

1. Taharah, Ritual Purity

The Muslims have paid great attention to *Taharah* (ritual purity) and have written lengthy treat about it. They make their children get accustomed to it and teach it in their places of worship and instruction. The leaders of all the schools of fiqh have considered it a basic condition for the validity of 'ibadah (worship), and I am not exaggerating when I say no other religion had given importance to *Taharah* to the extent of Islam.

Taharah literally means purity, and in the terminology of the legists it implies the removal of hadath or khabath. The latter pertains to such physical impurities as blood and excrements. Hadath is a ritual condition which occurs to a person consequent to his performing an act that prohibits him from performing salat and necessitates the performance of wudhu or ghusl or tayammum. The tahara from hadath is not achieved unless accompanied by the intention (niyyah) to seek nearness to God (taqarrub) and obey His command regarding it. As to the tahara of the hands, clothes and utensils from najasah (impurity), it requires no niyyah; rather, if the wind carries a defiled (najis) piece of clothing and it falls into a 'large quantity' of water (al-mil al-kathir, details follow), it attains tahara automatically.

Water brings about tahara from both hadath and khabath. This accords with these statements of God Almighty:

...وَيُنزِلُ عَلَيْكُمْ مِنَ السَّمَاءِ مَاءً لِيُطَهَّرَكُمْ بِهِ

And He sends down upon you water from heaven to purify you thereby... (8:11)

وَأَنْزَلْنَا مِنَ السَّمَاءِ مَاءً طَهُورًا

And We sent down from heaven pure water. (25:48)

Tahur means that which is itself pure and capable of purifying others as well. Considering that water is

found either in a small (qalil) or a large quantity (kathir), and includes juicy extracts, solutions and water in its natural form, the legists have divided water into two types: mutlaq (pure) and mudaf (mixed).

Al-Ma' al-Mutlaq (Pure Water)

Al-ma al-mutlaq is water that has retained its natural state—the state possessed while coming down from the sky or welling from the ground that it is correct to apply the word 'water' to it without the addition of any adjective which would alter its natural state. That includes rainwater, seawater and water of river, well, spring and water derived from hail and snow.

Water is considered to remain in its 'pure' form if the change that occurs in it is due to factors usually unavoidable, e.g. mud, soil, stagnation, fallen leaves or collection of straw, etc., or the salt, sulphur, and other minerals that it contains at its source or picks up in its course. Al-ma al-Mutlaq is considered pure and purifying from both hadath and khabath by absolute consensus. As to the statement that has been narrated from 'Abd Allah ibn 'Umar, that he preferred tayammum to seawater, it stands refuted by these words of the Prophet(S).

من لم يطهره البحر فلا يطهره الله

He whom the sea does not purify, will not be purified by God.

Al-Ma' al-Musta'mal (Used Water)

When najasah is removed from the body, a piece of clothing or a utensil by pure water, the water separating from the object purified, either freely or by wringing, is called 'ghusalaah' or 'musta'mal' by the legists. It is impure (najis) because it is water in 'small quantity' (al-ma' al-qalil) that has come into contact with the impurity and has consequently become najis, irrespective of whether it has itself undergone any change or not. Accordingly, it cannot remove khabath or hadath.

A group of legists belonging to different schools observe: If this water separating from the washed object undergoes a change by the najasah, it is najis. Otherwise its state would be the state of the washed object—if najis then najis, and if tahir then tahir.

This observation will not be correct unless we take into account the state of the object being washed before water has reached it, for the object containing najasah is purified by the water poured over it and the water separating from it would be najis due to having come into contact with najasah.

If water is used for removing hadath, it is considered pure (tahir) but not purifying (mutahhir). This is the preponderant opinion of the Hanafi school and the apparent view of al-Shafi'i and Ahmad. According to one of the two opinions narrated from Malik, it is both pure and capable of purifying¹.

The Imamiyyah say: The water used for non-obligatory wudhu and ghusl --e.g ghusl al-tawbah or ghusl al-jumu'ah--is pure as well as capable of purifying from both hadath and khabath; i.e. it is valid to use it for ghusl, wudhu' and for removing najasah. As to the water used for performing obligatory ghusl --such as ghusl al-janabah and ghusl al-hayd--the Imami legists concur that it can remove najasah, but they differ concerning its ability to purify from hadath and the validity of wudhu' and a second ghusl with it.

A Subsidiary Issue

About a person in the state of janabah (the state of major ritual impurity following sexual intercourse) who dips himself in al-ma al-qalil after cleansing the locale of najasah and makes niayyah for purification from the hadath, the Hanbalis observe: The water will be considered used and the janabah too will not be removed; he will have to repeat the ghusl.

The Shafi'i, Imami and Hanafi schools state: The water will be considered used, though the janabah will be removed and he will not have to repeat the ghusl².

The people of the Middle Ages stood in need of this and similar issues, which have been discussed in voluminous works of fiqh, because water was more scarce and expensive in those days than oil is today. But now, after human knowledge has become capable of transporting water from under the ground to every house in the highest of mountains, our interest in this issue is like the interest shown to historical relics kept in museums.

Mixed Water (al-Ma' al-Mudaf)

Al-ma al-mudaf is either water extracted from fruits, e.g. lime and grape juice, or that which was pure initially before something was added to it that changed its character, e.g. rose-water and soda-water. It is tahir, but does not purify khabath as per the consensus of all schools except the Hanafi. The Hanafis consider valid the removal of khabath with any non-oily liquid, except that which has changed by cooking, and al-Sayyid al-Murtada from among the Imamiyyah has concurred with them.

All the schools, except the Hanafi, also concur that it is not valid to perform wudhu or ghusl with al-ma' al-mudaf. According to Ibn Rushd's Bidayat al-,mujtahid wa nihayat al-,muqtasid³ and Majma ' al-'anhur⁴ Abu Hanifah has considered valid the performance of wudhu with date-wine (nabidh al-tamr) during travel. Further, it has been mentioned in Ibn Qudamah's al-Mughni⁵ according to Abu Hanifah it is valid to perform wudhu with al-,ma al-mudaf. Al-Shaykh al-Saduq, an Imami, held that it is valid to perform wudhu and ghusl al-janabah with rose-water.

The Hanafis have relied for proving the validity of wudhu with al-ma' al-mudaf on this Qur'anic verse:

...فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا...

...And when you can find no water, then have recourse to wholesome dust... (5:6)

They say: The verse means, 'when you cannot find water, mutlaq or mudaf'; accordingly when al-ma' al-mudaf is available, it is not valid to resort to tayammum. The same verse has been relied upon by the imams of other schools to prove its invalidity. They observe: The word al-ma in the verse brings to one's mind al-ma' al-mutlaq and not al-ma al-mudaf.

Hence the meaning of the verse will be: If you do not find al-ma' al-mutlaq, then resort to tayammum. In this case the presence and absence of al-ma al-mudaf would be irrelevant. This is the correct opinion, because when you ask water from the owner of a cafe or someone else, he will not give you juice or soda, and it is a known fact that the subjects of the Shari'ah laws are understood on the basis of common usage.

This difference of opinion of the imams of fiqh concerning the interpretation of the word al-ma' in the verse is similar to the difference between men of letters concerning the meaning of a couplet or philologists concerning the meaning of a particular word. This difference is one of understanding and ijtiḥad and not of jurisprudential principles and sources.

Al-Kurr and al-Qullatan

All the schools concur that if the colour, taste or smell of water changes as a result of coming into contact with najasah, it will become najis, irrespective of its being qalil or kathir, flowing or stationary, mutlaq or mudaf. But if the smell of water is changed by the diffusion of the smell of najasah without its coming into contact with it (such as where there is a carcass nearby and the air carries its smell to the water) the water will remain tahir.

But in the case where najasah mixes with water without changing any of its qualities (colour, taste and smell), Malik, in one of the two opinions narrated from him, says: It is tahir whether it is qalil or kathir. The other schools observe: It is najis if qalil, and tahir if kathir.

But they differ in their definition of kathir. The Shafi'is and the Hanbalis⁶ state: 'Kathir' is that which has reached two qullahs (literally meaning jar, pot, bucket and olla) in accordance with the tradition: If water has reached two qullahs it is not affected by khabath. Two qullahs equal 500 Iraqi ritl (1 ritl is approximately 330 grams). Some scholars of al-'Azhar consider it equal to 12 tanakah. The Imamniyyah observe: 'Kathir' is that which is at least equal to a kurr, because of the tradition:

إذا بلغ الماء قدر كُرٍّ لم ينجسه شيء

If water has reached the extent of a kurr nothing makes it najis.

A kurr is equal to 1200 Iraqi ritl and approximately to 27 tanakah. The Hanafis say: 'Kathir' means a

quantity of water whose other end remains motionless if one end of it is disturbed.⁷

From this discussion it becomes clear that the Malikis do not take into consideration the measures qullatan or kurr, and there is no specific quantity for water in their opinion. Hence 'qalil' and 'kathir' quantities are similar for them in that when one of the qualities is changed they become najis, not otherwise. Their opinion has been favoured from among the Imamiyyah by Ibn Abi 'Aqil who has acted on the general import of the tradition:

الماء طهور لا ينجسه شيء إلا ما غلب ريحه أو طعمه أو لونه

Water is pure, and nothing makes it najis except that which affects its smell, taste or colour.

But this tradition is general ('amm) and the tradition of qullatan and kurr is particular (khas), and the particular enjoys precedence over the general.

The Hanafis also do not take into account qullatan and kurr relying instead on movement, and regarding this movement I have not found any trace in the Qur'an and the Sunnah.

A Subsidiary Issue

The Shafi'i and the Imami schools observe: Liquids other than water, e.g. vinegar and oil, become najis merely on coming into contact with najasah, be their quantity qalil or kathir, and regardless of any change that may affect them.

This opinion corresponds with the principles of the Shari'ah because that which is understood from the Prophet's statement:

إذا بلغ الماء قلتين لم ينجسه شيء

al-ma al-mutlaq. The Hanafis say: The rule applicable to other liquids is the same as that of al-ma al-mutlaq in relation to their being qalil and kathir, and hence only their qalil, and not kathir, quantity will become najis on contact.

It has been mentioned in the Hashiyah of Ibn 'Abidin⁸: The rule applicable to liquids, as per the most correct opinion, is the one applicable to water, and even if urine falls into a juice of kathir quantity it will not be polluted, and if blood from someone's foot mixes with the juice it will not become najis.

Flowing and Stationary Water (al-Jari wa al-Rakid)

The schools differ concerning flowing water. The Hanafis observe: Every kind of flowing water-

irrespective of its being qalil or kathir and regardless of its connection to a source—will not become najis solely on contact. Rather, if there is najis water in one vessel and (tahir water in another and both of them are poured together from a height so that they mix in the air before coming down, all the water will be tahir.

Similar is the case if the two are made to flow on the ground⁹. Thus the criterion is flow, and wherever and in whatever manner it is achieved, flowing water will enjoy the status of al-ma al-kathir. But if it does not flow, then it is like qalil even if it is connected to a source.

On this basis, they have ruled that when rainwater falls on najis ground and does not flow on it, the ground will remain najis.

Consequently, according to the Hanafis, water which does not become najis on coming into contact with najasah is of two types: first, a body of stationary water whose other end remains motionless when one end of it is disturbed; second, flowing water, irrespective of its mode of flow. As to al-ma al-qalil that becomes najis on coming into contact with najasah, it is a body of stationary water whose other end is set in motion if one end of it is disturbed.

The Shafiis neither differentiate between flowing and stationary water nor between one connected to a source and one not connected. The criterion is simply its quantity, qalil or kathir. Hence kathir, which is a body of water at least equal to qullatan, will not become najis on contact, and that which is less than qullatan will become najis, whether flowing or stationary, and whether welling from a source or not. They rely on the unqualified nature of the tradition:

إذا بلغ الماء قلتين لم يحمل خبثا

They say: When –water is flowing and there is najasah in it, if the body of the flow containing the najasah has reached the quantity of qullatan without there being a change in its qualities, all the water will be tahir; and if the quantity of the body is less than qullatan, it will be najis, although the water above and beneath the flowing body of water will be tahir.

They interpret a flowing portion (jiryah) as the body of water between the two banks of a stream. Therefore, according to the Shafi'is the difference between flowing and stationary water is that stationary water is considered altogether as a single body of water, while flowing water, although its parts are connected with each other, is divided into flowing portions, each such portion having a separate status and becoming najis only if it is qalil and not otherwise.

Consequently, if one's hand is najis and one washes it in one of the portions of flowing water and this portion is less than qullatan, it is not valid for one to drink from it or perform wudhu with it, because it is najis. One must wait for the next portion or move upstream or downstream.

A great difference is noticeable between the opinions of the Shafi'i and the Hanfai schools concerning flowing water; the Hanafis consider flowing water—even if little—as capable of purifying.

This is indicated by their example of two vessels of water, one tahir and the other najis, and the water becomes tahir if the two waters are mixed in a state of flow. The Shafi'is, on the other hand, do not give credence to flow even if it is a big stream and consider each 'flowing portion' separately despite the portions being connected with each other.

The Hanbalis say: Stationary water becomes najis solely on contact if it is less than qullatan, irrespective of whether it is connected to a source or not. But flowing water does not become najis unless its qualities (colour, smell and taste) change. Thus the rule applicable to it is the rule applicable to al-ma al-kathir , even if it is not connected to a source. This opinion is close to the one held by the Hanafis.

As to the Maliki view, we have already mentioned that in their opinion qalil does not become najis solely by contact. They also do not differentiate between stationary and flowing water. To sum up, they do not differentiate between qalil and kathir , flowing and stationary, and water connected to a source and otherwise.

The only criterion for them is the change of qualities due to najasah. Hence if najasah changes any one of the qualities of water it becomes najis, otherwise it remains tahir irrespective of whether it is flowing or stationary, qalil or kathir.

The Imamiyyah state: Flow has no effect at all and the criterion is the existence of a source of flow or the presence of kathir quantity. Hence if water is connected to a source if through a trickle—it will fall under the rule applicable to kathir. That is, it will not become najis solely on contact even if it is qalil and stationary, because of the preservative power and abundance of the source.

When water is not connected to a source, if it amounts to a kurr nothing will make it najis except the change of one of its qualities; but if it is less than a kurr , it will become najis on contact irrespective of its being stationary or flowing, except where it flows downstream, where the upstream part will not become najis by an insignificant contact.

It follows that the presence or absence of flow is equal in the eyes of the Imamiyyah, and it is observable that they stand apart from the other schools in considering the source of flow a criterion and in applying to the water connected to it the rule applicable to al-ma al-kathir even though it may appear to be qalil.

Al-'Allamah al-Hilli is an exception here, because he does not attach any importance to source and considers water to become najis solely on contact if its quantity is less than a kurr. Rainwater, during rain, is considered by the Imamiyyah as equivalent to water connected to a source and al-ma al-kathir.

It does not become najis by contact and purifies the earth, clothes, vessels and other objects solely by raining upon them after the najasah itself is removed from them.

Purifying Najis Water

1. Concerning al-ma al-qalil that has become najis by contact without any of its qualities having undergone a change, the Shafi'i's observe: If water is added to this najis water so that they together add up to qullatan, it will become both tahir and mutahhir, irrespective of whether the water added is tahir or najis.

And if this water is later separated after its coming together, it will retain its taharah. Therefore, if a person has two or more vessels, all containing najis water, and all their water is collected in a single place so that their total volume reaches qullatim, it will become both tahir and mutahhir¹⁰.

The Hanbalis and most Imami legists state: Al-ma al-qalil is not purified after it is increased to a kurr or qullatan irrespective of whether the added water is najis or tahir, because adding najis water to another of its kind does not make the whole tahir. And similarly al-ma al-qalil which is tahir becomes najis by coming into contact with najis water.

Hence it is necessary for purifying it that it be connected to a kurr quantity or to water having a source of flow as per the Imami view, and to qullatan as per the opinion of the Hanbalis.

2. If the qualities of al-ma al-kathir have changed because of najasah, it will become tahir if the change vanishes; it will not require anything else. This is the opinion of the Hanbali and the Shafi'i schools.

The Imamiyyah say: If al-ma al-kathir does not have a source of flow it will not become tahir on the vanishing of the change; rather, it is necessary to add a kurr of tahir water to it after the vanishing of the change, or to connect it with a source of flow, or there be rain over it.

And if water has a source of flow it becomes tahir solely by the vanishing of the change even if it is qalil. The Malikis observe: Water which has become najis is purified by pouring al-ma al-mutlaq over it until the qualities of the najasah disappear.

The Hanafis state: Najis water becomes tahir on flowing. Thus if there is najis water in a tub and water is poured over it to make it overflow, it will become tahir. Similarly, if there is najis water in a pool or a pit, and then another pit is dug beside it at a distance, even if small, and the water is made to flow in the channel between them so that it gathers in the other pit, it will become tahir.

Now if this water becomes najis a second time after becoming stationary in the second pit, a third pit will be dug to repeat the same process, and the water will again become tahir. This process can go on infinitely.

Therefore a body of water that could not be used while it was stationary, can validly be used for wudhu' if caused to flow in any manner, even if it contains a carcass or people urinate in its downstream part without producing any observable effect in the flow. All this despite the knowledge that it is not

connected to any source of flow¹¹.

Al-Najasat

Dog: It is najis except in the opinion of Malik, though he says: A vessel licked by a dog will be washed seven times not because it is najis, but because of ta'abbud (obedience to the command of the Lawgiver).

The Shafi'i and the Hanbali schools observe: A vessel licked by a dog will be washed seven times, of these once with dust. The Imamiyyah state: A vessel licked by a dog will be washed once with dust and then twice with water.

Pig: It is similar to a dog in the view of all the schools except the Imami which considers it necessary to wash on contamination with it seven times with water only. Similar to it is a dead juradh, which is a large land rat.

Corpse: The schools concur regarding the najasah of the carcass of a land animal—other than man—which possesses blood which flows on coming out. As to the human corpse, the Maliki, Shafi'i and Hanbali schools consider it tahir.

The Hanafis consider it tahir. The Hanafis consider it najis though it becomes tahir after ghusl. The Imami view is the same though they restrict it to the corpse of a Muslim. There is a consensus among all the schools concerning the (ahiuah of the musk derived from the musk-deer.

Taharah

Blood: The four Sunni schools concur upon the najasah of blood. Among exceptions to this is the blood of a martyr as long as it is on his body, the blood retained in the body of a slaughtered animal, and the blood of fish, lice, flea and bug.

According to the Imamiyyah, the blood of every animal whose blood flows on coming out is najis irrespective of whether it is human blood or not, the blood of a martyr or a non-martyr. They consider the blood of an animal which does not flow out, whether it is a terrestrial or sea animal, as tahir. Similarly, they consider the blood retained in a slaughtered animal as tahir.

Semen: The Imami, the Maliki and the Hanafi schools consider the semen of human beings and other animals as najis, though the Imamis exclude the animals whose blood does not flow out and regard their semen and blood as tahir.

The Shafilis regard the semen of human beings as well as other animals, except the dog and the pig, as tahir. According to the Hanbalis, human semen and that of animals used for food is tahir and that of other animals najis.

Pus: It is najis in the opinion of the four schools and tahir according to the Imamis.

Human Urine and Excrement: They are considered najis by consensus.

Animal Excrement: Animals other than man, are either birds or other animals, and among the two are those which are used for food and those which are not. Among the birds that are eaten is the pigeon and the hen, and of those which are not eaten are the eagle and the falcon (although Malik permits all of them for food).

Among animals other than birds, there are some which may be used for food, e.g. the cow and the sheep, and others which are unlawful, e.g. the wolf and the cat (although Malik allows them).

The schools differ in their opinions regarding the tahara of animal excrement. The Shafi'is say: Every kind of animal excrement is najis. The Imamis state: The excrement of all birds is tahir, so also that of every animal whose blood does not flow on coming out.

But those animals whose blood flows on coming out, if permissible for food--e.g. the camel and the sheep--their excrement is tahir; if not--such as the bear and other beasts of prey--their excrement is najis. The excrement of every animal whose lawfulness for eating is doubtful is tahir.

The Hanafis observe: The excrement of animals other than birds is najis. Among the birds themselves, those which excrete in mid-air--e.g. the pigeon and the sparrow--their excrement is tahir, and those which excrete on the ground--e.g. hens and geese--their excrement is najis.

According to the Hanbali and the Maliki schools, the excrement of animals permitted for food is tahir, and that of animals forbidden for food whose blood flows on coming out, is najis, irrespective of its being a bird or any other animal. All the schools concur that the excrement of any animal that eats human excrement is najis.

Liquid Intoxicants: All the schools consider it najis. The Imamiyyah add a further qualification: that which is intrinsically liquid. By this condition they include an intoxicant that dries due to an external factor. Hence it continues to remain najis. An Imami legist states: Both the Sunni and Shui 'ulama' concur regarding the najasah of liquor, except a small group from among us and them whose opposition is not taken notice of by the two sects.

Vomit: The four schools consider it najis while the Imamiyyah regard it as tahir.

Madhy and Wadhy: The Shafi, the Maliki and the Hanafi schools consider both the secretions najis, while the Imamiyyah consider both tahir. The Hanbalis differentiate between these secretions of animals that make lawful food and others which may not be used for food.

They regard these secretions of the former as tahir and of the latter as najis. 'Madhy' is the thin genital discharge emitted while caressing, and wadhy is a dense discharge emitted following micturition.

In the same manner as the four schools differ with the Imamiyyah in considering the vomit, rnadhy and wadhy as najis, the Imamiyyah differ with the other schools concerning the najasah of the sweat of a junub person whose janabah is consequent to an unlawful sexual act. They say: The sweat of one who becomes junub by fornication, sodomy, masturbation or copulation with an animal and perspires before performing the ghusl, is najis.

Left-over: The Hanafi, the Shafi'i and the Hanbali schools state: The left-over of a dog and pig is najis. They also concur that the left-over of an ass and a donkey are tahir , though not mutahhir (purifying). Rather, the Hanbalis observe: Wudhu may not be performed by the water left-over by any animal whose meat is not eaten, except a cat and that which is smaller than it in e.g. rat and weasel.

The Hanafis have added to the left-over of the dog and the pig: the left-over of a drunk person immediately after drinking, the left-over of a cat immediately after eating a mouse, and the left-over of a wolf, lion, panther, leopard, fox and hyena¹².

The Imamiyyah state: The left-over of a najis animal--e.g. dog and pig--is najis, and that of a tahir animal is tahir , irrespective of its permissibility for food, the left-over of every animal is subordinate to its own tahirah and najasah.

The Malikis observe: The left-over water of a dog and a pig is tahir, and may be used for drinking and wudhu¹³.

Rules of the Closet

The Shafi'i, the Maliki and the Hanbali schools concur that it is not haram to face, or keep one's back to the qiblah while relieving oneself in a closet or in open air, provided there is a screen. However, they differ concerning relieving oneself outdoors without a screen. The Shafi'is and the Hanbalis do not prohibit it, and the Malikis do.

The Hanafis say: It is reprehensible to the extent of being haram, whether it be in closed or open space¹⁴.

The Imamiyyah observe: It is totally haram to face or turn one's back to the qiblah while relieving oneself whether it be in a closed or open space, with or without a screen.

All the schools concur that al-ma' al-mutahhir removes najasah from the urinary and anal outlets. The four schools also concur that stones also suffice for purifying the two outlets. The Imamiyyah say: The urinary outlet is not purified except with water; as to the anal outlet there is an option, either to use water or to wipe it thrice with stones or a tahir rag, provided the excrement has not spread around the outlet, in which case only water may be used.

According to the Imami, the Shafi'i and the Hanbali schools repetition is necessary when stones and the like are used for wiping, even if purification is achieved the first time. The Malikis and Hanafis do not consider repetition necessary and regard the purification of the outlet as sufficient. Similarly, the Hanafis allow the removal of najasah from the two outlets with any tahir liquid other than water.

Al-Mutahhirat (The Purifiers)

Al-ma' al-mutlaq: It is tahir and mutahhir by consensus.

Other liquids: Only according to the Hanafis is any tahir liquid, e.g. vinegar and rose-water, mutahhir.

The Ground: It purifies the soles of the feet and the sole of shoes in the opinion of the Imami and the Hanafi schools provided it is walked on or they are rubbed on it and the actual najasah is thereby removed.

The Sun: The Imamiyyah observe: The sun purifies the earth and other fixed objects, such as trees (including leaves and fruit), buildings and poles. Similarly, it purifies straw mats among movable things, not carpets and sofas. The condition for its purifying is that these objects should dry solely as a result of the sun's heat without the aid of wind.

The Hanafis state: Drying purifies the ground and trees irrespective of its being achieved by the sun or the wind. The Shafi'i, the Maliki and the Hanbali schools concur that the ground is neither purified by the sun nor the wind; rather it requires the pouring of water over it.

They differ concerning the manner of its purification.

Al-Istihalah (Transformation): It is the changing of one substance to another (e.g. the changing of deer's blood into musk). It results in purification, by consensus.

Fire: The Hanafis say: The burning of najasah by fire purifies provided the actual najasah disappears. They consider najis clay as tahir when it is turned into fired clay and najis oil tahir when made into soap. The Shafi'i and the Hanbali schools observe: Fire is not among the mutahhirat. They hold an extreme position in this regard and consider even the ash and smoke of a najis object as najis. The Malikis regard the ash as tahir and the smoke as najis.

According to the Imamiyyah fire plays no part in purification and the criterion in it is istihala. If najis wood is transformed into ash or najis water into steam they become tahir. But if wood becomes charcoal and clay becomes earthenware, the najasah will remain because transformation has not occurred.

Tanning: The Hanafis observe: Tanning purifies the skin of a carcass and every other najis animal, except pigskin. As to the skin of a dog, it becomes tahir by tanning and fit to be prayed on¹⁵. The Shafi'is say: Tanning is mutahhir, except for the skin of the dog and the pig. The Malikis, the Hanbalis and the

Imamis do not consider tanning as mutahhir, although the Hanbalis allow the use of a najis tanned skin where liquids are not involved, so that its use does not lead to the spread of najasah.

Carding: The Hanafis say: Cotton is purified. on being carded.

Disposition: According to the Hanafis, when a part of wheat and the like becomes najis, if a part of it equal to that which had become impure is disposed of by being eaten, gifted or sold, the remainder will be purified¹⁶.

Rubbing: The Hanafis say: Semen if removed by rubbing does not require water, because taharah is achieved by rubbing.

Wiping: The Hanafis observe: An object which has a polished surface, e.g. iron, copper and gold becomes tahir solely by wiping and does not require water. The Imamis state: The removal of najasah from the body of an animal, achieved in any manner, is sufficient for purification; but vessels, clothes and the human body require to be purified by water after the removal of najasah.

Saliva: The Hanafis say: if the breast or a finger becomes najis, they become tahir on being licked thrice¹⁷.

Boiling: The Hanafis state: if najis oil or meat is boiled on fire, they become tahir. A group of Imamiyyah legists observe: The grape juice on boiling becomes najis, and when two-thirds of it evaporates on boiling it automatically becomes tahir.

Conditions Requiring Wudhu

Discharge of Urine, Faeces and Wind

There is a consensus among Muslims that discharge of urine and excrement, as well as wind, cause Wudhu' to break. The coming out of a worm, stone, blood and pus breaks the Wudhu' in the opinion of the Shafii, Hanafi and Hanbali schools and not in the opinion of the Malikis if these things have been produced in the stomach. But if they are not produced in the stomach (e.g. as when someone has swallowed a pebble and it comes out) the Wudhu' will break. The Imamis observe: The Wudhu' will not break unless these things are discharged stained with excrement.

Discharge of Madhy and Wadhy

According to the four schools their discharge breaks the Wudhu', but doesn't according to the Imamiyyah. The Malikis exempt a person who suffers with a chronic flow of madhy.

Loss of Consciousness

If someone loses his senses due to intoxication, madness, fainting or epilepsy, Wudhu' is broken, by

consensus of all the schools. As to sleep, the Imamiyyah say: Sleep breaks the Wudhu' when it prevails over the mind, the hearing and the vision so that the person asleep neither hears nor understands the talk of those present nor sees anyone of them, irrespective of whether he is lying down, standing or sitting. The Hanbali view is nearly the same. The Hanafi observe: If a person who has performed Wudhu' sleeps lying down or reclining on one of his sides, his Wudhu' breaks. But if he dozes while sitting, standing, kneeling or prostrating, it will not. Hence if one sleeps in his salam in any of its postures, his Wudhu' remains intact even if he sleeps for a long period¹⁸.

The Shafi'is state: If (the sleeping posture is such that) the outlet of the wind is pressed firmly like a capped bottle, the Wudhu' is not broken by sleep, otherwise it is broken. The Mailikis differentiate between heavy and light sleep. Hence if sleep is light the Wudhu' remains intact; so is the case if the person in Wudhu' sleeps deeply for a short period while his outlet is blocked. But if he sleeps soundly for a long duration, his Wudhu' will break irrespective of whether the outlet is blocked or not.

Emission of Semen

In the opinion of the Hanafis, the Mailikis and the Hanbalis, emission of semen breaks the Wudhu'; it does not in the opinion of the Shafi'is. The Imamiyyah state: Emission of semen requires ghusl and not Wudhu'.

Touch

The Shafi'is observe: If a man in Wudhu' touches (the skin of) an ajnabi woman (any woman apart from wife and female relations within prohibited degrees of marriage) without there being any intervening medium (like clothing), his Wudhu' will break. But if the woman is not an ajnabi –such as one's mother or sister–the Wudhu' will not break. The Hanafis say: Wudhu' is not broken except by touch accompanied with erection.

The Imamiyyah say: Touch has absolutely no effect. That was concerning touching women. As to a person in Wudhu' touching his frontal or rear private parts without intervening medium, the Imami and the Hanafi schools do not regard that as invaliding Wudhu'. The Shafi'is and the Hanbalis say: Wudhu' is invalidated by such a touch regardless of its being with the palm of one's hand or its back.

The Malikis are said to differentiate between touching with the palm–in which case the Wudhu' is broken–and touching with the back of the hand–in which case it remains intact¹⁹.

Vomiting

According to the Hanbali school, vomiting in general breaks Wudhu'. In the opinion of the Hanafis it does so only when it fills the mouth. In the opinion of the Shafi'i, the Imami and the Maliki schools, it does not break the Wudhu'.

Blood and Pus

According to the Imamiyyah, the Malikis and the Shafis, anything that comes out of the body from a place other than the two outlets–e.g. blood and pus–does not invalidate the Wudhu'. The Wudhu' is broken, say the Hanafis, if it spreads from its source. The Hanbalis say: The Wudhu' is broken if the quantity of blood or pus coming out is large.

Laughter

There is a consensus among all the Muslims that laughter makes salat batil. It does not invalidate the Wudhu', during or outside salat, except in the opinion of the Hanafis, who say: Wudhu' is broken if one laughs during Salat, but not if laughter occurs outside it.

Meat of a Slaughtered Animal

Only the Hanbalis consider the Wudhu' to break if a person eats the meat of a slaughtered animal.

Istihadah Blood

Al-'Allamah al-Hilli, one of the major Imami legists, writes in al-Tadhkirah : The discharge of istihada blood, if its quantity is little, requires Wudhu'. Other Imami 'ulama', except Ibn Abi 'Aqil, have also adopted this view. Malik observes: Wudhu' is not compulsory for a woman having istihadah discharge.

The Objects of Wudhu'

Legists consider hadath to be of two kinds: minor and major. Minor hadath requires only wudhu, and the major one is of two types: that which requires only ghusl and that which requires both ghusl and Wudhu'. The details will be given shortly. The presence of the minor hadath (al-hadath al-'asghar) is a hindrance to the performance of the following acts:

1. Wajab and mustahabb salat, as per the consensus of all the schools. The Imamiyyah have excepted the funeral prayer (salm al-janazah), observing: It is not necessary to be tahir for salat al-janazah, though it is mustahabb to be so, considering that it is a prayer and not salat in its real sense. This will be further discussed in its proper place.
2. Tawaaf, like salat, is not valid without taharah according to the Mailiki, Shafi'i, Imami and Hanbali schools, in accordance with the tradition :

الطواف في البيت صلاة

(Tawaaf in the Sanctuary is salat). The Hanafis say: One who performs tawaaf of the Ka'bah in a state of

hadath performs it validly, though he sins thereby.

3. According to the four schools, tahirah is wajib for performing prostration (sujud) made obligatory by the recitation of certain verses of the Qur'an and the prostration performed to express gratitude (shukr). The Imamiyyah consider it mustahabb.

4. All the schools concur that it is prohibited to touch the script of the Qur'an without taharah, but they differ regarding the permissibility of someone in a state of minor hadath writing the Qur'an, reading it from a script or from memory, touching it through an intervening medium and wearing it as an amulet.

The Malikis observe: It is not permissible for him to write it or touch its binding even through an intervening medium, though he may read it from a script or from memory. But they, i.e. the Malikis, differ among themselves regarding carrying it as an amulet.

The Hanbalis state: Writing it and carrying it as an amulet with a cover is permissible.

The Shafi'is say: It is not permissible to touch its cover even if detached from it and its hanger while it is hanging from it, though it is permissible to write it, carry it as an amulet, and to touch a cloth embroidered with Qur'anic verses.

The Hanafis observe: It is not permissible to write or touch the Qur'an even if it is written in a different language; but it is permissible to read it from memory.

According to the Imami school, it is haram to touch Arabic script of the Qur'an without an intervening medium, irrespective of whether the script is in the Qur'an or somewhere else. But it is not haram to recite or write it, or carry it as an amulet and to touch its non-Arabic transcription, excepting the glorious name, 'Allah,' which it is haram for a person in a state of hadath to touch, regardless of the language in which it is written and irrespective of whether it occurs in the Qur'an or elsewhere.

The Essentials of Wudhu' (Fara'id al-Wudhu')

Niyyah

It means the intention to perform an act with a motive of obedience and submission to the command of God Almighty. The schools concur that niyyah is essential for wudhu' and its time is at the commencement of Wudhu'. The Hanafis say: The validity of salat does not depend upon a Wudhu' performed with niyyah.

Hence if a person washes to cool or cleanse himself and it includes those parts of the body which are washed in Wudhu' and then performs salat, his salat is valid, because the purpose of the Wudhu' is to attain taharah and it has been achieved. But they exclude water which is mixed with water left over by a donkey or mixed with date-wine, considering niyyah necessary in these cases²⁰.

Washing the Face

'Washing the face' means causing water to flow over it, and it is obligatory to do it once. Its extent lengthwise is from the place where the hair grow to the end of the chin. The Shafi'is observe: It is also obligatory to wash the area under the chin. Its extent breadth-wise, in the opinion of the Imamis and the Malikis, is the area covered between the thumb and the middle finger (when the open hand with the thumb pushed back is stretched across the face), while in the opinion of the other schools it is the area between the two earlobes.

The Imamiyyah consider it wajib to start washing the face down from the top and invalid to do its reverse. The four schools say: That which is wajib is to wash the face, irrespective of how it is done and from where it starts, though it is better to start from the top.

Washing of Hands

The Muslims concur that it is wajib to wash the hands along with the elbows once. The Imamiyyah consider it wajib to start from the elbows and consider its reverse batil (invalid). Similarly, they consider it wajib to wash the right hand before the left. The other schools observe: That which is wajib is to wash them, in any manner, though washing the right hand first and starting up from the fingers and washing towards the elbow is better.

Wiping the Head

The Hanbalis observe: It is wajib to wipe the whole head and the ears. In their opinion washing suffices in place of wiping, provided the hand is passed over the head. The Malikis say: It is wajib to wipe the whole head except the ears.

The Hanafis regard as wajib the wiping of one-fourth of the head. It also suffices if the head is dipped in water or water is poured over it.

The Shafi'is state: It is wajib to wipe a part of the head, even if little. Washing and sprinkling also suffice in place of wiping.

The Imamiyyah observe: It is wajib to wipe a part of the frontal part of the head and the wiping of a minimal area is sufficient. It is not valid to wash or sprinkle. They also consider it wajib that the wiping should be with the wetness of the earlier act of the Wudhu' performed (i.e. the washing of hands).

Hence if hands are rinsed anew with water for wiping the Wudhu' will become batil. The other four schools consider it wajib that new water be used²¹. As to wiping the turban ('imamah), the Hanbalis permit it, provided an end of the turban hangs down in the manner termed taht al-Hanak. The Hanafis, the Shafi'is and the Mailikis say: It is valid in the presence of an excuse, not ithout it.

The Imamis observe: It is in no manner valid to wipe the turban because of the words of the Qur'an *وَامْسَحُوا بِرُءُوسِكُمْ* (and wipe your heads), and the turban is not-'head'

The Two Feet

The four schools state: It is wajib to wash the two feet along with the ankles once. The Imamiyyah observe: It is wajib to wipe the two feet with the wetness of the earlier act of Wudhu' from the head of the toes to the ankles.

By 'ankle' is implied the raised bone of the foot. It is valid to wipe the left foot before the right one in the opinion of all the schools, though it is against precaution (khilaf al-'ihtiyat') in the view of the Imamiyyah and against preference (khilaf al-'awla) in the opinion of the other four schools.

The difference of opinion concerning the wiping or washing of the feet has its basis in the interpretation of the sixth verse of Surat al-Maidah:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى الْكَعْبَيْنِ

O believers, when you stand up to pray, wash your faces, and your hands up to the elbows, and wipe your heads, and your feet up to the ankles (5:6)

Those interested in investigating the meaning of the verse should refer to al-Razi's exegesis of the Qur'an.

The four schools allow the wiping of shoes and socks instead of washing the feet, while the Imamis consider it as invalid in accordance with this statement of

Imam 'Ali ('a):

ما أبالي أمسح على الخفين أو على ظهر عير بالفلاة

I see no difference between the wiping of the shoes and wiping the back of a wild ass.

Sequence (al-Tartib)

It is in accordance with what the verse mentions: First the face, then the hands, and then the head, followed by the feet. This sequence is wajib and a condition for the validity of Wudhu' in the opinion of the Imamis, Shafi'is and Hanbalis.

The Hanafis and the Malikis say: The observance of the sequence is not wajib and it is permissible to

start with the feet and end with the face.

It is the observance of continuity in the washing of the different parts, i.e. to proceed immediately to the next act after having completed the earlier. The Imamis and the Hanbalis consider it wajib, the former adding a further condition that the part washed earlier should not dry before beginning washing the next. Hence if the whole of the part washed earlier dries the Wudhu' will become batil and it will be wajib to start it anew.

The Hanafis and the Shafi'is say: Continuity is not obligatory, though it is reprehensible (makruh) to separate the washing of the different parts without any excuse, and on the presence of an excuse the karahah disappears.

The Malikis observe: The observance of continuity is wajib only when the person performing Wudhu' is conscious of it and when no unforeseen incident takes place (e.g. spilling of the water he had brought for performing Wudhu'). Hence if he washes the face and forgets to wash the hands, or when he lacks the amount of water he believes to be necessary for taharah, he may complete the Wudhu' from where he had left off, even if a period of time has passed.

Conditions of Wudhu'

Wudhu' has certain conditions. Among them are: The water used should be mutlaq and tahir and must not have been used for removing khabath or Hadath, as per the details given while discussing water. There should be no hindrance such as illness in the way of using water or any urgent need for it.

Moreover, the parts of the body involved in Wudhu' should be tahir and without a covering that might prevent water from reaching the skin. Also there should be sufficient time. The last condition will be dealt with in detail in the chapter on tayammum. All or most of these conditions are accepted by all the schools.

The Imamiyyah further consider it necessary that the water and the vessel used for Wudhu' should not have been usurped, and the place where Wudhu' is performed and where its water falls should be legitimate and not encroached land. If either of these two conditions does not exist, the Wudhu' will be batil. In the view of the other schools the Wudhu' will be valid though the performer of such a Wudhu' will have sinned²².

Mustahabbat of Wudhu'

The number of acts recommended (mustahabb) in Wudhu' is very large. They include starting by washing the hands, rinsing the mouth and drawing water into the nose. The Hanbalis consider the last two wajib. Wiping the ears is also among them, though the Hanbalis consider it wajib as well and the Imamis impermissible. Brushing the teeth and facing the qiblah while performing Wudhu' is

recommended and so is the reciting of traditional prayers. It also includes, in the opinion of the four schools, the washing of the face and hands twice and thrice.

The Imamis observe: Washing once is wajib, twice mustahabb, and thrice bidah (heretical) and the person doing so is a sinner if he performs it as a religious duty. But if he does not, there is no sin upon him, although the Wudhu' will become batil on his wiping (the head) with this water²³. There are many other recommended acts which are mentioned in voluminous books.

Doubt Regarding Taharah and Hadath

If a person certain of having been tahir doubts whether a hadath has occurred, he remains tahir. But if a person certain of hadath having occurred doubts having achieved tahirah later, his hadath shall remain. That is, he shall act in accordance with his earlier certainty and brush aside the subsequent doubt. This is based on the following tradition.

لا تنقض اليقين أبدا بالشك، ولكن تنقضه بيقين مثله

A condition of certainty is never invalidated by a doubt, but it can be invalidated by a certainty resembling it.

This principle has not been disregarded by anyone except the Mailikis, who say: If a person is certain of having been tahir and doubts later about the occurrence of hadath, he is considered tahir. But they do not differentiate between the two situations.

If both taharah and hadath have occurred and it is not known which of the two was subsequent so as to be made the basis, the Hanafis consider the person in such a situation tahir while the Imami authorities consider his hadath to prevail.

The Shaf'iis and the Hanbalis observe: The opposite of the earlier condition will be accepted. Hence if he possessed taharah earlier he will now be considered in the condition of hadath and vice versa.

There is a fourth view which takes the condition prior to the occurrence of the taharah and hadath by denying the effect of both, because both possibilities being equal are nullified by the conflict, leaving the prior condition to be relied upon. That which is nearer to caution in this matter of ritual is always to renew taharah irrespective of whether the prior condition is known or unknown.

The Imamis and the Hanbalis say: When a person performing Wudhu' doubts whether he has washed a particular part or wiped his head, if the doubt occurs while performing the Wudhu' he will repeat the doubtful part and complete rest of the Wudhu'. But if the doubt occurs after the completion of Wudhu' it will not be heeded, because it is a doubt which has occurred in an 'ibadah after its completion.

Al-'Allamah al-Hilli has narrated in al-Tadhkirah from some Shafi'is that they do not differentiate between a doubt occurring during Wudhu' and one occurring after its completion. They consider it wajib to restart from the place of doubt and to complete the Wudhu' in both the situations.

The Hanafis observe: Every part of the Wudhu' will be viewed separately. Hence if there occurs a doubt concerning a particular part before moving on to the next it will be repeated and not otherwise. For example, if he doubts having washed his face before starting washing his hands, he will restart from the face, and if he has started washing the hands he will carry on without heeding the doubt

All the schools concur that the doubt of a chronically uncertain person (kathir al-shakk) is not a valid doubt; i.e. his doubt has no value and it is wajib for him to carry on without heeding it, whatever the circumstances.

- [1.](#) Ibn Qudamah, al-Mughni, vol. 1, p. 19
- [2.](#) Ibn Qudamah in al-Mughni, vol. 1, p. 22, 3rd ed., and Ibn 'Abidin, vol. 1, p. 140, printed by al-Maymaniyyah
- [3.](#) p. 32, 1354 H. ed
- [4.](#) p. 37, Istanbul
- [5.](#) vol. 1, p. 12
- [6.](#) The Hanbalis observe: Al-ma 'al-kathir does become najis on contact, provided the najasah is not urine or excrement. On contact with the two it will become najis, irrespective of whether its qualities have changed or not, unless it happens to be like those puddles visible on the way to Makkah (Ibn Qudamah, al-Mughni, vol. 1).
- [7.](#) Apart from these, there are other definitions of al-ma 'al-kathir which have been omitted. Among them are those which state that al-kathir is forty qullah s, 2 pails (dalw), and 40 pails.
- [8.](#) vol. 1, p. 130, printed by al-Maymaniyyah
- [9.](#) Ibn 'Abidin, vol. 1, p. 131
- [10.](#) Sharh al-Muhadhdhab, vol. I, p. 136
- [11.](#) Ibn 'Abidin, vol. 1, p. 131
- [12.](#) Ibn 'Abidin, vol. 1, p. 156
- [13.](#) Ibn Qudfunah, al-Mughni, vol. 1, p. 47, 3rd ed
- [14.](#) al-Fiqh 'ala al-madhab al-'arba'ah, vol. I, bahth qada' al-Hajah
- [15.](#) al-Fiqh 'ala al-madhab al-'arba'ah, vol. 1, mabthath izalat al-najasah
- [16.](#) Ibn 'Abidin, vol. 1, p. 119
- [17.](#) Ibn 'Abidin, vol. 1, p. 215
- [18.](#) al-Shi'rani, al-Mizia, mabthath asbab al-hadath
- [19.](#) Ibn Rushd, al-Bidayah wa al-nihayah, mabthath nawiqid al-Wudhu'
- [20.](#) Ibn 'Abidin, vol. 1, p. 76
- [21.](#) Ibn Qudamah, al-Mughni, vol. 1, fast mash al-ra's and al-'Allamah al-Hilli, al-Tadhkirah
- [22.](#) Ibn 'Abidin, vol. 1 p. 128, and Sharh al-Muhadhdhab, vol. 1, p. 251
- [23.](#) Aqa Ridla al-Hamadani's Misbah al-faqih

Ghusl

A ghusl (ritual bath) is required after the following different states of ritual impurity:

1. Major ritual impurity, as caused, e.g., by sexual intercourse (janizbah).
2. Menstruation (hayd).
3. Childbirth (nifas).
4. Death (mawt).

These four kinds of ghusl are recognized by all the schools. The Hanbalis add a fifth to this list: the ghusl of a non-Muslim (kafir) on his embracing Islam.

The Shafi'i and the Imami schools observe: If a kafir embraces Islam while being in a state of janabah, he will be required to perform the ghusl of janabah, not for embracing Islam; but if he is not in a state of janabah, he will have no obligatory (wajib) ghusl to perform.

The Hanafis say: No ghusl will be wajib upon him (on embracing Islam), irrespective of whether he is in a state of janabah or not¹.

The Imamiyyah add to the above four ritual baths two more:

1. Ghusl al-mustahadah (i.e. the bath required of a woman at the end of her periods when she has intermittent discharge of blood).
2. The ritual bath after touching a corpse.

They consider it wajib for a person who has touched a corpse after it has turned cold and before it has been given a ritual bath, to perform a bath (more details will follow). From what has been mentioned it becomes clear that the number of obligatory baths are four in the opinion of the Hanafis and the Shafi'is, five in the opinion of the Hanbalis and the Malikis, and six in the opinion of the Imamis.

Ghusl al-Janabah

The state of janabah, which makes a ghusl obligatory, occurs in two situations.

1. On the discharge of semen, whether in sleep or the waking state. The Imami and the Shafi'i schools say:

The discharge of semen makes the ghusl wajib, regardless of whether one is sexually aroused or not.

The Hanafis, the Malikis, and the Hanbalis observe: Ghusl is not wajib unless the discharge is accompanied with pleasure.

Hence if the discharge is due to a stroke, or cold or disease, and without sexual arousal, no bath is required. But if the seminal secretions are released internally without coming out of the body, ghusl is not wajib except in the opinion of the Hanbalis.

A Subsidiary Issue

If a person on waking up finds wetness in his cloth and is unable to ascertain whether it is semen or madhi, the Hanafis state that ghusl is wajib. The Shafi'i and Imami schools say: It is not wajib because the pre-existence of taharah is certain while the occurrence of hadath is doubtful. The Hanbalis observe: if he has seen something before sleeping which had excited him or thought about it, ghusl will not be wajib; and if the sleep was not preceded by any cause entailing such excitement, ghusl will become wajib on the presence of any dubious wetness.

2. The insertion of the glans (the part of the male organ covered by foreskin prior to circumcision) into the vagina or anus. The schools concur that the mere insertion of the glans makes ghusl wajib, even if no emission occurs, though they differ regarding the conditions, whether the sole insertion necessitate ghusl irrespective of its mode or if only a particular manner of insertion requires ghusl.

The Hanafis consider ghusl wajib on the fulfillment of the following conditions:

- i. Puberty (bulugh): Hence if only one of the partners has attained puberty the ghusl will be wajib only on the one who has attained puberty. If both of them have not attained puberty, ghusl is not wajib on either.
- ii. There should be no thick sheath preventing the warmth of the locale from being felt.
- iii. The person with the passive role should be a living human being. Hence if it is an animal or a corpse, ghusl is not wajib.

The Imami and the Shafi'i schools say: The insertion of the glans suffices for making ghusl wajib, irrespective of whether the person has attained puberty or not, is the active or the passive partner, or if there exists a sheath or not, whether it is by choice or under duress, and whether the passive participant is alive or dead, a human being or an animal.

The Hanbalis and the Malikis observe: Ghusl is wajib on both the partners if a sheath preventing the sensation of pleasure from being felt is not used, regardless of whether the passive participant is a human being or an animal and dead or alive.

As to puberty, the Malikis state: Ghusl is wajib upon the active partner if he is a mukallaf and the passive participant is capable of having intercourse. It is wajib upon the passive partner if the active partner is an adult. Hence, if a boy has intercourse with a woman, ghusl will not be wajib upon her if she does not

have an orgasm. The Hanbalis further stipulate that the male should not be less than ten years and the female not less than nine.

Acts Whose Validity Depends Upon Ghusl al-Janabah

All those acts which are dependent (for their validity or permissibility) upon Wudhu' are also dependent upon ghusl al.-janabah, such as salat, tawaf and touching the script of the Qur'an. To this is added halting in a mosque, with all the schools concurring that it is not permissible for a junub person to remain in a mosque, though they differ regarding the permissibility of his passing through it, such as when he enters from one door and leaves through another.

The Malikis and the Hanafi's say: It is not permissible unless necessary.

According to the Shafi'is and the Hanbalis, passing is permissible though remaining is not.

The Imamiyyah observe: It is not permissible (for a junub person) either to remain or pass through Masjid al-Haram and al-Masjid al-Rasul; but he may pass through and not remain, in other mosques, in accordance with verse, 43 of the Surat al.-Nisa'

ولا جنباً إلا عابري سبيل

i.e., junub persons should not enter the place- of worship in mosques except as passerby. The Imamis exclude the above-mentioned two mosques on the basis of particular proofs.

As to the reciting of the Qur'an, the Mailikis state: It is forbidden for a junub person to recite anything from the Qur'an except a little for the sake of protection or citing it as a proof. What the Hanbalis observe is close to this view.

The Hanafis say: It is not valid except where the junub person is a teacher of Qur'an and he instructs by pronouncing each word separately. The Shafi'is consider it Haram to even recite a single word except when it is with the intention of remembrance, such as saying the tasmiyah

بسم الله الرحمن الرحيم

before meals.

The imamiyyah observe: It is not Haram for a junub person to recite the Qur'an except the four surahs called al-'azaim al-'arba'ah, which are Iqra', al-Najm, Ha' Mim, Sajdah and Alif Lam Mim Tanzil; reciting a part of them is also Haram. Apart from these surahs, its recital is permissible, though if it exceeds seven verses it is considered makruh (reprehensible), and the karahah (reprehensibility) is aggravated if

it exceeds 70 verses.

The Imamiyyah have added (to things dependent upon ghusl al-janabah) fasting during Ramadan and its qada'; they observe: The fast is not valid if a person remains junub, intentionally or forgetfully, at dawn. But if he sleeps during the day or at night and wakes up in the morning to find that he had an emission during sleep his fast remains valid. The Imamiyyah are alone among the schools in holding this view.

The Essentials of Ghusl al-Janabah

That which is wajib in a Wudhu' is also wajib in ghusl al-janabah—such as that the water used should be talhir and mutlaq, the prior taharah of the body (from khabath), and the absence of anything on the body that may prevent water from reaching the skin, as already mentioned while discussing Wudhu'. Niyah is also wajib, except in the opinion of the Hanafis who do not consider it among the conditions for the validity of ghusl.

The four Sunni schools do not require any particular manner of performing the ghusl and consider it sufficient that it should include the whole body in any possible manner, irrespective of whether one begins from the top or the bottom. The Hanafis add that rinsing the mouth and drawing water into the nose is also wajib. They also say: It is mustahabb to start with the head, washing next the right half of the body and then the left half.

The Shafi'i and the Maliki schools observe: It is mustahabb to start with the upper parts of the body before moving to the lower parts, except the private parts, which it is mustahabb to wash first.

According to the Hanbalis, washing the right half before the left is mustahabb.

The Imamiyyah recognize two forms of ghusl al-janabah : tartib (in order) and irtimas (by immersion). In the tartib form, one pours water on himself. Here they consider it wajib that the start should be made with the head, followed by the right half and then the left. If he breaks this order by washing first that which is to come later in the order, the ghusl would be invalid. In the irtimas form one submerges the whole body under water all at once, and if any part of the body remains unsubmerged it will not suffice.

In the opinion of the Imamiyyah ghusl al-janabah dispenses the need for Wudhu'; they observe: Every ghusl requires Wudhu' except ghusl al-janabah. The other four schools do not differentiate between ghusl al-janabah and other baths, in that none of them suffices where Wudhu' is a requirement.

Menstruation (al-Hayd)

Lexically Hayd means 'flood' and in the terminology of the legists it is the periodic blood discharge experienced by women during specific days. Its effect is abstention from 'ibadah and termination of the period of 'iddah of a divorcee (if it is the third mense after the divorce). It is usually black or red, thick and

warm, and comes out in spurts, though its qualities may differ from those mentioned depending upon constitution.

The Menstruating Age

All the schools concur that any discharge that occurs before a girl reaches the age of 9 years cannot possibly be menstrual; it is due to disease or injury. The same is true of the discharge of a woman who has reached the age of menopause. The schools differ concerning the age of menopause. The Hanbalis consider it to be 50 years, the Hanafis as 55, and the Malikis as 70.

The Shafi'is observe: As long as a woman is alive she can have menses, though generally it ceases at the age of 62 years.

The Imamiyyah say: The age of menopause for a non-Qurayshi woman and one whose being Qurayshi is doubtful is 50 years, and for a Qurayshi woman 60 years.

The Period of Menstruation

The Hanafis and the Imamis state: The minimum period of menstruation is three days and the maximum ten. Hence any discharge that does not last up to three days or exceeds ten days is not considered hayd.

The Hanbalis and the Shafi'is observe: The minimum period is one day and night and the maximum 15 days.

According to the Malikis, its maximum period for a non-pregnant woman is 15 days. They do not specify any minimum period.

The Imamis say: The minimum period between two menstruations is the maximum period of hayd, i.e. 10 days.

A Subsidiary issue

The schools differ concerning Hayd during pregnancy, as to whether any discharge of blood during it can be considered Hayd. The Shafi'i, Maliki and most Imami legists observe: Hayd can accompany pregnancy. The Hanafis, the Hanbalis and al-Shaykh al-Mufid from among the Imamiyyah say: Hayd can never occur during pregnancy.

Rules Applicable to a Ha'id

All that which is forbidden for a junub person is also haram for a Hayd (a menstruating woman), such as touching the script of the Qur'an, staying in a mosque, etc. Salat (prayer) and Sawm (fast) are not

required of her during this period, though she will have to perform the qada' of the sawm of the month of Ramadan.. The qada of Salat is not required of her in accordance with the ahadith and for saving her from the strain of performing the large number of daily prayers omitted.

It is forbidden to divorce a Hayd; though in the opinion of the four Sunni schools, if given it is valid, although the divorcer will be considered as having sinned. Such a divorce is void in the opinion of the Imamiyyah if the divorcer has consummated the marriage, or is not travelling, or if the divorcee is not pregnant. Thus the divorce of a Hayd who is pregnant, or whose marriage has not been consummated, or whose husband is away from home, is valid. This has been discussed in detail in the chapter on divorce.

All the schools concur that ghusl al-hayd does not suffice for Wudhu' and the Wudhu' of a Hayd prior to ghusl does not remove her hadath There is also consensus regarding it being haram to have sexual intercourse with her during hayd. As to any other kind of sexual contact with her between her navel and knees, the Imamis and the Hanbalis say: It is permissible unconditionally, regardless of there being any covering in between or not.

The preponderant (mashhur) Maliki opinion is that it is not permissible even if there is a covering in between. The Hanafis and the Shafi'is say: It is haram without a covering and permissible with it.

Most Imami legists observe: If a person overcome by sexual desire has intercourse with his ha'id wife, he must atone by giving a dinar in charity if the intercourse occurs during the initial days of the hayd , a half dinar if in the middle of this period, and a quarter if in its last days.

The Shafi'is and the Malikis say: It is mustahabb and not wajib to give charity. As to the woman, there is no atonement for her in the opinion of all the schools, though she will be considered a sinner if she is willing and co-operative.

The Manner of the Ghusl

The ghusl al-hayd is exactly like ghusl al-janabah in that the water used should be tahir and mutlaq, the body should be tahir, there should be nothing preventing the water from reaching the skin, the niyyah should have been made, and-according to the Imamis-the start should be made with the head, followed by the right and then the left half of the body. Also, according to the Imamis it is sufficient to submerge the entire body under water.

The other four schools consider it sufficient to wash the whole body in any manner, as already mentioned while discussing ghusl al-janabah.

Al-'Istihadah

Istihadah is a term used by the legists for the blood discharge which occurs outside the periods of hayd and nifas (postpartal discharge) and which cannot be considered hayd (such as a discharge occurring after the maximum period of hayd or within its minimum period). It is usually yellowish, cold, thin and flows out slowly as opposed to Hayd.

The Imamis regard a mustahadah (a woman undergoing istihadah) to be of three kinds:

1. Sughra (minor), when the blood stains the cotton without soaking it. Her duty is to perform Wudhu' for every salat while changing the cotton. Thus she may not perform two salat with a single Wudhu'.
2. Wusta (medium), when the blood soaks the cotton without flowing from it. Her duty is to perform one ghusl every day before daybreak, change the cotton, and to perform Wudhu' before every salat.
3. Kubra (major), when the blood flows after soaking the cotton. Her duty is to perform three ghusls daily, the first before the daybreak prayer, the second for the midday and afternoon prayers and the third for the sunset and night prayers. Most Imami legists observe: It is also wajib in this situation to perform Wudhu' and change the cotton.

The other four schools do not recognize these categories, as they do not consider it obligatory for a mustahadah to perform ghusl. Al-Sayyid Sibiq in *Fiqh al-sunnah* (1957, p. 155) observes: "She has no wajib ghusl to perform for any salat or at any time except a single ghusl on the termination of hayd; that is, the ghusl is for Hayd and not for istihadah. This has been the opinion of the majority (jumhur) of scholars of the former and later generations."

According to the four schools, those things which are prohibited during hayd, such as reading and touching the Qur'an, entering a mosque, itikaf, tawaf, sexual intercourse, etc.—as already mentioned in detail while discussing the acts prohibited for one in the state of major impurity—are not prohibited during istihadah².

The Imamiyyah say: The 'minor' type of mustahdha is considered as being in a state of minor ritual impurity. Hence nothing that requires a Wudhu' is permissible for her unless she performs Wudhu'. The 'medium' and 'major' types are regarded as being in a state of major impurity.

Therefore, they are prohibited from everything requiring a ghusl. They are like a haid as long as they have not performed what has been considered wajib for them. Once they have performed this wajib, they are considered tahir and it becomes valid for them to perform salat, enter a mosque, perform tawaf and have sexual intercourse. The Imamis regard the manner of performing ghusal-istihadah to be exactly similar to the mode of ghusl al-hayd.

Nifas

The Imamis and the Malikis state: The nifas blood is a uterine discharge that occurs during or after childbirth, not before it.

The Hanbalis say: It is a discharge which occurs during or after parturition or up to two or three days before it, along with signs of labour.

According to the Shafi'is, it occurs only after parturition and not during or before it.

The Hanafis observe: It is a postpartal discharge. In the opinion of the Shafi'is, Hanafis and Malikis, ghusl is wajib upon a woman after giving birth, even if she has not had nifas; the Imamis and Hanbalis do not consider it wajib.

All the schools concur that there is no minimum period of nifas, though the maximum period is 10 days as per the preponderant Imami view, 40 days in the opinion of the Hanbalis and the Hanafis, and 60 days in the opinion of the Shafi'is and the Malikis.

In a Caesarian delivery the woman will not have nifas, although this form of birth will bring to end the 'iddah of a divorcee.

Nifas is like Hayd in that salat and sawm are not permissible, the qada of the latter is wajib, sexual intercourse, entering or making a halt in a mosque, touching the script of the Qur'an is haram, and so on.

The manner and conditions for this ghusl are exactly like those of ghusl al-Janaba.

Touching a Corpse (Mass al-mayyit)

If a person touches a human corpse is it obligatory for him to perform a Wudhu' or a ghusl or is neither obligatory upon him?

The four schools observe: Touching a dead body does not result either in a minor or major hadath; i.e. neither Wudhu' nor ghusl is required. But it is mustahabb for a person who has given bath to a dead body and not just touched it, to perform ghusl.

Most Imamis say: Ghusl becomes wajib on touching a corpse after it has turned cold and before it is given the bath provided in the Shari'ah. Hence if it is touched before turning cold and immediately after death or after it has been given ghusl, such a touch will not require anything.

The Imamis do not differentiate between the corpse of a Muslim and a non-Muslim in relation to the ghusl becoming wajib to touch. Similarly they do not differentiate between the age of the dead body, whether it is of an adult, or a child or even a four-month foetus. There is also no difference between a touch prompted by necessity or by choice.

Further, the person touching may be sane or insane, an adult or a child. Hence the ghusl will become wajib on an insane person on attaining sanity and on a child on attaining puberty. The Imamis even require a person who touches an amputated part of a dead or living person to perform ghusl if it contains a bone.

Accordingly, if he touches an amputated finger of a living person, ghusl will become wajib. Also, if a tooth separated from a corpse is touched. But if a separated tooth of a living person is touched ghusl will be wajib only if it has flesh attached to it and not otherwise.

Though the Imamis require ghusl on touching a corpse, they regard such a person as being in minor hadat, i.e. he is prohibited from only those acts which require a Wudhu' and not those which require ghusl. There, it is valid for him to enter a mosque and remain in it, and to recite the Qur'an.

The ghusl required on touching a corpse is performed like ghusl al-janabah.

The Rules Pertaining to a Dead Body

These will be discussed in the following sections:

1. Al-Ihtidar

Al-Ihtidar is to make a dying person face the qiblah. The schools differ regarding the manner in which this is to be done. The Imamis and the Shafi'is observe: He will be made to lie on his back with the soles of his feet facing the qiblah, so that if he sits up he will be facing it.

The Malikis, the Hanbalis and the Hanafis state: He will be made to recline on his right side with his face towards the qiblah, in the same manner as he would be buried.

As the schools differ in the manner of turning the dying man to face the qiblah, they also differ regarding its being obligatory. The four schools and a group from among the Imamis consider it mustahabb and not wajib, though the preponderant Imami view is that it is wajib kifa'i (explained below) like giving ghusl to the dead and their burial. It is observed in the Imami work Misbah al-faqih. The wujub of making those approaching death to face the qiblah includes both adults and children.

It should be noted that all those things which will be mentioned as wajib with reference to a dead body are all wajib kifai, i.e. if some persons perform it, others will be relieved of the duty of performing it, but if no one performs it, they will all be responsible and liable for its neglect.

2. The Ghusl of a Corpse

The schools concur that a shahid, i.e. one who is martyred in battle with infidels, will not be given ghusl.³ The schools, excepting the Shafi'is, also concur that it is not permissible to give ghusl to a non-Muslim;

the Shafi'is consider it permissible. There is also consensus that a foetus of less than four months does not require ghusl.

They differ where the foetus has completed four months. The Hanbalis and the Imamis observe: It is wajib to give it ghusl. The Hanafis observe: If it is born alive and then dies or is still-born in a fully developed state, its ghusl is wajib.

According to the Malikis, giving ghusl will not be wajib unless a similar baby is considered by knowledgeable persons as capable of survival.

The Shafi'is state: If it is born after six months ghusl will be given, and even if born before six months if all parts of its body have fully developed. But if it is not born fully developed but is known to have been alive, then ghusl will be given but not otherwise.

A Subsidiary Issue

If a part of a corpse is destroyed by fire or disease or is eaten by an animal, will the ghusl of the rest be wajib?

The Hanafis say: Ghusl will not be wajib unless most of the body or half of it with the head is present.

The Malikis consider ghusl to be wajib if two-thirds of the body is present.

The Hanbalis and the Shafi'is observe: Ghusl will be given even if a small part of the body remains.

The Imamis state: If the part of the dead body found includes the chest or a part of it containing the heart, all the rules applicable to a complete corpse will apply to it and it will be given ghusl and kafan (shroud) and prayed upon. But if the part found does not contain the chest or a part of it, it would be given ghusl if it contains a bone and then buried by wrapping it in a piece of cloth. And if it does not contain a bone, it will be wrapped in a piece of cloth and buried without a ghusl.

The Person Giving Ghusl (Ghasil)

It is wajib that the ghasil and the maghsul (the dead person being given ghusl) belong to the same sex: men should give ghusl to men and women to women.

The Imami, Shafi'i, Maliki and Hanbali schools consider it permissible for either husband and wife to give ghusl to the other on death.

The Hanafis say: It is not permissible for husband to give ghusl to his wife because her death dissolves the marital bond. The wife, however, can give ghusl to her dead husband because she is in his 'iddah; i.e. the marital bond exists in relation to her while it is non-existent in relation to the husband.

If she dies after his divorcing her and the divorce is irrevocable, there is consensus that neither of them can give ghusl to the other.

But if it is a revocable divorce, the Imamis allow either of them to give ghusl to the other. The Hanafis and the Hanbalis observe: Such a wife can give ghusl to the dead husband but not vice versa. The Malikis and the Shafi'is state: Neither of them may give ghusl to the other. Moreover, they do not differentiate between a revocable and an irrevocable divorce.

The Imamis allow a woman to give ghusl to a boy of under three years, and allow a man to give ghusl to a girl of less than three years. The Hanafis permit up to four years and the Hanbalis up to seven years. The Malikis observe: A woman can give ghusl to a boy up to the age of eight years and a man can give ghusl to a girl of two years and eight months.

The Manner of Bathing the Dead

The Imamis say: It is wajib that the dead body be washed thrice; at first with water containing a little of sidr, then a second time with water containing a bit of camphor, and a third time with plain water. The ghasil should start by first washing the head, then the right half of the dead body and then the left.

The four Sunni schools observe: Washing only once with plain water is wajib, and the two additional washings are mustahabb. There is no specific manner of giving the ghusl and it is valid in any manner it takes place, just like ghusl al-janabah. The use of sidr and camphor is not wajib in the opinion; rather, it is mustahabb if camphor or a similar perfume is added to the water used for the last wash.

Niyah, the plainness (itlaq) and ritual purity (taharah) of the water used, the removal of najasah from the dead body, and the removal of anything preventing water from reaching the skin, are indispensable for the validity of the ghusl.

The Imamis state: It is makruh to give ghusl to a dead body with hot water. The Hanafis say: Hot water is better. The Hanbali, Maliki and Shafi'i schools observe: Cold water is mustahabb.

All the schools concur that camphor is not to be added to water used for the ghusl of a person that dies in the state of ihram of hajj. Similarly, they are of one opinion that in the state of ihram one must abstain from all kinds of perfumes.

If ghusl is not possible due to the non-availability of water, or the body being burnt or affected by a disease in such a manner that it might cause the flesh to fall apart on being washed, there is a consensus that tayammum would be resorted to in place of ghusl.

As to the method of the tayammum, it is like the tayammum performed by a living person. Details follow in the discussion on tayammum. A group of Imami legists says: It is wajib to perform the tayammum thrice, the first in place of washing with water containing sidr, the second in place of water containing

camphor, and the third in place of washing with plain water. But the authorities among them consider a single tayammum as sufficient.

Hunut

Hunut means rubbing the seven parts of a dead body which touch the ground while prostrating with camphor after ghusl; these are the forehead, the two palms, the knees, and the heads of the big toes of the feet. The Imamis alone among the schools consider hunut as wajib in this manner, and in this regard there is no difference between an adult and a child, even if an aborted foetus, nor between a male and a female, the only exception being a person in ihram of hajj. In addition to the seven locations, they regard the hunut of the nose as mustahabb.

Kafan (Shroud)

All the schools consider takfin (providing with kafan) of a dead body as wajib. The four Sunni schools observe: That which is wajib in takfin is a single piece of cloth covering the whole body, though the use of three pieces is mustahabb.

The Imamis state: The use of three pieces is wajib, not mustahabb; the first is called mi'zar and resembles a loinloth extending from the navel to the knees; the second is the qamis, which covers the body from the shoulders to the shanks; and the third, called izar, covers the whole body.

The kafan should possess all the qualities necessary irrespective of sex, for clothes worn while performing salat, such as their being tahir, mubah (lawfully owned), their not being made of silk, gold or the skin or fur of an animal which is not eaten, and other qualities which will be mentioned in their appropriate place.

The Imamis, the Shafi'is and the Hanafis consider the husband responsible for the kafan of his wife if he is capable of providing it. The Malikis and the Hanbalis say: It is not compulsory for a husband to provide the kafan of his wife even if she is indigent.

The amount necessary for the kafan and other expenses of burial is taken from the legacy of the deceased before the satisfaction of the claims of his debtors, the beneficiaries of his will, and his heirs, though not in preference over the share of the wife and the mortgage of a specific property.

The Death of an Indigent Person

The four schools and a group from among the Imamis observe: If the deceased does not leave behind any wealth, his kafan will have to be provided by the person who was supposed to maintain him when he was alive. But if he had no supporter, or had but he too is indigent, the kafan will be provided from the public treasury or from zakat if possible. Otherwise it will be the duty of all Muslims capable of

providing it to do so.

A group of Imami legists say: If a person dies a pauper and there exists no one who maintained him while he was alive, it is not wajib upon anyone to provide him with a kafan, because that which is wajib is the performance of an act and not the spending of wealth. Therefore spending wealth is mustahabb on the basis of charity, and in the absence of a charitable person he will be buried without a kafan.

The Salat Performed Over a Shahid

The schools concur that it is wajib to perform salat over Muslims and their children on death, irrespective of their sect and school of fiqh. They also concur that the salat is not valid unless performed after the dead body has been given ghusl and kafan, and that a shahid is not given ghusl and kafan, but is buried in his clothes.

The Shafi'is allow the option between burying him in his own clothes and removing them and giving him a kafan. The schools differ regarding offering salat over a martyr. The Shafi'is, the Malikis and the Hanbalis observe: Salat will not be offered over him.

The Imamis and the Hanafis state: It is wajib to offer salat over him in the same manner as over the other dead.

The Salat Offered for Children

The schools differ regarding salat over a baby; the Shafi'is and the Malikis say: salat will be performed over it if it had cried on being born; i.e. the rule applicable to salat is the one applied for establishing inheritance.

The Hanbalis and the Hanafis consider salat wajib over it if it has completed four months in the womb. The Imami view is that salat is not wajib over the bodies of Muslim babies unless they have reached the age of six years, though it is mustahabb over babies below it.

Funeral Salat in Absentia

The Imami, Maliki and Hanafi schools observe: In no situation is salat in absentia valid. They argue that if it had been performed by the Prophet (S) and the sababah, it would have become widely known and a tawatur would exist; moreover, facing the qiblah with the dead body's face turned towards it and the presence of the musalli (the person performing salat) at the body while performing the salat are among its necessary conditions.

The Hanbalis and the Shafis say: Salat in absentia is valid. The basis of their argument is that the Prophet (S) performed it on hearing the news of Najashi's death. This argument has been countered by

observing that this act was particular to the Prophet(S) or was particularly performed in the case of Najashi, and this explains why it was not repeated by the Prophet (S) when he heard of the death of prominent Sababah who died away from him (,s-).

The Awliya' of the Deceased

The Imamis state: The validity of the acts—whether ghusl, kafan, hunut or ,salat –wajib for preparing the corpse for burial depends upon the permission of the wali of the deceased. Any of these acts performed without the permission of the wali are void and their repetition is wajib.

The wali may carry out these himself or allow others to perform them. But where he neither carries them out himself nor permits others to perform them, his permission has no effect.

The Imamis give precedence to the husband in wilayah as regards the wife over all other relatives, and the awliya' besides the husband stand in the order applicable to inheritance. Hence the first category, which consists of her father and sons, has precedence over the second category, which includes her grandfather and brothers, which in turn has precedence over the third category to which paternal and maternal uncles belong.

The father is given priority over all others in the first category and the grandfather over the brothers in the second. Where no male exists in a category, the right to wilayah will belong to the female relatives. Where there are several brothers or paternal and maternal uncles, the funeral rites will depend upon the permission of all of them.

The other four schools have made no mention of the wali while discussing the ghusl and kafan, and this proves that his permission has no significance in their opinion for the performance of these rites. They do say who enjoys priority and has a better right to offer salat over the dead body.

The Hanafis observe: Those who have priority are: the ruler, then his representative, then the qadi, then the police chief, then the deceased person's imam in his life if he is better than the wali of the deceased, then the wali, and then as per the order applicable to authority with respect to marital affairs.

The Shafi'is say: The father of the deceased will come first, followed by the son, then the full brother, then the brother on father's side, and so on in the order of inheritance.

The Malikis state: Foremost is the person whom the deceased has appointed in his will for performing salat over his body seeking the barakah of the former's righteousness. After him comes the caliph, then the son, the grandson, the father, the brother, the brother's son, the grandfather, the paternal uncle, etc., in the descending order.

The Hanbalis give priority to the adil executor of the will, followed by the ruler, his representative, the father, the son, and so on in the order of inheritance⁴.

Uncertainty Concerning a Corpse

When a body is found and it is not known whether it belongs to a Muslim or a non-Muslim, if it is found in a Muslim locality it will be considered a Muslim's body; otherwise anyone who sees it has no obligation, for there is a doubt concerning the obligation itself.

Where the bodies of Muslims and non-Muslims are mixed and differentiating them is not possible, the Imamis, Hanbalis and Shafi'is observe: Salat will be performed on all of them with a conditional niyyah of "if he is a Muslim." The Hanafis say: The majority will be taken into consideration, and if the majority of bodies belong to Muslims, salat will be performed, not otherwise.

The Manner of the Samt

The dead body will be laid on its back and the musalli will stand not far behind it⁵ facing the qiblah with the head of the body to his right. There should be no intervening barrier in the form of a wall and the like and the musalli should be standing unless there exists a legitimate excuse. Then he will make niyyah and say takbir four times.

The Malikis observe: A prayer (du'a') is wajib after each of the four takbirat and the least that the musalli must say is

اللهم أغفر لهذا الميت

(O God, pardon this deceased). If the deceased is-a- child, the du'a' will be made for the parents. Salam will be said after the fourth takbir and the musalli will not raise his hands except in the first takbir. Accordingly, the following form will suffice:

الله أكبر اللهم أغفر لهذا الميت، الله أكبر. اللهم أرحمه وارحمنا، الله أكبر. اللهم تب عليه وعلينا، الله أكبر. اللهم أسكنه فسيح جناتك، السلام عليكم

The Hanafis say: God will be praised after the first takbir, salawat on the Prophet (S) will be said after the second, du'a after the third, and salam after the fourth. The musalli will not lift his hands except in the first takbir. The following form is sufficient:

الله أكبر سبحان الله وله الحمد، الله أكبر. اللهم صل على محمد، الله أكبر. اللهم أرحم هذا الميت، الله أكبر. السلام عليكم ورحمة الله، السلام عليكم ورحمة الله

The Shafi'is and the Hanbalis state: The surat al-Fatihah will be recited after the first takbir, salawat on

the Prophet (S) after the second, du'a after the third, and salam after the fourth. The musalli will lift his hands at every takbir. Hence the following form suffices:

الله أكبر ويقرأ الفاتحة، الله أكبر. اللهم صل على محمد، الله أكبر. اللهم أرحمنا وإياه، الله أكبر. السلام عليكم

According to the Imamis, five takbirat are obligatory in consonance with the number of daily obligatory prayers. The mussalli will recite the shahadatayn after the first takbir; salawat on the Prophet(S) after the second; du'a.' for the faithful, men and women, after the third; du'a.' for the deceased after the fourth; and end with the fifth without reciting anything after it. Lifting the hands at every takbir is mustahabb. The following is the minimum which is wajib:

الله أكبر أشهد أن لا إله إلا الله وأن محمدا رسول الله، الله أكبر. اللهم صل على محمد وآله، الله أكبر. اللهم أغفر للمؤمنين والمؤمنات، الله أكبر. اللهم أغفر لهذا الميت الله أكبر

Our intention in mentioning these short forms was to show the minimum which is wajib, otherwise all the schools have lengthy prescribed prayers which are mentioned in their appropriate place.

The four schools require taharah and covering of the private parts while performing salat over the deceased, in the same manner as in the daily obligatory prayers. The Imamis say: Here taharah and covering of the private parts are not conditions for its validity, though they are mustahaabb. This is because salat over the deceased is not salat in the real sense; rather it is a du'a.', and hence, in their opinion, the imam (in this salat) does not recite anything on behalf of the ma'mum.

This also explains why the four schools consider four takbirat as wajib over the deceased while the Imamis regard five takbirat to be wajib. Al-'Imam Ja'far al-Sadiq (a) says: "God has made five salats obligatory, and has appointed a takbir for the deceased in the place of each salat." He also observes: "The Prophet (S) used to say five takbirat over all the dead, and when God prohibited him from praying for the hypocrites (munafiqun.) he (S) would say five takbirat over those who were not hypocrites and four over the hypocrites without praying for them."

The Place of the Salat

The Shafi'is observe: It is mustahabb to offer salat over the deceased in a mosque. The Hanafi's consider it makruh to do so. The Imamis and the Hanbalis consider it permissible provided there is no fear of contaminating the mosque.

Time of Salat over the Deceased

The Shafi'is and the Imamis state: The salat over the deceased can be performed at any time. The Maliki, Hanbali and Hanafi schools say: The salat may not be performed over it at sunrise, midday and sunset

The Burial

The schools concur that it is not permissible, except where necessary, to place the body on the surface of the ground and to raise a tomb over it without digging, even if it is placed in a coffin. It is wajib to place it in a pit, where it would be secure and which would keep its smell from spreading. They also concur that the body should be laid to rest on its right side with its face towards the qiblah and the head to the west and the feet to the east.⁶

The Malikis say: To lay the body to rest in this manner is mustahibb and not wajib.

The Imamis observe: A woman must be lowered into the grave by her husband or anyone from among her maharim (male relatives within prohibited degrees of marriage), or by other women; if none of these are present, then any righteous person may do it.

The Hanbalis and the Hanafiis state: The husband becomes a stranger after dissolution of the marital bond on death. In al-Wajiz, al-Ghazfili, a Shafi'i, observes: "Only a man may lower the body into the grave. Therefore, if the deceased is a woman, her husband or mahram may perform it, and in their absence her slaves, followed by two eunuchs, her relatives and then strangers." This implies that a male stranger is preferred over a woman.

Disposing a Corpse into the Sea

If a person dies on a ship far away from land, if it is possible to retain it for burial on land, retaining it will be wajib. But if there is a fear of decay, it will be given ghusl and kafan and salat will be performed over it and then it will be placed in a firm coffin or a barrel which can be capped and thrown into the sea.

If this is not possible, a piece of iron or a stone will be tied to it. It is obvious that the legists have dealt with this and similar issues because during those days there was no means of preserving the body from decay.

But today, when it is possible to place it in cold storage or use other means which save the dead body from mutilation and harm, to retain the body becomes wajib even if it is for a prolonged period of time.

Making the Grave at Level with the Ground

All the schools concur that the sunnah in respect of the grave is to make it at level with the ground, because the Prophet (S) did so while making the grave of his son, Ibrahim. This sunnah is accepted by the Imamis and the Shafi'is.

The Hanbalis, Hanafis and Malikis say: To make it raised is better, only because to level the grave has become the slogan of some religious groups!

Reopening the Grave

All the schools concur that it is haram to reopen the grave, irrespective of whether the deceased is an adult or a child, sane or insane, unless the body is known to have decomposed and turned into dust or there is cause to be concerned for the body, such as where the grave is in the way of a flood or at the bank of a river, or it has been buried in a usurped land either forcefully or due to ignorance or negligence and the owner refuses to give permission and take compensation, or if it has been wrapped in an impermissible kind of kafan, or when something of value belonging to the deceased or someone else has been buried along with the body.

The schools differ regarding reopening where the body has been buried without a ghusl or after a ghusl which is not valid in the Shari'ah. In this regard, the Hanafis and some Imamis observe: It is not valid because it is irreverent and may cause mutilation of the corpse. The Hanbalis, Shafi'is, Malikis and most Imami legists observe: It may be reopened and ghusl and salat will be performed for it provided there is no fear of its having decayed.

Some Imamis further add: It may also be reopened where the establishment of a claim or right is dependent upon the examination of the body.

[1.](#) Ibn Qudamah, al-Mughni, i, 207).

[2.](#) al-Fiqh 'ala al-madhahib al-'arba'ah, vol. 1, mabath al-'istihadah

[3.](#) The Hanafis say: A martyr is someone who is killed unjustly, irrespective of whether it is in war or by a robber or dacoit. The requirement that they lay down for not giving him ghusl is that he should not be in a state of major Hadath at the time of death.

[4.](#) al-Fiqh 'ala al-madhahib al-'arba'ah, mabath al-'ahaqq bi al-salat 'ala al-mayyit).

[5.](#) The Shafiis and the Malikis permit salat to be offered over a dead body while it is placed on the back of a beast of burden or held on the hands or shoulders of men.

[6.](#) The description that the dead body's head would point towards the west and his feet towards the east applies to Lebanon, the author's homeland. (Editor)

Al-Tayammum

Performing tayammum (as a substitute for Wudhu') is justified under certain circumstances. It is performed in a particular manner and with specific substances and there are certain rules which are applicable to it.

Conditions in which Tayammum is Performed

The schools differ concerning the permissibility of tayammum by a healthy person who is not travelling, in the event of his not finding water (for Wudhu'). The question is, does the absence of water justify the performance of tayammum only in the state of journey or ill-health, or is the permissibility general and includes the state of health and non-travel?

Abu Hanifah observes: A healthy person who is not travelling will neither perform tayammum nor salat if he is unable to find water¹. He cites verse 6 of Surat al-Ma'idah as the basis of this opinion:

وَإِنْ كُنْتُمْ مَرْضَىٰ أَوْ عَلَىٰ سَفَرٍ أَوْ جَاءَ أَحَدٌ مِنْكُم مِّنَ الْغَائِطِ أَوْ لَامَسْتُمُ النِّسَاءَ فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا

If you are sick or on a journey, or if any of you comes from the privy, or you have touched women, and you can find no water, then perform tayammum on wholesome dust.... (5:6)

The verse (the Hanafis say) is explicit that the sole unavailability of water does not justify tayammum unless the person is sick or on a journey. Therefore, if tayammum is limited to a sick person and a traveller, a healthy person who is not travelling has no obligation to perform salat in this situation because he cannot acquire tahara.

The remaining schools concur that a person not possessing water will perform tayammum and offer salatt regardless of his being a traveller or not, and irrespective of his being healthy or sick. This is in consonance with the following mutwatir tradition accepted by all the schools:

إن الصعيد الطيب طهور للمسلم، وإن لم يجد الماء عشر سنين.

Wholesome dust is surely a purifier for a Muslim even if he does not find water for ten years.

These schools omit the condition of travel mentioned in the verse since it also implies the usual non-availability of water during journeys in the past.

Apart from this, if the argument of Abu Hanifah be accepted, the position of a traveller and a sick person

would be more taxing than that of a non-travelling healthy person, because salat will be wajib on the two and not on the latter.

The Shafi'is and the Hanbalis say: If water available is not sufficient for performing complete tahara, it is wajib to perform as much of it as is possible with water and to do tayammum for the remaining parts. Hence if he has water which is only sufficient for washing the face, he will wash the face and then resort to tayammum.

The other schools observe: The presence of insufficient water is equivalent to its absence, and nothing is wajib in such a situation except tayammum.

However, the issue of non-availability of water does not have that applicability in our times because water is available in sufficient quantity for all people and at all places, at home as well as during travel.

The reason the legists dealt in detail with the wujub of searching for water and the extent of effort to be made, and with the case when there is a danger to one's life, ions or honour from robbers and wild animals and the case where he finds a well without a bucket, and the case where he has to pay more than the usual price for it, etc., was that travellers used to face great difficulty in obtaining water.

Harm to Health

The schools concur that among the reasons justifying tayammum is the harm the use of water may do to one's health or the probability of such a harm. Anyone who fears falling ill, or fears that his illness would become more acute or prolonged or that its cure would become more difficult, can reason to tayammum for tahara instead of using water.

A Subsidiary issue

Where there is no time for using water (such as when a person wakes up in the morning and finds so little time left for the wajib salat that if he intends to procure water for fahiuah he would have to perform its qada after the appointed time while if he resorts to tayammum he would be able to perform it ada¹) is it wajib for such a person to perform tayammum or must he perform tahara with water?

The Malikis and the Imamis observe: He should perform salat by making tayammum, but must repeat the salat with Wudhu'.

The Shafi'is say: In no situation is tayammum permissible in the presence of water.

The Hanbalis differentiate between the states of journey and stay, observing: If such a situation arises during a journey, he must perform salat with tayammum without being required to repeat it, and if it arises during a state of non-travel, there will be no justification for tayammum.

The Hanafis state: Tayammum is permissible in such a situation for performing those supererogatory

(nafilah) salats which have a specific time of performance, e.g. the sunnah salats after the noon and sunset prayer. But tayammum is not permissible for a wajib salat if water is available, even if there is insufficient time; rather, he will do wu4u' and perform the qada', and if he performs it with a tayammum during the appointed time, he will have to repeat it after the time has passed.

The Substance on which Tayammum is Performed

There is a consensus among the schools regarding the wujub of performing tayammum on 'wholesome dust' (al.-sa'id al-tahur) in consonance with the verse and the noble tradition

خلقت الأرض مسجداً وطهوراً

(The earth has been created a place for performing prostration and as a purifier). Tayyib means 'pure', and 'pure' means that which has not come into contact with najiisah. The schools differ concerning the interpretation of the word 'sa'id'.

The Hanafis and a group of Imamis understand it to mean the ground surface and therefore permit tayammum on dust, and sand and rocks and prohibit it on minerals such as quicklime, salt, arsenic, etc.

The Shafilis interpret it as soil (turiib) and sand and consider tayammum wajib on these two if they contain fine dust. They do not permit tayammum on stones.

The Hanbalis take it to mean only dust and hence tayammum is not valid in their opinion if performed on sand and stones. This is also the opinion of most Imami legists, though they allow it on sand and rocks in case of necessity.

The Malikis take the word sa'id rather liberally and include in its meaning dust, sand, rocks, snow and minerals provided they have not been moved from their place. But they exclude gold, silver and precious stones and do not permit tayamnuun on them under any condition.

The Manner of Performing Tayammum

The schools concur that tayamnuun is not valid without niyyah. Even the Hanafis observe: It is required in tayammum though not in wuu; and as they accept that tayammum removes hadath like Wudhu' and ghusl, they allow the niyyah of removing hadath to be made for its performance just like the niyyah of permissibility of salat (istibahat al-salat).

The other schools state: Tayammum only permits hadath without removing it. Hence a person performing tayammum should make niyyah of permissibility of that which requires tahara and not niyyah of removal of hadath. But an Imami legist says: The niyyah of removal of hadath is valid with the knowledge that tayammum does not remove it, because the niyyah of removal of hadath necessarily

implies the niyyah of permissibility.

The best way of reconciling all these opinions for a person performing tayammum is that he make niyyah of seeking the nearness of God (qurbatan ila Allah) by obeying the command pertaining to tayammum, irrespective of whether this command pertains to it as such or arises from the command of salat or some other act which requires the performance of tayammum.

The schools, in the same way as they differ in interpreting the word sa'id, also differ in their interpretation of the words wajh (face) and aydi (hands) occurring in the verse.

The four Sunni schools and Ibn Babawayh, an Imami, say: By wajh is meant the whole face including the beard, and by yadayn, the hands and the wrists along with the elbows. Accordingly, the parts of the face and arms to be wiped in tayammum are exactly the same as (are washed) in wut/.ii'. Thus the hands will be struck twice (on that upon which tayammum is valid), and the first time the whole face will be wiped and the second time the two arms from the end of the fingers to the elbows.

The Malikis and the Hanbalis say: The wiping of hands is fard up to the wrist-bones, and sunnah up to the elbows.

The Imamis state: The word wajh is to be interpreted as 'part of the face because ba' in the verse فامسحوا بوجوهكم connotes the meaning of a part (tab'id) when prefixed to an object (maf'ul). And if the ba' does not signify a part, it will have to be considered superfluous because the verb imsahu is transitive by itself. The part of the face that must be wiped in their opinion is from the upper part of the forehead where the hair grow, to the upper part of the nose including the eye-brows.

They say: By yadayn is meant only the hands (kaffan); since the word yad in Arabic has various meanings and the most common of them in usage is kaff [2](#).

Accordingly, the manner of performing tayammum in the Imami school is by first striking on the earth with the palms and wiping the face from where the hairs grow to the upper part of the nose, then striking a second time and wiping the entire back of the right hand with the left palm and then the entire back of the left hand with the right palm.

The Imamis also consider sequence to be wajib; hence if the hands are wiped before the face, the tayammum becomes invalid. Similarly, it is necessary to start from the top and proceed downwards; doing the opposite would invalidate it. Most of them consider striking on the earth as wajib, so that if one only places his hands on it without striking, the tayammum becomes batil.

The Hanafis observe: If dust settles on his face and one places his hand on it and wipes it, he can do without striking the earth.

All the schools concur that the taharah of the parts of the body involved in tayammum is a necessary condition, irrespective of whether it is the wiping or the wiped part. The same applies to the substance

on which tayammum is being performed.

They also concur that it is not valid to remove one's ring while performing tayammum and that just moving it, as in Wudhu', is not sufficient.

They differ concerning continuity; the Imamis and the Malikis require it between its different parts. Hence if there is a time gap between them which vitiates continuity the tayammum becomes invalid.

The Hanbalis say: Both continuity and sequence are wajib if the tayammum is for minor hadath, but none for major hadath. The Shafi'is require sequence, not continuity. The Hanafis require neither sequence nor continuity.

The Rules of Tayammum

1. All the schools, except the Hanafi, concur that it is not valid to perform tayammum for a salat before its time has arrived. The Hanafis say: Tayammum is valid before the arrival of time.

The Imamis observe: If one performs tayammum before the time of salat for any other purpose for which tayammum is permissible and then the time of salat arrives while his tayammum is still intact, he may perform salat with that tayammum.

The Imamis and the Hanafis allow the performance of two salats with a single tayammum.

The Shafi'is and the Malikis say: It is not permissible to offer two obligatory (fard.) salats with a single tayammum. The Hanbalis allow them, both as *ada* and *qada*'.

2. After one performs tayammum in accordance with the Shari'ah, he will be like one who has performed tahara with water, and everything which is permissible for the latter will be permissible for him. The tayammum is broken by all those kinds of major and minor hadath which require renewal of Wudhu' or ghusl, as well as on the disappearance of the excuse of unavailability of water or disease.

3. If water becomes available after the performance of tayammum but before beginning the salat, tayammum becomes invalid in the opinion of all the schools. If it becomes available while he is performing the salat, some Imamis say: If that happens before his first ruku', both the tayammum and salat become batil, and if after the ruku', he will complete the salat, which will be deemed valid.

The Shafi'is, Malikis and Hanbalis in one of the two opinions narrated by them, as well as some Imamis state: After saying the takbirat al-*ihriun*, he will continue the salat without paying attention, and the salat will be valid because God Almighty says: *ولا تبطلوا أعمالكم* (And do not make your acts invalid). The Hanafis observe: Such a salat will be invalid. The schools concur that if the justification (for performing tayammum) disappears after the performance of the salat while its time is still there, one is not obliged to repeat the salat again.

If a person in state of janabah performs tayamnuun in place of ghusl and then a minor hadath occurs and there is water enough for only performing Wudhu', will Wudhu' be wajib along with the repetition of tayammum in place of ghusl.

The Malikis and most Imamis observe: He will perform tayamnuun in the place of ghusl.

The Hanafis, Shafi'is, Hanbalis and a group of Imamis state: He will perform Wudhu' because the tayammum was in place of janabah and was broken by something other than janabah. Hence he will not become junub again unless the janabah recurs, and he will be considered as being affected only by the minor hadath.

The Hanbalis differ from all the other schools in their acceptance of tayammum for material najiisah present on the body³.

If both the ways of acquiring taha.rah (i.e. with water and tayamnum) are not possible (such as in the case of a person who is imprisoned in a place where there is neither water nor any substance on which tayamnuun is performed, or he is so ill that he can neither perform Wudhu' nor tayamnuun and there is no one to help him in performing them) will it be wajib to perform salat without taharah? Further, presuming that the salar is wajib and he performs it, must he repeat it after taharah becomes possible?

The Malikis say: He is not required to perform salat, neither ada nor qada'.

The Hanafis and the Shafi'is observe: It will remain wajib, either as ada or qada'. In the opinion of the Hanafis, the meaning of performing it ada' is that he will simulate the movements of a musalli, while the Shafi'is require him to perform real salat. After the excuse disappears he will repeat this salar as required by the Shari'ah.

Most Imamis state: He is not required to offer it as ada', though it will remain wajib as qada'.

The Schools and the Verse Concerning Tayammum

It became clear from our discussion on the topics of al-ma al-mudaf, the causes which break the Wudhu', and tayammum, that the difference of opinion among the schools of Islamic fiqh relates mostly to the interpretation of the words of the verse dealing with tayammum:

وَإِنْ كُنْتُمْ مَرْضَىٰ أَوْ عَلَىٰ سَفَرٍ أَوْ جَاءَ أَحَدٌ مِنْكُم مِّنَ الْغَائِطِ أَوْ لَامَسْتُمُ النِّسَاءَ فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا
فَامْسَحُوا بِوُجُوهِكُمْ

If you are sick or on a journey, or if any of you comes from the privy, or you have touched women and you can find no water, then perform tayammum on wholesome dust and wipe your faces.... (5:6)

The legists first differ concerning one on whom tayammum is obligatory in the event of unavailability of water: is it one who is sick or on a journey, or does it also apply to a healthy non-traveller?

Is the meaning of 'touching' women sexual intercourse or just touching them with the hand? Does the word 'water' mean only plain water (al-ma al-mutlaq) or does it include al-ma al-mudaf as well? Does the word sa'id mean just dust or does it signify the surface of the earth, irrespective of its being dusty, sandy or rocky? Does the word wajh mean the complete face or just a part of it? Does the word yad imply only the hand or does it include the hand and the forearm? Here we will give a summary of the opinions discussed:

1. Abu Hanifah observes: Tayammum is not valid in the absence of water for a healthy person who is not travelling, and thus salat is also not wajib upon him because the verse permits only a sick person and a traveller to perform tayammum in the absence of water.

The four schools say: Touching a woman who is a 'stranger' (ajnabiyyah) with the hand has exactly the same effect as returning from the privy and breaks the Wudhu'.

The Imamis state: Sexual intercourse breaks the taharah and not touching with the hand.

2. The Hanafis say: The meaning of فلم تجدوا ماء فتيمموا is water, either mutlaq or mudaf. The other schools say: The word 'water' occurring in the verse is commonly understood to mean plain water and not al-ma al-mudaf.

3. The Hanafis and a group from among the Imamis observe: The word sa'id means dust, sand and rock.

The Shafi'is say: It means only dust and sand. According to the Hanbalis it means only dust. The Malikis state: It includes dust, sand, rock, snow and minerals.

The four schools say: By wajh in the verse is meant the whole face.

The Imamis say: It means only a part of it.

4. The four schools observe: The word aydi should be interpreted as including the hands, wrists and elbows.

The Imamis consider it to mean only the hands.

This difference of opinion among the schools, if it proves anything, proves that this divergence of views is superficial, not substantial, and one of language and not of principle. It resembles the difference between philologists concerning a particular word or between men of letters concerning the interpretation of a verse or couplet. This is the reason why we find that legists belonging to the same school differ among themselves exactly like one school differing with another.

- [1.](#) Ibn Rushd, al-Bidayah wa al-nihayah, i, 63, 1935 ed. and Ibn Qudamah, al-Mughni, i, 234, 3rd ed.).
- [2.](#) Ibn Rushd, al-Bidayah wa al-nihayah, i, 66
- [3.](#) al-Fiqh 'ala al-madhahib al-'arba'ah, mabthath arkan al-tayammum

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