137095 - Who is the mahram with whom a woman can travel and who can act as a “chaperone” to prevent khulwah between a man and woman who are not related to one another?

the question

How old should a person be to qualify as a mahram according to sharee‘ah? I heard that once a boy reaches the age of four, he may be a “chaperone” to prevent khulwah. Is he regarded as a mahram, or is it only an adult who is regarded as a mahram?.

Detailed answer

Praise be to Allah.

Firstly:

It should be noted that this question covers two issues: who is a woman’s mahram for the purpose of travel, and who is the one who is a “chaperone” and prevents forbidden khulwah between a man and a woman who is not his mahram? It is not essential for the one who prevents khulwah to be a mahram, as we shall see below, in sha Allah.

Secondly:

A woman’s mahram is anyone whom she is permanently forbidden to marry, because of blood ties, breastfeeding or ties through marriage, such as her father, son, or brother.

Is it essential for the mahram to be an adult? This was stipulated by the Hanbalis, but the majority of scholars are of the view that if the mahram is a boy who has reached the age of discernment and is close to puberty, and the woman feels safe when he is with her, then that is sufficient, and they regarded the boy who is close to the age of puberty as coming under the same ruling as an adult.

In al-Mawsoo'ah al-Fiqhiyyah (36/340) it says: The Hanafis and Shaafa'is are of the view, which is also the apparent view of the Maaliki madhhab, that a boy who is close to the age of puberty may be regarded as being like an adult without whom it is not permissible for a woman to travel, if he is one of her mahrams.

The Hanbalis differed concerning that and stipulated that the mahram should be an adult of sound mind. Ibn Qudaamah said: It was said to Ahmad: So can a boy be a mahram? He said: No, not until he reaches puberty, because he cannot look after himself, so how can he go out with a woman? That is because the purpose of the mahram is to protect the woman, and that can only be done by one who is an adult of sound mind. End quote.

The most precautionary view is that of the Hanbalis, who stipulated that the mahram should be an adult; this is closer to achieving the shar'i purpose behind having a mahram present.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked:

When does the child become a mahram for his mother? Is it when he reaches puberty or when he reaches the age of discernment?

He replied: The boy becomes a mahram when he becomes an adult of sound mind. The one who has not yet reached adulthood is not a mahram, and the one in whose mind there is any unsoundness is not a mahram.

End quote from Liqaa'aat al-Baab al-Maftoohah, 123/20).

See also the answer to question no. 170300

Thirdly:

With regard to the second issue, which is cancelling out forbidden khulwah between a man and a woman who are not mahrams, the answer to that is that what is meant by khulwah that is forbidden is when the woman is with the man in a place where they are certain no third person will enter, as it says in al-Mawsoo'ah al-Fiqhiyyah, 7/88. With regard to those who cancel out that

forbidden khulwah, they are of different types:

1.

The husband

An-Nawawi (may Allah have mercy on him) said: If her husband is with her then he is like the mahram, and he is the best person to fulfil this role.

End quote from Sharh Muslim, 9/109

2.

The woman's mahram, as mentioned above. He prevents cancels out khulwah without a doubt, because of the hadeeth which states that. In as-Saheehayn it is narrated that the Prophet (blessings and peace of Allah be upon him) said: "No man should be alone with a woman unless her mahram is with her." If he qualifies to be a mahram for her in the case of travel, then it is more apt that he cancels out forbidden khulwah by his presence.

3.

The presence of a child who has reached the age of discernment, before whom one feels embarrassed (to behave in an inappropriate manner).

4.

The presence of one or more trustworthy women.

An-Nawawi (may Allah have mercy on him) said: If a man is alone with a woman who is not his mahram, without a third person being present with them, this is haraam according to scholarly consensus. The same applies if there is with them a person before whom one would not feel embarrassed because of his being very young, such as a child of the age of two or three years and the like, because his being there is the same as his not being there.

End quote from Sharh an-Nawawi, 9/109

He also said: The well-known view is that it is permissible for a man to be alone with a group of women among whom he has no mahram, because usually this would not lead to any bad consequences, as women feel embarrassed before one another.

End quote from al-Majmoo‘, 7/87

Shaykh Muhammad ibn Saalih al-‘Uthaymeen (may Allah have mercy on him) said: If there is with the woman another woman like her, then there is no khulwah.

End quote from ash-Sharh al-Mumti‘, 4/251

5.

The presence of one or more trustworthy men.

Shaykh ‘Abd al-‘Azeez ibn Baaz (may Allah have mercy on him) said: If there is with them one or more other men, or one or more other women, there is nothing wrong with that if there is no doubt about their conduct, because there is no khulwah if there are three or more people present.

End quote from Fataawa al-Mar’ah al-Muslimah, 2/556

We should point out that our saying that the presence of one or more women cancels out khulwah does not mean that it is permissible for the women to travel with that non-mahram man. The presence of one or more women cancels out khulwah, but it is not permissible for them to travel with him; rather each one must have her own mahram with her when travelling.

Shaykh ‘Abd al-‘Azeez ibn Baaz (may Allah have mercy on him) said: If there is with them one or more other men, or one or more other women, there is nothing wrong with that if there is no doubt about their conduct, because there is no khulwah if there are three or more people.

This has to do with matters other than travel. In the case of travel, a woman should not travel except with her mahram.

End quote from Fataawa al-Mar’ah al-Muslimah, 2/556

Shaykh Muhammad as-Saalih al-‘Uthaymeen (may Allah have mercy on him) said:

But if there are two or more women with him, there is nothing wrong with that, because there is no khulwah in that case – on the condition that he is trustworthy and that this is not in the case of travel.

End quote from Fataawa al-Mar’ah al-Muslimah, 2/555

It should be noted that the word mahram is mentioned in one hadeeth in two phrases. In the first instance what is meant is the prohibition on forbidden khulwah. Hence some of the fuqaha’ said that this phrase also includes the man’s mahram, because the purpose of the ruling is to prevent khulwah, which is achieved by the presence of the man’s mother or sister, for example. And what is meant by the word mahram in the second phrase is the woman’s mahram who travels with her. The hadeeth referred to is that which was narrated by al-Bukhaari (1763) and Muslim (1341) from Ibn ‘Abbaas who said: I heard the Prophet (blessings and peace of Allah be upon him) deliver a khutbah in which he said: “No man should be alone with a woman without there being a mahram present, and no woman should travel unless she has a mahram with her.”

An-Nawawi (may Allah have mercy on him) said: “without there being a mahram present” may be understood as meaning one who is a mahram to her, or it may be understood as meaning one who is a mahram to him or to her. The second interpretation is in harmony with the guidelines set out by of the fuqaha’, because it makes no difference whether she has with her one who is a mahram to her, such as her son, brother, mother or sister, or one who is a mahram to him, such as his sister, daughter, paternal aunt or maternal aunt. It is permissible to sit with her in these cases.

End quote from Sharh Muslim, 9/109

To sum up:

1.

The mahram who must accompany a woman when she travels is her husband or any adult who is permanently forbidden to marry her, according to scholarly consensus. The scholars differed concerning the boy who is close to puberty and with whom the woman feels safe and feels he could take care of her. The majority are of the view that he is suitable to be a mahram, and this is more likely to be correct. The Hanbalis differed from them and stipulated that he should have reached puberty, and this is more on the safe side.

2.

Khulwah between a man and a woman who is not his mahram is cancelled out by the presence of the husband or a mahram of either the man or the woman, or the presence of one or more trustworthy men or of one or more trustworthy women, or the presence of a child who has reached the age of discernment and before whom one would feel embarrassed. As for a small child before whom one would not feel embarrassed, his being present is the same as he is not being present (i.e., it makes no difference).

And Allah knows best.