

## Seeing is Owing, Veiling practices in the Middle East\*

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The use of veils among contemporary Muslim women triggers a large range of emotions and concepts in the general public and among Muslim communities in different places. The general public perception of veiling shifts from manifestations of female oppression to concepts of liberation of women from the male gaze. Individuals, as well as state institutions, attempt at controlling the use of veils, either by restricting or enforcing it. Up to day, veiling is a sphere where contesting identities clash and at times attract public debates.<sup>1</sup> Several such incidents have raised international public discourse, in Germany,<sup>2</sup> and elsewhere. In 2016 France attempted at declaring the “Burka Law”, but since was suspended. Several other places attempted at declaring a similar law, e.g. Swiss, Germany and Québec;<sup>3</sup> And the French law forbidding religious marks in schools.<sup>4</sup> These are but a few of the recent incidents concerning female cover in public.

Throughout the ages religious scholars discussed the kinds of veil, what to veil, and when to veil, producing diverse answers. For instance, Muslim legal scholars discuss the term `Awra, i.e. the parts in the human body that are to be covered when not in private quarters. Scholars also debate which parts of the female body should be visible when in public. Legal as well as social debates provide answers ranging from a head and face cover to complete covering all of the body, leaving only enough room to see through.<sup>5</sup>

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<sup>1</sup> There are numerous discussions, public, religious, gender, legal and more. One such example is: <https://tinyurl.com/y8af35r3> (accessed October 25, 2017).

<sup>2</sup> <http://tinyurl.com/gnf374n> (accessed January 3, 2018).

<sup>3</sup> There are numerous discussions, public, religious, gender, legal and more. One such recent example is: <https://tinyurl.com/y8af35r3> (accessed October 25, 2017).

<sup>4</sup> <http://tinyurl.com/jglcxg7> (accessed January 3, 2018). The law is commonly perceived as directed against veils rather than religious symbols in general. See for instance Melanie Adrian, “France, the Veil and Religious Freedom,” *Religion, State & Society* 37.4 (2009), pp. 345-374.

<sup>5</sup> For an overview see Lila Abu-Lughod, “Modesty Discourses: Overview,” *Encyclopedia of Women & Islamic Cultures*. General Editor Suad Joseph. (Brill Online, 2015). Reference. TEL AVIV UNIVERSITY SOURASKY LIBRARY. 14 August 2015 <http://tinyurl.com/zx4rb7o>; see also Susan Spector, *Women in Classical Islamic Law: a Survey of the Sources*. (Brill, 2009), pp. 50, 190.

A Google search brings up many contemporary discussions regarding veils in various situations. See for instance <http://islamqa.info/en/2198> (accessed on August 5, 2015)

For instance, how should a woman be dressed when praying? Tenth century Quran exegetist and historian Muḥammad ibn Jarīr al-Ṭabarī (d. 925) mentions that a woman should have her face and hands revealed when praying, whereas other parts are to be covered.<sup>6</sup>

The issue debated upon was not only what parts should be exposed by women in the public domain, but also under which circumstances is a woman required to show her face to a non-relative. One case in point was the medieval debate regarding veiling in court; should a woman present in court show her face to the judge? Is it a requirement? The question was of concern for medieval Jewish as well as Muslim legal circles. Identification was crucial in many cases, for instance when a woman wishes to secure divorce, or make a claim over property. Her identity is critical for the legal process. Tillier brings several cases in which Muslim women addressed a Qadi and hence were asked to reveal their faces for the sake of identification. In many of these cases, husbands, reluctant to allow their wives' faces become public spectacle, agreed to their every demand.<sup>7</sup>

Numerous court records found in the Geniza indicate that Jewish women appearing before the Jewish court, were recognized and their identity needed to be validated – most likely because their faces were covered and had to be revealed: ואקנינא מנהא בעד צחה אלמערפה בהא (= and we performed the legally binding act of purchase after we validate her identity),<sup>8</sup> In another case it was explicitly stated that the woman's identification was validate by two other women.<sup>9</sup> Such a requirement was made in different times and places, one such case is recorded from 16<sup>th</sup> century Damascus: Dotan Arad analyzes the troubles of a young bride whose divorce is questioned due to the fact that the woman's face were covered when issued the divorce:

[A]nd then the young woman stand before us together with her grandmother to accept the divorce deed (*get*) from her husband's proxy

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where ten permissible situations in which a woman is allowed to keep her face and hands uncovered are discussed.

- <sup>6</sup> Clothing and adorning one's body has many different aspects, it relates social norms and practices, and also sends certain messages to the world. See for instance Hadas Hirsch, "Personal Grooming and Outward Appearance in Early Muslim Societies," *Al-Masaq* 23.2 (2011), pp. 99-116. Sepctorsky, *Women in Classical Islamic Law*, p. 50, 190.
- <sup>7</sup> Mathieu Tillier, "Women before the Qādī Under the Abbasids," *Islamic Law and Society* 16.3 (2009), pp. 280-301. The demand from women to reveal their faces in front of the qādi is still a prerequisite in most Muslim courts to date. Authors wish to thank Dr. Ido Shahar of Haifa University for sharing this information.
- <sup>8</sup> E.g TS 24.15, published by Amir Ashur, "Engagement and Betrothal documents from the Cairo Geniza", PhD diss. (Hebrew). (Tel Aviv University 2006), pp. 214-215; another example in TS 18 J 1.28, published *ibid.* pp. 248-251.
- <sup>9</sup> Bodl. MS. Heb. c. 13, fol. 20, margins, l. 2, published by Mordechai Akiva Friedman, *Jewish Polygyny in the Middle Ages* (Hebrew). (Tel-Aviv, 1986).

and she covered her face as customary among pious women when they appearing in court to be divorced.<sup>10</sup>

Veils are mentioned in dowry lists from the Geniza records. Such lists suggest women used veils but not the nature of these veils, or the way they were used, who was required to wear them, what exactly they covered and in what occasions.<sup>11</sup> Further elaboration to the possibility that non-Muslims women adopted Islamic dress code comes from the market inspector manual of 14<sup>th</sup> century. Ibn al-Ukhuwwa (d. 1329) complains in his *Ma‘ālim al-Qurba fī Aḥkām al-Ḥisba*, that it impossible to distinguish between *dhimmi* women and Muslim women when they leave their houses and walk the streets.<sup>12</sup> Indeed, there is ample evidence indicating that medieval Jewish and probably also Christian communities in different places of the Muslim world, applied similar rules of modesty, clothing norms and behavior as their Muslim contemporaries.<sup>13</sup> Legal discussions and responsa found in the Geniza, suggest that these veils covered significant parts of the body, or alternatively, women were not seen much in public space.

Still the veiling habits of non-Muslims in the Middle East receive less attention from medieval sources. One possible reason for that is that there is no Jewish or Christian legal source commending girls or women to wear veils of any kind. Nor was there governmental rule enforcing a veil on none Muslims.<sup>14</sup> Another explanation might be that it was such a common norm, that there was no need in discussing it. Yet, veiling and the covering of the

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<sup>10</sup> Dotan Arad. "Virginity, Conspiracies, and Hidden Faces: A Case of a Marital Quarrel in Damascus that Led to a Rabbinic Dispute" (Hebrew), *Sefunot* 25 (2017), p. 71.

<sup>11</sup> For some examples of dowry lists contains veil see, e.g. TS 16.71, a marriage contract from 1084, published by Mordechai Akiva Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*, II. (Tel Aviv & New York, 1982), pp. 219-226, see *ibid.* p. 225, note to line 24 and the sources cited there. See further Yedida Khalfon Stillmann, "Female Attire of Medieval Egypt according to the Trousseau Lists and Cognate Material from the Cairo Geniza," Ph.D. Dissertation, (University of Pennsylvania 1972), pp. 116-117, 165-168 and the index; Mordechai Akiva Friedman, "Jewish Law as Witness to Sexual Mores among Jews in Islamic Countries during the Middle Ages: Veils and Temporary Marriage" (Hebrew), *Pe'amim* 45 (1990), pp. 91-99.

<sup>12</sup> Ibn al-Ukhuwwah, Muhammad b. Muhammad b. Ahmad al-Qurashi. *Ma‘ālim al-Qurba fī Aḥkām al-Ḥisba*. ed. Reuben Levy. (Cambridge: E. E. J. W. Gibb Memorial Series, 1938). p. 43 [Eng. tran. p. 15].

<sup>13</sup> See, for instance, S. D. Goitein. *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*, vol. I, (Los-Angeles 1967), pp. 70-74. On the influence of Muslim society on Jewish Marriage see Mordechai Akiva Friedman, "The Ethics of Medieval Jewish Marriage," in: S. D. Goitein (ed.), *Religion in a Religious Age* (Cambridge, Mass. 1974), pp. 83-102; *id.* "Polygyny in Jewish Tradition and Practice: New Sources from the Cairo Geniza," *PAAJR* 49 (1982), pp. 33-68.

<sup>14</sup> M. A. Friedman, "Jewish Law," p. 98.

female body had different implications and was based on concepts and perceptions of women, and their place in society.

Veiling and dress code is not only about gender issues or modesty and body perceptions. It is also about social norms and social structures. As argued by Hadas Hirsch: "All the components of outward appearances, set up by people also mirror hierarchical relationships, including gender-based power relations."<sup>15</sup> The patriarchal and patrilineal hegemony is reinforced (also) by stipulating rules of modesty. The issue of veiling is therefore not only a question of custom, norm or even religious commandments, it was, and still is, a question of where a person is on the social ladder.

By discussing the case of a groom to-be negotiating the terms for his future marriage we wish to unveil some of the meanings of coverage practiced by Jewish women in medieval Egypt and perhaps the nature such veils. The groom's arguments and the response it generated on the part of the bride's father, will allow us to look into social norms and methods used to implement these norms. As will be argued, the responsum tells the wishes of the two parties, concerning a veil, but should also be read as part of constructing hierarchy, between the two parties, setting their place within the community.

The responsum alludes to the bride, but she is not there on her own behalf. Her father is serving as her representative. Jewish law recognizes the concept of agency, as stated in Mishna *qiddushin* (2:1): "A man betroths independently or through his agent. A woman is betrothed independently or through her agent. A man betroths his daughter, when she is has not reached puberty, independently or through his agent." According to this Mishna a woman is not permitted to arrange her own marriage, if she is a minor, as long as her father is alive. In reality, even mature woman usually had to appoint her father or other male relative as her agent in arranging the marriage, and hardly do we hear about mature women who arranged their marriage by themselves.<sup>16</sup> The validity of betrothal contracted by the father of a mature woman whom she had not appointed as her agent was questioned during the Gaonic period; some considered it invalid, while

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<sup>15</sup> Hadas Hirsch, "Personal Grooming and Outward Appearance in Early Muslim Societies," *Al-Masaq* 23.2 (2011), p. 101.

<sup>16</sup> See Sa'adya Gaon responsum in *Sha'arei Zedeq*, Salonika, 1792; (Jerusalem, 1966) (Hebrew), p. 40, no. 12. In TS 8 J 22.29, a responsum sent to Maimonides, we hear about a mature girl who received her betrothal while her father was away in another city. This document is about to be published by Mordechai Akiva Friedman, "Geniza Studies and Maimonidean Research," (in Hebrew) in: *Maimonides and the Cairo Geniza* (ed. M. A. Friedman), Jerusalem (accepted for publication).

others recognized a girl's implicit acceptance of any betrothal contracted by her father as being equivalent to agency.<sup>17</sup>

Back to our document, this fragment is the only known example of a groom's demand to see his bride before the wedding and the bride's father refuses to expose her to the groom.

The honorific titles written (in Hebrew) in the opening lines of the query are typically found in documents relating to Abraham Maimuni (d. 1236), Maimonides' son. The handwriting is probably not later than the 13<sup>th</sup> century, so this query might have been sent to him.<sup>18</sup>

- 1 [...] ו
- 2 [...] הרב המו] בהק
- 3 [...] נ]ר המערבי
- 4 [...] יחיד] הדור אור
- 5 [...] העולם ופל]או ממזרח שמש
- 6 [...] ועד מבוא]ו ירום הודו ויגדל
- 7 [...] כבו]דו אמן [נ]צה סלה
- 8 [...] ראובן א]מלך עלי אבנה שמעון
- 9 [...] וטלב ר]אובן אן יבצר אבנה שמע
- 10 [...] וקאל ל]ה ראובן מא אזווג' אבנתך אלא
- 11 [...] בע]ד אבצרהא בעיני ואדכל עלי
- 12 [...] יאן מחץ פקאל שמעון אדא אראד
- 13 [...] א]חד? יבצר בנאת אלנאס ירוח
- 14 [...] וידכלהן] לחגירה יקלב בעינה [י]ורנו [ר] בנו
- 15 [...] אן קול ראובן חק פי מא קאלה
- 16 [...] וית[?]בת[?]ל[.]ל שמעון קול ...
- 17 [...] וישרט? ראובן?

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<sup>17</sup> For a lengthy discussion on the bride's agent in Jewish law and the in Geniza marriage contracts see Mordechai Akiva Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*. Vol. I: *The Ketubba Traditions of Eretz-Israel*. (Tel-Aviv and New York, 1982), pp. 216-232. Medieval Muslim legal scholars also restrict the rights and authorities of a guardian who is not the girl's father. For the Islamic medieval legal discourse of guardianship in marriage see also Susan Spector, *Chapters on Marriage and Divorce: Responses of Ibn Hanbal and Ibn Rahwayh* (Austin, 2010), Introduction, esp. pp. 10-11. In case, if a father is unable to act as guardian, the duty falls on the girl's nearest agnate male relative only, e.g. grandfather, uncle. In one case narrated by Ibn Sa'd (d. 845), when Sukayna attempted to be her own guardian, the marriage were revoked under the orders of the Umayyad Caliph Hishām ibn 'Abd al-Malik (r. 724-743). See Ibn Sa'd (d. 845), *Kitāb al-Ṭabaqāt al-Kabīr*, ed. 'Alī Muḥammad 'Amr. (Cairo, 2001), 10, p. 440.

<sup>18</sup> It was first published by Amir Ashur at <http://www.lib.cam.ac.uk/Taylor-Schechter/fotm/october-2008/>

Translation

- 1-7 (Introductory phrases in Hebrew addressing the legal expert.)  
8 [Reuben] engaged/betrothed Shimon's daughter.  
9 Reuben [demanded] to see Shimon's daughter,  
10 [and] Reuben [said to] him: 'I shall marry your daughter  
11 only after seeing her with my eyes, so that I enter (the marriage?)  
with  
12 complete [confidence (?)]. And Shimon told him: 'if  
13 [... some] one wants to see other people's daughters, he should  
14 [first bring them] into his jurisdiction [= marry them] and examine  
(them then) with his own eyes.' Would our Rabbi instruct us  
15 [...] if Reuben's words are true  
16 and valid (?) [...or] if Shimon's words are ....  
17 and Reuben(?) shall stipulate(?)

Although the manuscript is fragmentary, we are able to reconstruct its main story: Reuben ('Joe Bloggs') engaged (or betrothed, the verb *amlaka* in line 8 has both meanings)<sup>19</sup> Shimon's ('Mr. So-and-So') daughter without seeing her. As the time of the wedding approached, Reuben demanded to see her before actually marrying her. At this point, the manuscript is badly damaged, but it appears that Shimon rejected Reuben's demand and argued that a man should see his bride only *after* he married her.

This short question provides very little detail, we don't know the name or any other detail regarding the bride to be, we don't even know whether she was consulted before her father refused Reuben's request.

The absence of the bride is rather common in medieval texts pertaining marriage. Ranging from different times and places, legal responsas indicate that brides-to-be's consent is hardly ever discussed. This does not to argue that it was rarely sought or asked, but only that it was not frequently mentioned, or may not needed (for instance, in cases of a minor bride).<sup>20</sup> Islamic legal discourse mention the need in a bride's consent, and in some contexts it seems that females had a significant part in arraigning marriage (their own, or family members'). Should we look for Islamic negotiations for marriage, we may find that in Mamluk Egypt (1250-1517 AD), women took significant part in arranging marriage. Additionally, women could

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<sup>19</sup> For the translation See Joshua Blau, *A Dictionary of Mediaeval Judaeo-Arabic Text*, (Jerusalem 2006), p. 668; Mordechai Akiva Friedman, *A Dictionary of Medieval Judeo-Arabic in the India Book Letters from the Geniza and in other Texts*. (Jerusalem 2016), p. 476. (Hebrew)

<sup>20</sup> For a unique case of acceptance of marriage by the bride see Amir Ashur, "Jewish marriage customs in Spain as reflected in the Cairo Geniza documents," in *Entre Oriente y Occidente: Textos y espacios medievales*. (Córdoba, 2016), pp. 146-147.

appeal the Sharʿī court for divorce in case their Sharʿī rights were not met.<sup>21</sup> Evidence of involvement of women in the negotiations of marriage contracts among elite women may be found in other regions of the Muslim world. For instance, Hanneh discusses several examples of 11<sup>th</sup> century Saljūq elite women participation in marriage negotiations. Interestingly, Hanneh points out that while both ‘Abbasid elite women as well as their Saljūq counterparts were active in setting marital alliances, ‘Abbasid women are merely described, while Saljūqs are depicted as actual actors.<sup>22</sup>

This of course, does not indicate that women were generally involved in setting marriage contracts; it is also hard to evaluate how many women were indeed in a position to choose or to revoke marriage decided by their legal guardians.

The question of whether a man is allowed to see his future wife is much discussed also among Muslims legal scholars. In Septorsky’s collection of responsas (*fatāwī*) by Ibn Ḥanbal and Ibn Rāhwayh it is evident that betrothed did not always see one another before marriage and that it produced different problematic incidents. One such instance is a man who married a woman (by proxy? The text provides no information regarding this issue), and only after taking a nap besides her did he learn of her color. Hence he sent her a divorce without even seeing her. The responsa concerned the fiscal obligations between the couples, was she entitled for her full dower? And was the divorced woman obligated to wait a waiting period before remarrying?<sup>23</sup> The question does not inquire whether it was legal for the couple to marry without seeing one another, but assumes it to be a reasonable situation. Here too, the woman is almost completely absent. She is betrothed and sent away without consulting her wishes. That does not mean that her interests are overlooked, the very discussion demonstrates that the legal authorities who discussed the case were concerned with the woman’s wellbeing, and made every effort that her status – social and economic – will not be damaged, hence discussing her rights for full dower payment.

The question of concern here was shared by other religious community. A similar discussion is to be found among Muslim scholars. The discussion supporting the right of the betrothed to see one another before the wedding stems from of the sayings (ḥadith) attributed to the Prophet Muhammad:

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<sup>21</sup> Yossef Rapoport, “Divorce and the elite household in late medieval Cairo,” *Continuity and change* 16.02 (2001), pp. 201-218.

<sup>22</sup> Eric J. Hanne, “Women, Power, and the Eleventh and Twelfth Century Abbasid Court,” *Hawwa* 3.1 (2005), pp. 80-110, especially pp. 87-97. It was not rare to find a woman arranging the marriage agreement in engagement deeds from the Cairo Geniza, see A. Ashur, “Engagement and Betrothal,” p. 62.

<sup>23</sup> Spectorsky, *Chapters on Marriage and Divorce*, pp. 99-100.

I was in the company of Allah's Messenger when there came a man and informed him that he had contracted to marry a woman of the Anṣār [the people of al-Madina]. Thereupon Allah's Messenger said: Did you cast a glance at her? He said: No. He said: Go and cast a glance at her, for there is something in the eyes of the Anṣār.<sup>24</sup>

Islamic discourse relates to another aspect of the connection between marriage and the gaze. Seeing hampers not only the see-e but also the seer. Seeing an object that may raise desire, is a much discussed issue in medieval Islamic exegesis and legal discussions. Several sayings attributed to the Prophet Muhammad relate a commandment to lower one's gaze, thus keep one's modesty as well as the modesty of the object seen – a woman. Additionally, there is a clear association between being married, and being able to keep one's gaze from wondering into the wrong place.

Marriage in a way is a means to prevent one from coming sinful acts. If one's desire is raised, he should opt for marriage, hence keep his desire in an appropriate context.<sup>25</sup>

For instance:

The Messenger of God said: O young men!  
Those of you who have reached puberty (or: are capable of having  
intercourse—marry! This will facilitate the  
lowering of your eyes, and it will be better for your genitals.<sup>26</sup>

Hence the *hadith* associates between seeing and sexual intercourse. When a man has a wife, his lust is in control, thus his eyes are kept in the right place (away from strange women).

The issue is still under discussion as may be learned from contemporary legal discussion. Several *ifta'* sites discuss the question quoting *hadith* and Quran verses. One recent and interesting *fatwa* on the subject was

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<sup>24</sup> See Abū al-Ḥussain Muṣlim bin al-Hajjaj (d. 875), *Ṣaḥīḥ Muslim* (edited by Ḥāfiẓ Abū Tāhir Zubair 'Alī Za'i, tran. Nasiruddin al-Khattab, Riyad, 2007), *The Book of Marriage*, vol. 4, pp. 47-48. Contemporary discourses of the issue indicate additional hadith pertaining the need to one's future partner. For instance, Sheikh Ibn Baz, a prominent Saudi scholar (d. 1999) quotes the following prophetic saying: "Souls are like conscripted soldiers those whom they recognize, they come together, and those whom they do not recognize, they stay away" (*Ṣaḥīḥ Muslim*, vol. 6, pp. 497-498). Ibn al-Bazz explains that betrothed should see each other, as gazing into one's eyes is seeing into their souls. Hence seeing will help, once married bring affinity. For the full answer by Ibn al-Bazz see <http://tinyurl.com/gm7sk3r> (accessed January 3, 2018).

<sup>25</sup> See for instance Ze'ev Maghen's analysis of the gaze in different contexts, Ze'ev Maghen, "See No Evil: Morality and Methodology in Ibn Al-Qattān al-Fāsi's Ahkām al-nazar bi-Hāssat al-Basar," *Islamic law and society* 14.3 (2007), pp. 342-390.

<sup>26</sup> As quoted in Maghen, "See no Evil," p. 363.



published by Yusuf al-Qaradawi, a prominent Sunni scholar currently residing in Qatar. In his book: *The Lawful and the Prohibited in Islam* he argues that a man who's heart is sincere in intending to marry a woman, he should see her face and only then should they marry.<sup>27</sup>

It is possible that this short text translated above reveals the difficulties of a young couple, with very little control over their life, and the man's struggle for attaining some kind of control.

It is plausible that there are some other details we are ignorant of: some gossip or rumor spread about the anonymous daughter, or maybe Reuven was married in the past and wanted to refrain from past mistakes? Perhaps other fathers allowed their daughters to meet (accompanied, naturally) their betrothed and Reuven wanted similar conditions as his friends enjoyed. Another possible tension may be an economic disagreement: in cases of breaking a marriage agreement the faulty party needs to compensate the other party.<sup>28</sup> It is possible that by turning to a religious authority, asking for something impossible would allow a way out of unwanted marriage; either Shimon or Reuven were trying to evade paying the fine (as mentioned above, the issue was indeed of interest in legal discussions among Muslim scholars). Unfortunately, the manuscript is not complete, and we don't know what decision was reached.

Let us look into the legal discourse regarding the permissibility of seeing one's betrothed. According to an opinion discussed in the Babylonian Talmud, tractate *Qiddushin* 41a, a man is prohibited from betrothing a woman without first seeing her:

Rab Judah said in the name of Rab: it is forbidden for one to marry betroth a woman until he has seen her, lest he sees something ugly about her and she becomes repulsive to him, and the Torah said (Lev. 19:18) "Love your neighbor as yourself".

Our query is clear evidence that this ruling was not always kept, and people used to engage or betroth their wives-to-be without seeing them. This however, introduced a new set of questions and needs. What if what one sees under the *hupa* is not what he had expected? The Mishna, *Ketubbot* 7:8 ruled that a man, who marries a woman and finds a 'hidden-blemish' in her, can have the marriage annulled, but if the blemish is apparent, he can do nothing:

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<sup>27</sup> Yūsuf Al-Qaraḏāwī, *The Lawful and the Prohibited in Islam*, trans. (Kuala Lumpur, 2013), pp. 190-192.

<sup>28</sup> Such stipulations are found in most, if not all, the marriage and pre-nuptial agreements from the Geniza, see Amir Ashur, "Protecting the Wife's Rights in Marriage as Reflected in Pre-Nuptials and Marriage Contracts from the Cairo Geniza and Parallel Arabic Sources," *Religion Compass* 6.8 (2012), pp. 381-389.

If she was afflicted with bodily defects while she was still in her father's house, her father must produce proof that these defects developed after she had been betrothed ... If she came under the authority of her husband, the husband must produce proof that she had these defects before she had been betrothed and his only to concealed bodily defects; but, regarding defects that are exposed, he cannot make any claim.

For the above discussion the implication was that a person may have never had the chance of laying his eyes on his future bride. A more detailed report is given by R. Shlomo Ibn Parḥon in his *Maḥberet ha-‘Arukh*, from the middle of the 12<sup>th</sup> century:

It is the custom in the Land of Israel and Babylonia and Spain that all of the women cover their faces with a cloth. And when they wrap it around their faces they leave a hole opposite one eye at the edge of the cloth, with which to see, for it is forbidden to look at women... And only in the Christian countries do women go out with uncovered faces.<sup>29</sup>

The following halakhic work found in the Geniza discloses that the Talmudic requirement to see a woman before betrothing her did not apply in Muslim lands:

The statement of Rav Judah ... “it is forbidden for one to marry<sup>30</sup> a woman until he sees her, lest he sees something ugly about her and she becomes repulsive to him” ... refers to the situation in antiquity when girls would walk about exposed and to the practice followed in countries of Christian Europe until now.<sup>31</sup>

Seeing, or more accurately, the implications of not seeing, echo from a ruling by Maimonides

If the woman's habit is to cover herself and to hide even in the bathhouse, or she washes at night, or in a small private room in the bathhouse, so she will not be seen, and no one will know of her, [her husband] may issue a claim, even with regard to blemishes that can be seen openly.<sup>32</sup>

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<sup>29</sup> As translated in Abraham Grossman, *Pious and Rebellious*, 2004, p. 106. R. Petahya of Regensburg, who visited Baghdad in the 1170's, mentioned that no one can see a woman there, and nobody is visiting his neighbor's house from the fear that he might see his wife, see *Sivuv R. Petahya mi-Regensburg*, (ed. Grinhout, Frankfurt 1905), p. 8 (cited by Grossman, *ibid*, and p. 293, n. 10).

<sup>30</sup> In our version of the Talmud 'betroth'.

<sup>31</sup> Bodl. MS Heb. c 23, fol. 27r (see Friedman, “Jewish Law”). The English translation is from Friedman, *Jewish marriage in Palestine*, II, p. 225.

<sup>32</sup> Mishne Torah, *Ishshut* 25, 2. See discussion by Friedman, “Jewish Law”.

In this ruling, Maimonides discusses the scope of a blemish (*pegam*) which will allow the groom to ask for divorce once discovered. The Mishnaic discussion distinguishes between a visible blemish: that is something a person has the means to see and notice even before sharing a home with the woman, and a none-visible blemish. None-visible refers to problems and defects one is less likely to see or even be able to. This ruling suggests that one has some – perhaps limited – access to his future wife, which allows him to see those “visible blemishes”. In case of a visible blemish, the groom has no grounds to ask for divorce, as he should have noticed it prior to marriage.

In his ruling, Maimonides related to the Mishna concept of visible defect, but offers a somewhat different concept of defects and their being a valid ground of divorce. Maimonides actually changes the category of validity to include also visible defects. In other words, Maimonides allows a man to ask for divorce for any defect, were it visible or not. His ruling brings to the fore the social norms and dress code of his time. One possible and sensible explanation to his ruling is that in a reality where a man unable to see his future wife, the differentiation between visible or concealed blemishes cannot be implemented.

From Maimonides’ ruling we might assume that it was also common for the betrothed not to see each other before the wedding night. So what triggered or what made Reuven consider his request valid?

It is possible that the father of the bride was not only acknowledging contemporary norms of behavior but also the association between gaze and desire. Hence his answer, if Reuven wishes to see his daughter, he should first marry her. Additionally, the hiding of the face of the bride to be is also setting her position among the righteous and modest girls of community. The father maybe most concerned with his own social status, and in subjecting the groom to be to local norms, but he is also concerned with his daughter’s social status and good name. For “good girls” should not be seen in public.<sup>33</sup>

Let’s go back to our query. Reading it brings to the fore the echoes of various tensions between the protagonists. Some relate to the different starting point of each: for instance, it is possible that Reuven is not a local or has only recently joined the community, thus the norms he is familiar with may be different. Among European Jews it was common for the betrothed to see one another before the wedding. Hence, one possible explanation for Reuven’s request was that he wished to enjoy the conditions he would have had in his country of origin. That may also explain his choice of words: using the singular (i.e. representing himself), while Shimon uses the plural (representing, or even defending, the

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<sup>33</sup> As argued by Friedman, “Jewish Law,” p. 97.

customs and norms of the entire community from foreign influence). So is the choice of words by the initiators of the question, as well as the hovering question regarding the non-present object of inquiry, Shimon's daughter.

Reuven wishes to see his future wife, while Shimon is reluctant to comply. The very request is an exceptionally intriguing one. From what we learn from the above discussed Halachik discourse, it is implied that seeing one's betrothed should be granted easily. However, the very existence of the responsum indicates it was not. The debate and arguments brought about by the father and the groom one may learn that in the balance and mutual interaction between social norms and legal ruling, social norms may have had the upper hand, and at times it was those social norms who actually dictated the situation.