaʿr mawḍiʿ al-quṣāṣ*. The translation follows Hsu, 61.

bracelets, the forearms for bangles, the palms for rings and dye, the shanks for anklets, and the feet for dye.

According to the *ḥadīth*, al-Ḥasan and al-Ḥusayn once visited [their sister] Umm Kulthūm as she was combing her hair. She did not cover up.

Unmarriageable relatives visit each other without asking for permission and without feeling inhibited. When they are at home, women usually dress in working clothes and do not cover up. Were they ordered to put on a veil in the presence of unmarriageable relatives, it would cause them [unnecessary] hardship.

It is allowed to touch these loci just like it is allowed to look at them. This is on account of what is related about the Prophet, namely, that he used to kiss Fāṭima and say: "She smells of Paradise." When returning from a journey, he would begin by [greeting] her, hugging her, and kissing her head. Likewise, Abū Bakr used to kiss ʿĀ'isha's head. The Prophet said: "When someone kisses his mother's feet it is as if he had kissed the threshold of Paradise." Muḥammad b. al-Munkadir said: "I passed the night touching my mother's feet, while my brother Abū Bakr prayed. I would not want my night to be like his." Thus, looking and touching is allowed, but only if a man can be sure that neither he nor she will be overcome with desire. If a man fears that he or she will be overcome with desire, then it is not allowed. This on the strength of what we have explained, namely, that looking out of desire and touching out of desire is a form of adultery. Adultery with unmarriageable relatives is gravely prohibited.

Just as a man is not allowed to expose himself to forbidden things, so he is not allowed to expose a woman to forbidden things. If a man fears that a woman [may be attracted toward what is forbidden to her], he must seek to avoid it.

It is not permissible for him to look at her back and belly, nor to touch them.

Al-Shāfiʿī says that there is no harm in it. He treats the man and the woman [in this situation] as if they were members of the same sex looking at each other. This, however, is not sound. The rule against *ẓihār*[10] is firmly established in the Qurʾān [58:2, 33:4], [*ẓihār*] consisting in a man saying to his wife: "You are as the back of my mother to me!" This formula is rejected because, in it, something that is permitted [i.e., looking at one's own wife] is compared to something that is forbidden [i.e., looking at the back of one's mother]. Were it permitted for a man to look at the back of his mother, something that is permitted would be compared to something that is permitted [which would be acceptable]. Now, if this has been established in regard to the back, it is also

10 A pre-Islamic form of divorce, *ẓihār* is forbidden by Islamic law, which imposes an expiatory act (*kaffāra*) to make amends for it.

established in regard to the belly, for the latter is closer to the genitals and more likely to be desired. […]

[p. 150] It is permitted for a man to be alone with unmarriageable female relatives and to travel with them. This is because the Prophet said: "If a man is together with a woman to which he has no [lawful] relation, the third one among them is Satan," meaning a woman who is *not* [a female relative who is] non-marriageable to him. This indicates that he is permitted to be alone with unmarriageable female relatives, subject to the condition that both of them are free from lust. This is on account of what is related about ʿAmmār b. Yāsir, namely, that [once] he came out his house [visibly] shaken, and when he was asked about it, he said: "I was alone with my daughter and became apprehensive about myself, so I came out." It is the same in the case of traveling. This is because the Prophet said: "A woman should not travel alone for longer than three days and three nights, except with a husband or an unmarriageable relative." This indicates that there is no harm [for a woman] to travel with an unmarriageable relative.

If she requires his help in mounting and dismounting [a riding animal], there is no harm if he touches her, provided there is clothing, or that he takes hold of her back or belly. This is on account of what is related about Muḥammad b. Abī Bakr, namely, that he put his hand into ʿĀ'isha's litter, to help her out of it. He [accidentally] touched her bosom, whereupon she said: "Who is the one who puts his hand where only the Messenger of God puts it?" To which he answered: "It is me, your brother." […] [p. 151] There is no *ʿawra* when there is proper clothing (*satr*), and no desire when one is an unmarriageable relative. Therefore, there is no harm in carrying and touching when helping a [female unmarriageable relative] to mount or dismount, just like [there is no harm in doing so] in the case of [people of] the same sex.

[§ 4.3] Men Looking at Slave Girls Other Than Their Own, Including Female Slaves Who Enjoy the Prospect of Manumission[11]

This corresponds to [the case of] men looking at female unmarriageable relatives, for the Exalted says: "[Tell them] to draw their robes close to them" (Q 33:59).[12] […]

11 Arab. *al-mudabbarāt wa-ummahāt al-awlād wa-l-mukātabāt*. See Hsu, 67. For the various types of female slaves according to Islamic law, see Ali, 166–72; Schacht, 127–9.

12 In full, Q 33:59 reads (trans. Jones): "O prophet, tell your wives and daughters and womenfolk of the believers to draw their robes close to them. That is more appropriate as a way for them to be recognized and not vexed. God is Forgiving and Compassionate."

[§ 4.4] [p. 152] Men Looking at Free, Unrelated Adult Women

We say: It is permissible to look at the place of apparent adornment, but not that of hidden adornment. This is because the Exalted says: "Let them show only those of their ornaments that outwardly appear" (Q 24:31). ʿAlī and Ibn ʿAbbās said: "That which appears outwardly is collyrium [i.e., the face] and rings [i.e., the hands]."

ʿĀ'isha said: "[It refers to] one of her eyes." Ibn Masʿūd said: "[It refers] to her shoes and her overgarment." He inferred this from his [the Prophet's] saying, "Women are the cords of the Devil; with them he snares men," and his saying, "I have not left after me a temptation (*fitna*) greater to men than women."

Once, in the Prophet's assembly, the question was raised what the best thing is that men can do for women, and what the best thing is that women can do for men. When ʿAlī returned to his house, he told Fāṭima about it. She said: "The best thing that men can do for women, is not to look at them; and the best thing that women can do for men, is to make themselves invisible." When he [ʿAlī] told this to the Messenger of God, he said: "She is a piece of me [i.e., she speaks as I would]." This indicates that looking at *any* part of her body is forbidden.

Looking [at free, unrelated adult women] is forbidden on account of the fear of temptation. A woman's beauty resides mostly in her face. Therefore, the fear of temptation is greater in regard to a woman's face than in regard to a woman's other body parts. It is on account of this that ʿĀ'isha concluded [that women should cover their whole body]. However, she granted that women, who cannot avoid walking on the street and [therefore] must open their eyes in order to see the street, by virtue of this necessity, are allowed to uncover one of their eyes. A norm that is established on the basis of necessity does not extend beyond the [single] context of necessity.

We, however, follow the opinion of ʿAlī and Ibn ʿAbbās. There are reports that give license to look at the faces and hands [of free, unrelated adult women]. For example, it is related that a woman showed herself to the Messenger of God. He looked at her, but he did not look with lust. Also, when ʿUmar said in a sermon, "Do not give too much bridal dower [p. 153] to women," a woman with dark-brown cheeks said, "Do you say this on the basis of your own reasoning, or have you heard this from the Messenger of God? For we find in the Book of God a passage that contradicts you. God said: 'If you have given them a large sum, take nothing from it' (Q 4:20)." ʿUmar was perplexed. He said: "Everybody is more learned than ʿUmar, even housewives are!" The narrator [of this story] mentions that the woman had "dark-brown cheeks," a sign of her brownish face.

The Prophet saw the palm of a woman that was not dyed [with henna]. He said: "Is this the palm of a man?"

When Fāṭima handed over one of her sons to Bilāl or Anas,[13] Anas said, "I saw her palm looking like a quarter moon." [By saying this,] he indicated that there is no harm in looking at faces and palms [of free, unrelated adult women]. The face is where collyrium is applied; palms are where rings are worn and dye is used. This is what is meant by the Exalted's words "only those that appear outwardly" (Q 24:31). The danger of temptation may also arise when men look at garments [of women]. As a poet said: "The dye of her palm beguiled me, and her eye's collyrium, and her yellow clothes." There is no doubt that it is permissible to look at clothed women, without anybody suggesting that there might be a danger of temptation. It is the same with faces and palms.

Al-Ḥasan b. Ziyād related that Abū Ḥanīfa [d. 150/767] also allowed looking at feet. Likewise, al-Ṭaḥāwī [d. 321/933] explains that it would subject a woman to great inconvenience in legal transactions with men if she had to cover her face. Likewise, it would subject her to great inconvenience if, although she has to receive and hand out [items in legal transactions], she had to cover her hands. Likewise, it would cause her great inconvenience if she had to cover her feet, although walking barefoot or wearing sandals, for perhaps shoes are not always at hand. In the *Collection of the Barmakids* (*Jāmiʿ al-Barāmika*),[14] it is related on the authority of Abū Yūsuf [d. 182/798] that it is permissible to look at the elbows [of free, unrelated adult women], because when they are making bread or washing clothes, it would cause them great inconvenience if they had to cover the elbows. It is also said that likewise, it is permissible to look at the middle incisors [of free, unrelated adult women], because in talking with men, she will expose them.

All this only applies, however, if looking happens without lust. If men know that, by looking, lust will be aroused, they are not allowed to look at any part of them [free, unrelated adult women]. This is because he [the Prophet] said: "Whoever looks at the beauties of an unrelated woman under the impulse of lust will have melted lead poured in his eyes on the Day of Judgment." And he said to ʿAlī: "Do not follow a glance with a second glance. You are entitled to the first, but the second is to your detriment."

13 Bilāl and Anas were servants of the Prophet Muḥammad.

14 The *Jāmiʿ al-Barāmika*, ostensibly a collection of Ḥanafī legal opinions, is cited four times in al-Sarakhsī's *al-Mabsūṭ* (vol. 3, p. 13; vol. 10, pp. 153, 189, 190). It seems to have been rather unknown in the later Ḥanafī Transoxanian tradition. It is cited neither in al-Kāsānī's (d. 587/1189) *Badāʾiʿ al-ṣanāʾiʿ* nor in al-Mārghīnānī's (d. 593/1196) *al-Hidāya*.