Notes on: Logical Progression

Sharh al Mumti ala Zaad al Mustaqqni

Kitab Al Taharah¹ (Water - Lessons 5-14)

Kitab

Wazn (verbal form) of fi’aal, meaning maf’ool, i.e. ‘maktoob’ (written thing)

Definition of Taharah

1. Linguistically: Nadhaafah – cleanliness
2. Sharī‘: 2 meanings:
   a. Al ‘Asl, (root, base, primary) – Spiritual Purification
      A. Purification from Shirk (associating partners) in the worship of Allah:
         ِيَبَنُ أَلْلَهِ يَسْتَكْبِرُونَ لَهُ
         ‘those who ascribe partners to God are truly unclean’ [Quran 9:28]
         Luqman AS refers to shirk as ‘Dhulman adheem’
         - It is their creed is filthy
         - ‘raan’ is the covering which seals the heart, within blackness/dhulm/darkness/impurity which is opposite to white/light/purity
      B. Purification of the heart from its diseases;
         - such as jealousy, hatred of believers and anger by thikr (remembrance of Allah)
         - These diseases can jeopardise iman itself, to the point that the physical purification maybe irrelevant.
   b. Al Far, (branch, secondary) – Physical Purification;
      Technical definitions:
      A. ‘Cleanliness or removal of anything from oneself or a place’² (by Sheikh Muhammad Mukhtar al Shanqiti)
      B. Lifting of ritual impurity or similar to it or the removal of filth
      C. Sheikh M Mukhtar al Shinqeti – صفة حكيمة توجب لموصوفها جواز استباحة الصلاة به أوفيه أو له – It is the legal property which if found in his body, clothing and place, allows the permissibility of the Salah

These are the 3 aspects of Taharah;

¹ Taharah is studied as the first chapter of fiqh because it is the process which is a condition of the foremost ibadah; salah. All books start with it, starting with types of water itself.
² Clean is not the same as ritually pure, e.g. soap; clean but may be unpure chemical
- The body (‘bihi’)
- The clothing (‘feehi’)
- The place (with regards to the prayer) (‘lihi’)

- It is Hukmiyyah (a legal property); it is not ‘dhahriyyah’; It is identified by hukm, i.e ruling, not identified by sight or sound.

E.g. Example of menstruation

The majority of scholars say that the menstruating woman cannot enter the masjid. This is based upon Usul, with the additive fear of soiling the masjid\(^3\).

**There are 2 aspects of Taharah:**

1. Lifting of ‘hadath’ (ritual impurity)
   a. In reality
   b. Symbolically

2. Removal of Kabath (filth)

**1A. Lifting of hadath**

1. **Definition of Hadath (ritual impurity)**
   b. *Technically* it is ‘anything that blocks you from praying’.\(^4\) It is a state or a ruling and is not necessarily linked to physical cleanliness.
      E.g. A man urinates then makes istinjaa (cleans his private parts), and then makes wudhu.
      - He cannot pray after he urinates (and makes istinjaa) as he is in a state of ritual impurity\(^6\).
      - After he makes wudhu, he lifts his barrier to salah, and can now pray.\(^7\)
   c. There are two categories of hadath\(^8\):
      i. **Major** – which obligate Ghusl (bath).

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\(^3\) Traditionally menses used to be messy, but now considered relatively clean due to sanitary accessories. AE’s opinion regarding menstruating women entering the masjid is that it is permissible with 2 conditions;
1. Never a risk of soiling the masjid
2. Cannot take the right of a woman who is pure and coming to the masjid to pray, or have dars etc.

\(^4\) Salah is used as the yardstick to measure taharah against.

\(^5\) AE definition

\(^6\) The term ‘ritual’ is added to clarify that the impurity is not a physical entity, rather a state. It is to focus on the spiritual state. On passig urine, one can clean themselves with a number of things and become physically clean but not ritually ‘pure’, i.e. in a state of ritual impurity (hadath)

\(^7\) Wudhu is not a process to clean physically, as many people may think, rather it is a spiritual process, linked to its intention and reflection on the areas of wudhu which will shine on Yawm Al Qiymah.

\(^8\) According to Sheikh M Mukhtar al Shanqiti
E.g. Menstruation, impurity after sexual relations and birth.

ii. Minor – which obligate Wudhu (ablution)
   E.g. Urinating, defecating, passing wind, excessive Madhi (prostatic fluid), camel meat (according to some scholars)

1B. Or that which is similar to it [symbolic lifting of hadath]

Taharah includes that which is similar to the lifting of hadath (but not actual lifting of hadath).

For example:

Washing hands on waking from sleep.

This is an obligation according to the Hanabila (and Sheikh Uthaimeen). Washing of the hands itself does not lift hadath, but the act is still deemed taharah.

Repeating Wudhu

It is a Sunnah⁹ to repeat wudhu before every salaah, even if when one’s wudhu is not broken, as the Companion R used to do. This is not lifting hadath, but still deemed taharah. The wudhu is considered a naafilah (superogatory) wudhu.

Sleep

Sleep itself has not caused hadath, it is a mathinat al hadath, a place where hadath can occur. So although no state of hadath occurs due to sleep, it can potentially occur, hence wudhu is obligated.¹⁰ ¹¹

Washing the dead

A number of scholars obligate wudhu or even ghusl after making the ghusl of a dead Muslim. It does not create hadath. The body of the Muslim is not impure as in the hadith of Rasool Allah [S] ‘A Muslim is never impure’ (neither spiritually or physically). The reason for taharah is ‘Hukm’; i.e. it is a command from Allah.

After eating camel meat

This itself does not cause impurity, rather there is a reason in the meat itself.

The one who is incontinent of urine.

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⁹ recommended
¹⁰ An athar which is Sahih according Sheikh Abdullah ibn al Judai, a Sahabi R was sat cross-legged and fell asleep in that position, on waking he asked those who were sat with him if they had heard something or smelt something, to which they replied no, so the Sahabi R stood up and prayed.
¹¹ The opinion of Abu Easa hafidhahumullah, and Imam Maalik, they do not consider making wudu.
Wudhu cannot actually lift his state of hadath, so it comes under the category ‘the like of lifting hadath’.

**Eating Lamb**

The ṢaṢābah R ate lamb and then asked Rasool Allāh S, if they should make wudhu. He S replied ‘if you want, or not if you don’t’\(^\text{12}\). So by giving the option it proves that the wudhu had not broken, and that the second wudu is not lifting hadath but it is still purification.

2. ‘Removal of Filth’

The term *Zawaal* (removal) was used instead of *Izaal* (removing), as the latter implies that it was removed by a person, whereas zawaal does not.

For example:

1. Filth on a road. If the rain washes it away, it becomes pure; and no person was involved
2. Alcohol\(^\text{13}\) oxidising into vinegar\(^\text{14}\); this also happened by itself.\(^\text{15}\)

**Kabath**

This is not a word commonly used in Arabic, instead ‘*Najasah*’ is more commonly used.

1. **Definition of kabath/najas**
   a. Linguistically: ‘filth’, ‘rubbish’
   b. Technical definitions:
      1. Sheikh Uthaimen: *‘Every ‘ain (item) which is impermissible to handle or ingest, not because of its sanctity, nor its disgustingness, nor its harmfulness’*\(^\text{16}\)
         a. ‘Impermissible to handle’:
         Hence everything permissible to handle is pure
         b. ‘Not because of its sanctity’:
         In ihram (during Hajj) it is not permissible to eat game; not because it is najas, but due to its sanctity in the Haram (Sanctuary), so it cannot be killed.
         c. ‘Nor its disgustingness’:
         1. According to the scholars Mukhaat (phlegm) is impermissible to drink\(^\text{17}\), it is not najas, rather it is disgusting\(^\text{18}\).

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\(^\text{12}\) Sahih Muslim  
\(^\text{13}\) Some scholars say it is Najas, this is not the opinion of AE. As for vinegar, no scholar ever has said it is impure.  
\(^\text{14}\) Rasool Allah S praised vinegar, and the sahabah used it to dip their bread in, living a simple life.  
\(^\text{15}\) It is not permissible to buy alcohol for the purpose of making vinegar. Umar R allowed the purchasing of vinegar made by non-Muslims.  
\(^\text{16}\) This is a typical ‘Usul’ definition  
\(^\text{17}\) If there was a glassful  
\(^\text{18}\) All the subjective terms (such as disgusting, huge, small) are ‘urfi’ (customary) terms, which are defined by the ‘norms’ of the average person.
2. ‘Everything that you are obligated to purify yourself from’
3. ‘Najasah is that thing which cannot be purified’

The presence of najasah does not prevent one from wudhu, but it prevents one from Salah. It does not require wudhu like hadath does, rather it requires removal like washing.

e.g. Urinating causes the state of ritual impurity (hadath) which requires wudu, whereas the presence of urine requires it to be removed.

**There are Three Types of Water**

1. ‘Tahoor’ – Pure and Purifying
2. ‘Taahir’ – Pure, but not purifying
3. ‘Najis’ – impure

Water is the primary purification agent mentioned in the Qurān (Surat al Anfal 8:11) and also in the Sunnah, for example;

The dua of starting Ṣalāh;

اللهم اغسلني من خطابي بالماء والثلج والبرد

‘Wash me or cleanse me of my own sins with water’

And the Dua for the deceased;

اللهم اغسله بالماء والثلج والبرد

Oh Allah wash him clean with water then thalj (snow or ice), and barad (hail).

The majority of the scholars classify water into three types. However a small minority of Ahnaaf (Hanafi Scholars) categorise water into two only, i.e. Tahoor and Najis.

The evidence to support three categories of water:

1. Surat al Anfaal 8:11

إذْ يَعْصَبِكُمُ النَّعَاسُ أَمَّنَّهُ وَيَبْرَزُ عَلَيْكُمُ مِنَ السَّمَاءِ مَاءٌ لِيَطَهْرَكُم بِهِ وَيُدْهِبْ عَنَّكُمُ رَجْحَ السَّيِّدَانَ وَيَبْرِزُ عَلَيْكُمُ قَلْوُكَمُ وَتَثْبِتُ بِهِ الأَقْدَامَ

[Remember] when He overwhelmed you with drowsiness [giving] security from Him and sent down upon you from the sky, rain by which to purify you and remove from you the evil [suggestions] of Satan and to make steadfast your hearts and plant firmly thereby your feet.

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19 This definition is not as accurate as these others
20 *Al Meea* – plural of Maa’ (water)
Allah T says that water descended from the sky ‘to purify yourselves by it’. 21

2. Surat Al Furqan 25:48

‘And it is He who sends the winds as good tidings before His mercy, and We send down from the sky pure (tahoor) water’

The scholars highlight that Allah T added this description to ‘water’ as an emphasis.

First Category of Water: Tahoor (Pure and Purifying)

This is the only type of water that lifts ritual impurity and removes foreign filth, it is that water which is still in its original created state.

The term ‘Tahoor’ is in the verbal form Fa’ool (fath on the Fa); this refers to the tool that brings about the action; i.e. purifying water. It is mentioned in this form in the verse mentioned above.

‘Tuhoor’ – (with Dhammah on the Taa); this is the action itself – i.e. the act of purification.

Other examples of Fa’ool – Fu’ool

1. ‘Sahoor’ – the pre-dawn meal. ‘Suhoor’ – Eating the pre-dawn meal
2. ‘Wadoo’ – The water used in ablution. Wudoo’ – the action of ablution

Tahoor water is ‘In its original created state’

This is with regards to the three main properties of water: colour, smell and taste. This has two categories:

A. Haqeeqatan – the three properties are in their original state in reality.
   For Example;
   a. In Wells – sun warm water – the properties of water are upon their original state
   b. From Sky – in a bucket is in its original created state

B. Hukman - ‘technically’ – This water is not its original state but it has not lost its ability to purify.
   These include:
   a. Water that is mixed with something but it can be separated from it:
      The water is mixed but the item does not dissolve to change the water or change its chemical physical structure, and can be separated.
      - E.g. Streams – running water mixing with natural debris like leaves and twigs.
      1. The debris is not najas, or a large quantity, and it can be removed

21 As though mentioning of ‘water’ had to be qualified by ‘to purify yourselves with’ [i.e. indicating that there may be water that does not purify]
2. The water is still deemed still purifying
   b. Water mixed with something but it cannot be separated from the water:
      Water mixed with something natural\(^{22}\) which is too difficult to remove and cannot be
      separated from the water. According to the majority of scholars this water is still
      purifying.
      For example:
      - Streams that have cloudy water when it rains\(^{23}\)
      - Water mixed with mud; it itself pure but it cannot be removed

   c. Water heated unnaturally
      - This is not its original state
      - But it is still tahoor

\textit{‘Only Tahoor water can lift ritual impurity\(^{24}\)’}

According to Al Hajjaawi no liquid other than tahoor water lifts hadath.\(^{25}\)

The evidence for this is in Surat Al Maaidah:

\[
\text{بَا أَيُّهَا الْدُّنْيَا أَطُمُّوا إِذَا فَسَمْتُمُّ إِلَى الْصِّلَاةِ فَغَاسِلُوا وَجُوُهُمْ وَأَيْدِيَكُمْ إِلَىَّ الْمَزَافِقِ وَأَنْسِخُوا بَرْوَبْسَكُمْ وَأَرْجُلَكُمْ إِلَىَّ الْكُفُّرِينَ وَإِنْ كُنْتمُ حُبُّبًا فَأَطْهُرُوا وَإِنْ كُنْتمْ مُرْضِيٌّ أَوْ عَلَى سَنَفٍ أَوْ جَاهِرَ أَحْدُ شَنْكِمْ مِنَ الْعَافِطِ أَوْ لَأَسْتَنَشِمَ الْمَنْسَأَ فَلَمْ تَجْتَنُوا مَا فَتَيْبَامُوا صِبْعَا طَيِّبَا فَأَنْسِخُوا بِجُوُهُمْ وَأَيْدِيَكُمْ مَنْ لَيْدُ الَّذِي لَيْحَالُ عَلَيْكُمْ مِنْ خُرْجٍ وَلَكِنْ تَرْدُّ لِلْمَطَّارَ وَلِيْسَ بِغَمَّةٍ عَلَيْكُمْ لَعَلُّكُمْ تَنْصَرُونَ
\]

O YOU who have attained to faith! When you are about to pray, wash your face, and your hands and
arms up to the elbows, and pass your [wet] hands lightly over your head, and [wash] your feet up to the
ankles. And if you are in a state. requiring total ablution, purify yourselves. But if you are ill, or are
travelling, or have just satisfied a want of nature, or have cohabited with a woman, and can find no
water-then take resort to pure dust, passing therewith lightly over your face and your hands. God does
not want to impose any hardship on you, but wants to make you pure, and to bestow upon you the full
measure of His blessings, so that you might have cause to be grateful.

1. The ayah does not mention another liquid to purify if water is not available, rather only turab
   ‘pure dust’
2. However, the Hanabila say that turab does not lift hadath. They say that when there is no water
   the need for lifting hadath is no longer required.

\(^{22}\) This does not include artificial additives
It includes natural items found in ponds, wells and watering holes. The human reality accepts this as natural water, and it is a Rahmah from Allah to be able to use this water.

\(^{23}\) This is actually the reality if water in the majority of the world.

\(^{24}\) So how do we then consider tayammum?

\(^{25}\) Hence this excludes things like petrol
Discussion

The correct opinion is that turab is tahoor and it lifts hadath\(^{26}\). This is the opinion of Sheikh Uthaimeen\(^{27}\) and others.

The evidence for this is in the same ayah;

\[
\text{مَا يُرِيدُ اللَّهُ لِيُجْعَلَ عَلَيْكُمُ مَنْ خَرَّ وَلَكُنْ يُرِيدُ لِيُطَهِّرَكُمُ}
\]

‘God does not want to impose any hardship on you, but wants to purify you’.

1. ‘Liyutahirakum’ is from ‘Tat-heer’ which means the lifting of hadath.
2. And also the hadith of Rasool Allah S ‘Allah T has made the Earth as a masjid and Tahooran’\(^{28}\), with fathah on the ‘Ta’, which means ‘purifying’.

‘Najasah is only removed by Tahoor water’

This is the opinion of the Madhab and is based on many evidences;

1. Hadith regarding clothing stained with menstrual blood; Rasool Allah S instructed the Companion to: ‘Scrape, then wash with water, then pray’. This is a specific statement, specifying water.
2. Hadith of the Bedouin who urinated in the mosque; Rasool Allah S told the ṢaṢābah to pour a bucket of water on it\(^{29}\). The hadith is strong and again specifically mentions water.
3. When a young child urinated on Rasool Allah S, he asked for water.

**Issue; so how about dry cleaning?**

The only exception that the madhab considers in the removal of najasah is istijmar (using pebbles to clean after opening bowels)\(^{30}\). If one does not have water to make istijaa (to clean the private parts), one can use stone or clod etc.

However the issue being discussed is when najasah falls onto a place, and according to Imam Al Hajjawi only tahoor water can remove it. There is a difference of opinion about this. \(^{31}\)

\(^{26}\) However if water is found it is not permissible to use dust.
\(^{27}\) Sheikh Uthaimeen is Hanbali, in principle, but he is at a level of being able to decide evidences and which opinion to follow, either his own opinion, or the opinion of earlier scholars or Ibn Taymiyyah. We are studying a Hanbali text in order to study fiqh, primarily based on Sheikh Uthaimeen’s position but then adding to it Ustaadh Abu Easa’s own and his teachers’ opinion. This is about understanding and examining the opinions based upon knowledge and not partisanship.
\(^{28}\) Bukhari
\(^{29}\) The Sahabah were shocked at this and wanted to kill him. Rasool Allah S advised him in a gentle way He SAW was very gentle.
\(^{30}\) There is a consensus by the scholars that it is permissible to use toilet paper (and AE said it is permissible).
Discussion

The correct position according to Sheikh Uthaimineen is that najasah can be removed by any means\textsuperscript{32} as long as there is no residue.\textsuperscript{33} This is also the opinion of Sheikh al Islam Ibn Taymiyyah r.

The reason is because najasah is a physical entity (‘ain al khabeeth), so if it is removed by any means, that entity has been removed, so it is no longer najas.

This is recognised in the Hanbali madhab; with the concept that things can be purified without water.\textsuperscript{34} For example it is recognised that:

- Dirty water changes by itself and no one added water to it in order to clean it. There is a consensus on this.
- Alcohol\textsuperscript{35} becomes pure by itself by oxidation into vinegar.

Hence it is recognised that things can be purified without water.

The response to the opinion that only water can remove najasah:

- The three hadith specifying water, mention it because water is the ‘obvious’ thing to use, it is the ‘asl (basis) of purification. Rasool Allāh S may have asked for soil if there was no water.
- The principle ‘the mentioning of something does not mean the negation of the alternative, unless it is done in an absolute way’. Hence, only by saying ‘only’ water purifies’ negates any alternative purifying substance.

This is a mujtahid opinion\textsuperscript{36}; if Rasool Allāh S was present in current times and water was not available and other things were, he S may have used an alternative. This is Sheikh Uthaimineen’s opinion and the class taught opinion.

Najasah al Taari’

‘Foreign Filth’

- ‘Al Taari’ – ‘foreign’ indicates something that suddenly appears or is new or spontaneous
- When a najas entity falls onto something which is pure, the entire object is rendered najas, but once it is removed it becomes taahir again.
- The najas entity itself cannot be purified, it is najas beginning, middle and end. For example, a dog, even if you were to wash it seven times, and once once with sand.\textsuperscript{37}

\textsuperscript{31} Differing here is not AE’s opinion disagreeing with Imam Ahmed, rather it is accepting an opinion of another mujtahid which may be better or of the same value.
\textsuperscript{32} by burning, heating, dry cleaning etc.
\textsuperscript{33} Such as in some countries when children urinate on the bedding, it is put out in the sun until it dries.
\textsuperscript{34} Mentioned in al Insaaf, a Hanbali Fiqh book. Sheikh Uthaimineen is using the book against the madhab.
\textsuperscript{35} Some scholars consider alcohol to be impure
\textsuperscript{36} AE: “it is really going out there”
**Istihaaalah**

**The changing of states**

The najas entity itself cannot be purified, however it can change states, and thereby become pure. This concept is accepted by many scholars but is rejected by others\(^3\). It originated early on in Islam and later it was Sheikh al Islam Ibn Taymiyyah \(\text{r}\) who promoted it.

Examples of istihaaalah

1. If a dog, which is najas, falls into a batch of salt, it will eventually dissolve and becomes salt, which is pure. Hence najasah became pure.
2. Impure dung, \(\text{rawth}\), when burnt becomes ashes, which are pure.
3. Human faeces when heated or decompose.

In istihaaalah processing leads to the formation of a new state such that the new substance has no relation to the original material. The change occurs at the chemical level, and the substance takes the ruling of the new state. This is the argument used to support the permissibility of beef gelatin from a haram animal.

**Tahoor Water that is Changed**

Sheikh Hajjaawi says;

*If water changes its state due to mixing with another substance, the water is still Tahoor but it is makrooh (disliked) to use. Such as mixing with Camphour or Grease. Or if it is heated with an impure substance (it is Makrooh).*

1. This water is not upon its original created state however it is still tahoor.
2. The reason it is still purifying is because the ‘changing’ is due to \(\text{mujaawwar}\) (mixing) and not \(\text{mumaajiz}\) (dissolving).
3. Sheikh Muhammad Mukhtar al Shanqiti \(\text{hafidhumAllah}\) says that it is as long as whatever mixes with the water does not become ‘one with it’.
4. The Madhab says that it is makrooh (disliked) to use.

**Mujaawarah (Mixing)**

Mujaawarah is from the word ‘\(\text{jar}\)’ meaning neighbour.

Sheikh Uthaimeen explains that this mixing is when the water and the substance neighbour each other; i.e. they do not cross each others’ border.

For example:

\[^3\text{This may be not be absolutely correct; knowledge is taught in stepwise fashion, as first you may be taught ‘absolute truths’ but later you will be taught something more appropriate to your understanding.}\]
\[^3\text{And is accepted by Ibn Taymiyyah, Sheikh Kehlan and AE. Sheikh Uthaimeen leans toward it.}\]
1. **Camphour**\(^{39}\). When put into tahoor water it will change the smell and colour of the water. However it can be removed as it does not dissolve in the water. Whatever remnant is left after the Camphour is removed is not enough to remove the title of ‘water’ from water.

**Mumaajiz (Dissolving):**

For example:

1.** Ink.** It dissolves in water changing its colour, smell and taste. So it is no longer purifying, but only pure – ‘taahir’
2. **Urine.** It dissolves in a small amount of water changing the colour, smell and taste of the water. The water is no longer purifying, it is impure – ‘najas’.

**Definition of Makrooh**

1. Literally - disliked, detested, reprehensible.
2. Technically (in Shari’ah) – one who leaves the action is rewarded, and one who does it is not punished.

<table>
<thead>
<tr>
<th>The Five Rulings</th>
<th>To do the action</th>
<th>To leave the action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fard/Waajib(^{40}) - Obligatory</td>
<td><strong>Reward</strong>ed</td>
<td><strong>Punished</strong></td>
</tr>
<tr>
<td>Mustahabb ‘Sunnah’ (Mandoob) – Recommended</td>
<td><strong>Reward</strong>ed</td>
<td><strong>Not punished</strong></td>
</tr>
<tr>
<td>Mubaah(^{41}) - Permissible</td>
<td><strong>Not reward</strong>ed</td>
<td><strong>Not reward</strong>ed (or punished)</td>
</tr>
<tr>
<td>Makrooh – Disliked</td>
<td><strong>Not punished</strong></td>
<td><strong>Reward</strong>ed</td>
</tr>
<tr>
<td>Haraam – Impermissible</td>
<td><strong>Punished</strong></td>
<td><strong>Reward</strong>ed</td>
</tr>
</tbody>
</table>

**Why is this changed water Makrooh in the Madhab?**

There is ikhtilaaf (difference of opinion) within the Hanbali madhhab itself regarding the ruling of this category of water. Some Hanbali imams said it was taahir (pure but not purifying) and not tahoor. Due to this difference they took the ruling of makrooh as a means to err on the safe side.

**Discussion**

Sheikh Uthaimeen the existence of a difference of opinion (khilaf) is not a sufficient reason to declare it to be makrooh, rather it must have a shari’ evidence.

If however the reason to declare it Makrooh was due to the principle ‘leaving that which is doubtful for that which has no doubt’, such that there is some doubt about the water, then the ruling is acceptable. It is makrooh in the presence of unchanged water.

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\(^{39}\) A fragrant spice which is used to colour and flavour food

\(^{40}\) Waajib and Fard are the same according to most scholars

\(^{41}\) The scholar turn their daily Mubah actions into rewarding ‘ibaadaat, by focussing their intention
If there is no evidence to prove that water mixed with something removable has lost its purity, then it has not lost its purity. The Hanbali position also agrees that the water is still purifying, the only difference is that it is makrooh to use.

Sheikh Uthaimeen expresses a line of poetry; ‘not every difference of opinion that is mentioned should be considered, except a difference that has a portion of evidence to support it’.

**Summary of the types of water**

There are 3 types of water; Purifying, Pure and Najas.

Only purifying lifts hadath and removes filth (according to Al Hajjaawi), and this is water which is in its original state. This includes sea, rain and well water.

It is offensive\(^{42}\) to use if it changes by being mixed with something which is easy to take out; such as twigs, stones and mud. It is not offensive if you cannot take it out.

**Examples of Mixing**

1. **Camphor** – Mixes with the water and may leave a residue, but can be lifted out.
2. **Grease** – when you put it in the water, it mixes with it, but it can be pushed to one side, to get clean water. More difficult to remove.
3. **Sea Salt** – Sea salt itself is pure and this dissolves in the water and will change its taste.
   a. However, the water it is still tahoor.
   b. This is because the origin of sea salt is water and Rasool Allāh S allowed the water of the Ocean\(^{43}\).
   c. This is the position of the majority of scholars.
   d. According to the Madhab\(^{44}\) salt from other sources, such as rock salt, will render the water pure only.

**Tahoor Water Heated by Najasah\(^{45}\)**

According to the Madhab this water is Makruh whether it has changed or not.

There are two categories:

1. **If the water is uncovered** - If water is heated by donkey dung, for example, and it is uncovered the smoke which carries particles of the dung can enter it. The Hanabila say that this water is Makruh because it definitely will be contaminated by najasah. This is the opinion of many scholars.

\(^{42}\) According to the madhab
\(^{43}\) it is almost like water going back into water.
\(^{44}\) Sheikh Uthaimeen subtly indicates his disagreeance when he says ‘alaa madhab’
\(^{45}\) Such as using donkey dung to heat the water
2. If the water is covered or sealed - according to the Hanabila if the water heated by najasah is covered is it also makrooh. This is due to the possibility of the najasah contaminating the water. The correct opinion according to Sheikh Uthaimene is if the water is tightly sealed it is not makrooh.\textsuperscript{46}

\textit{‘It is not offensive to use if it changes as a result of remaining still, something growing in it, or leaves or something which is difficult to avoid, or changes due to being next to a carcass, or being heated by the Sun or something pure\textsuperscript{47}’}

1. Remaining still
   a. This refers to standing water into which nothing has fallen and to which nothing has happened, however it has changed by itself.
   b. It is still on its original created state, and so it is tahoor according to the madhab and Sheikh Uthaimene.

2. Things growing in the water and tree leaves
   a. This refers to items naturally found in water, such as algae and moss.

3. What is difficult to take out
   a. For example soil which may discolour the water.

The water in these circumstances may have changed with respect to its colour, taste and smell. Despite that it is tahoor without dislike.

The ‘illah\textsuperscript{48} (shari’ah reason) why it is still tahoor despite it changing is that it would be too much difficulty (mashaqqah) if we were required to remove such things from water in order to render it purifying \textsuperscript{49, 50}

\textsuperscript{46} Sheikh Uthaimene, AE and taught position
\textsuperscript{47} The water considered her is not big enough to be called reservoirs or lakes
\textsuperscript{48} The difference between the Faqih (deep thinking scholar) and the ‘Aalim; the Faqih understands the ‘Illah (shariah reason) in the issue, and hence understands precisely. The ‘Illah can be understood as the reason why something is obligated or prohibited in the Deen. Sometimes Allâh T tells us and sometimes He T does not. This is not to be confused with Hikm; the wisdom behind something.
For example alcohol; some may say the reason why alcohol is not permitted is because it is expensive or tastes foul etc, but this is hikm not ‘illah. In Shariah we need to be more accurate; the Illah for the prohibition of alcohol is because it intoxicates- leaving one unable to think for himself, and he can say, do things and be taken advantage of. Once the ‘illah is known then the scholars can apply qiyaas to make other things impermissible. For example; Allâh T does not mention cocaine, opium heroin etc in the Qurân. However it becomes haram because we identify the illah, intoxication, and then we can apply it to the substances of the same genre. Also the prohibition can be extended to the creation of the intoxicant.

Sheikh Kehlan taught U斯塔adh AE that the most difficult thing a scholar can ever do is make takfeer, to take someone out of the religion after they willingly, happily, knowingly on belief, entered. It is an enormous statement, a major issue. Rasool Allâh S said that when one brother says to the other ‘you are kaafir’ it will definitely be one of them. However it is something that needs to be done to protect the nation. This is Islâm, Shariah and we have to establish things clearly – such as those who say we don’t need hadith.
For example

1. On a windy day if leaves were to fall into the water, one would have to go into the well daily to filter out the leaves being able to use it.
2. If someone walked through the water, kicking up the mud from the bed, the water would become cloudy.

Changing due to being near carcasses

Water can change due to its proximity of carcasses, for example;

1. Water in a large watering hole that is surrounded by adjacent carcasses is changed by the putrid smell. This water is Tahoor without dislike.
2. Some scholars claimed that there is a consensus to this.

Evidence

1. The evidence that might be cited for this is the hadith narrated in Al Bayhaqi, on the authority of Abu Umaamah R ‘Indeed water is pure except if its colour, taste or smell change due najasah in it (feehee)’
2. ‘Feehee’ ‘in it’. This indicates that najasah makes the water impure when it is in it, not when it is next to it and ‘transferring’ properties across. This is the concept of the fuqaha, and almost all the scholars follow this position.

Sheikh Uthaimeen says that no doubt to try to avoid such water is better, especially now that science tells us of infectious agents and poisons, which we may not be able to sense by sight or smell.

Heated by the Sun

1. This water is Tahoor without dislike
2. Some Scholars say it is not allowed and others say makrooh; based upon a narration attributed to Rasool Allāh S, (in which he S refers to Aishah R as ‘Ya Humayra’) and says not to use water heated by the sun as it causes leprosy. Some of the scholars considered the hadith to be

The second most difficult thing for a scholar to do, is to identify the ‘illah. Allāh T does not alway mention it or make it easy to determine, hence when you allude to the ‘illah, effectively you are speaking on behalf of Allāh; you are saying that ‘Allāh intends this!’ it is an enormous statement. When Sheikh Uthaimeen thinks he understood the ‘illah he will mention it.

49 Understanding shariah; the text and the spirit, to understand the entire system. ‘Law’ is too tight. Shraiah includes law, adab, wisdom. It has some immutable laws, but the system allows ease also.
50 Rusty water from pipes
1. It is still deemed water and not ‘rust’
2. Too difficult to keep changing pipes,
3. Rasool Allah S was asked about a particular well. As the water had become red, and Rasool Allah S said that water does not become impure.
51 Strange opinion
acceptable hence they use it, however the majority of the muṣāaddithīn say that the hadith is fabricated.

3. A similar statement is attributed to Umar R, this is also a weak athar.\textsuperscript{52} \textsuperscript{53}

Heated by something pure

1. Heating water with pure items such as wood, gas, petrol etc
2. This Tahoor without dislike
3. There is no concern whether the water is covered or not.

The Virtue of Cold Water

Sheikh Uthaimeen explains that using cold water for wudhu has great reward in it.

There are aṣādīth attributed to Rasool Allāh S praising the use of cold water\textsuperscript{54}. There is a hadith in Sahih Muslim that recognising the one who makes wudhu with difficulty

There are also athar from the ṢaṢābah, prasing cold water for wudhu in a way to challenge oneself, however they are not very authentic.

The Salaf used to enjoy making wudhu with cold water and the act is praised in the books of adab\textsuperscript{55}.

However water that is too cold or too hot can be used, but it may be makruh or even impermissible if it is so hot/cold that it risks making wudhu properly.

\textit{It is offensive (makruh) to use this type of water if this water was used in a recommended purification such as renewing ablution, washing for the Friday prayer, or washing a second or third time}

Used Water

1. Technical definition - the water that has passed the limb for which it was intended.
2. Water spat out from rinsing the mouth is beyond the definition if used water.
3. Used water is not the water which is in the bowl from where the water is lifted out of. (it is that which came off the limb during ritual purification)
4. Some of the scholars do not consider water that has just been splashed on as ‘used’ because it was not used to purify. The Malikiya (Maliki Madhab) emphasise rubbing the limbs and ensuring they are wet.\textsuperscript{56}

\textsuperscript{52} Athar in general refers to a statement attributed to a Companion, but it can also be used in the context of Athar attributed to Rasool Allāh S, which then means hadith.

\textsuperscript{53} In shariah, regarding things which have been made permissible, and not obligated. If scientific proofs comes and shows it is harmful and there is little doubt in it, it is permissible for the scholar to rule upon it due to dharr (harm), and pass a fatwa to say it is not to be used.

\textsuperscript{54} Attributed to Rasool Allāh S but the authenticity is questionable

\textsuperscript{55} Difficulty meaning that it may take a long time to walk somewhere, but you do it for the sake of Allāh, or you have very little water but because you want to make wudhu according to the Sunnah you still make it.

\textsuperscript{56} The importance of used water reflects the scarcity of the resource.
In ‘Recommended’ purification

Mustahab – excludes obligatory purification.

For Example

1. Sunnah Wudhu
   a. If one has wudhu and the next Ṣalāh arrives, to make a new wudhu without having broken his first, this is Sunnah and recommended.
   b. The used water is makrooh to use for purification – i.e. it is allowed but with dislike

2. Ghusl (bathing) for Jumu’ah
   a. The majority of scholars say it is recommended although some say it is obligatory.
   b. If it is regarded as obligatory then the ‘used’ water is not tahoor (purifying)
   c. However the correct opinion is that Ghusl for Jumu’ah recommended⁵⁷, and hence the used water can be used for purification.
   d. Ghusl for ‘Eid is Sunnah according to the majority of scholars.

3. The Second or Third washing in Wudhu
   a. Allāh T says in Surat al Maaidah (5:6)

   ‘O you who have attained to faith! When you are about to pray, wash your face, and your hands and arms up to the elbows’

   This establishes the obligation for washing, but not for repetition.
   b. Rasool Allāh S would sometimes wash each limb once, sometimes twice, and the perfect wudhu is washing thrice, but the obligation is only once. The second and third washing is recommended only.
   c. Used water from the second and third washing can be collected and used for purification.

Water used from a recommended purification is Makrooh

1. This is the position of Al Hajjaawi. Ikhtilaaf exists in the madhab regarding whether water used in this manner is taahir or tahoor so due to this difference it was given the ruling of makrooh.

2. This can be appreciated from an ‘aqliy (reasoning) sense. And Rasool Allāh S explained in many aḥādith that the Halal and Haram are clear, between which are doubtful matters, and whoever avoids them has protected his Deen (religion) and ‘izzah (honour).

Discussion

Sheikh Uthaimeen says that the used water is permissible to use without dislike.⁵⁸

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⁵⁷ Taught opinion: recommended
⁵⁸ This is also the opinion of Sheikh M Mukhtar al Shinqiti and a number of other scholars.
1. In order to make something makrooh there must be a shari’ah evidence.
2. The caution in the opinion of the Madhab is respected but it should not be made into a legal statement without a shari’ah basis, instead people should be educated and told to avoid such water.

To prevent the servants of Allāh from something that the Shari’ah has not indicated is the same as allowing something which the Shari’ah has prohibited:

1. We feel the enormity of allowing something that the shari’ah prohibited.
2. Similarly, if the shari’ah has not prohibited something and it is made Makrooh; it is the same, in fact, worse.
   a. It is worse because the default position in shari’ah is ‘permissibility’, In Surat Al Baqarah (2:29), Allāh T says;

   
   ‘He is the one who created for you whatever is on the Earth.

3. It is a very serious matter. Allāh T says in Surat an Nahl as a warning (16:116)

   وَلَا تَفْعَلُوا لِمَا نَصِيبُ الْسَّيِّئَاتُ إِنَّ الَّذِينَ يَفْتَرُونَ عَلَى اللَّهِ الْكِتَابِ إِنَّ الَّذِينَ يَفْتَرُونَ عَلَى الْلَّهِ الْكِتَابِ لَا يَلْبِخُونَ

   ‘Hence, do not utter falsehoods by letting your tongues determine [at your own discretion],

   "This is lawful and that is forbidden", thus attributing your own lying inventions to God: for,

   clamp/tehmedial/sukun/fehmedial/َ
   tatweel/tehmedial/sukun/fehmedial/َ
   tatweel/tehmedial/tatweel/َ
   hehinitial /sukun/arabicalef/َ
   hehfinal/shadda/lammedial/laminitial/arabicalef/َ
   hehinitial/َ/thalfinal/tatweel/لٌ وَ
   lamwithalefisolatedd/arabicalef/َ
   hehfinal/shadda/lammedial/laminitial/arabicalef/َ
   hehinitial/َ/thalfinal/tatweel/ضِ
   sukkun/reh/َ
   hahmedial
   kafmedial/sukun/laminitial/arabicalef/kafmedial
   hehfinal/shadda/lammedial/laminitial/arabicalef/َ
   hehinitial/َ/thalfinal/tatweel/ً
   hehmedial
   kafmedial/sukun/laminitial/arabicalef/kafmedial
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   hehinitial/ِبَ
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   If (the water) reaches an amount of ‘Qullatain’ - which is a lot – i.e. approximately 500 ‘Irāqi rats, and it mixes with filth which isn’t urine, or any other human liquid waste, and it doesn’t change, or it mixes

59 Islām is a deen of practicality, ‘the religion of the future’. If every aspect of life was prohibited and required us to find permission for every little thing, like ‘can we use a brick?’ it would be very difficult. Unfortunately scholars and Islām gets a bad reputation always being linked to haram, but that is because of peoples’ approach. In ‘Ibādaaḍāt however everything is haram until proven halal. Allāh T and His Prophet S did not leave it to us to make up our own “Ibādah, if it were so we would end up with Christianity. Allāh T took it upon Himself to prescribe worshipping and its details. This is called sunnah. When people follow their own rules, it is bid’ah. RasoolAllāh S warned us about bids in many aṣadīth. We see people introducing their new ideas, and they might think that they can do it better, or the feel thats how they want to express their love, as you see many do during the birthday of Rasool Allāh S. Sometimes people say ‘lets stick to the way he used to be, and others say ‘actually I have a better way of expressing my love and it might not have practiced by the Prophet S or the Ṣaṣābah but I fell it, I benfit from it, oter benefit frm it, so lets do it’. Where is the limit? Rasool Allāh S said whoever brings something new nto this religion, it is rejected and returned back to him, it wont be accepted by Allāh T. In other aṣadīth ‘let him take his seat in hellfire, the one who lies against me or brings something new into this religion’ It is also an Attack against Allāh, when He T said ‘today I have completed your deen’; it implies that Allāh T left something out. When people come to drink from the Prophet’s Hawd, people will be prevented, and Rasool Allāh S will ask why, and the Angels will tell him these are the people that started inventing thins after you passed away.
with urine or other waste products which is very difficult to remove, as is the case with the watering holes on the road to Makkah, then (the water is still) purifying.

**Qullatain**

This is the dual of ‘Qullah’

Qullah is well known amongst the Arabs. In Surat Al Araf [57], Allāh T says:

وَهُوَ الَّذِيِّ يُرِيِّلُ الْرَّياحِ بِمَآءٍ بَيْنَ يَدَيْ رَحْمَتِهِ خَيْتًا إِذًا أَقِلَّتِ السَّحَاّةُ ثُقَالَ الْقَاذِمِيَّةِ فَأَزَلَّهَا لِيَلْبِسَهُ اثْنَاءَ نُحْجُرَهُنَّ

‘And He it is who sends forth the winds as a glad tiding of His coming grace-so that, when they have gathered heavy clouds, We may drive them towards dead land and cause thereby water to descend; and by this means do We cause all manner of fruit to come forth. Even thus shall We cause the dead to come forth: [and this] you ought to keep in mind’

Aqallat – gathering and carrying

Allāh T is referring to the winds when they pick and drag clouds heavy with rain.

**Definition of Qullah**

1. Linguistically – the container used to carry a large amount of water
2. Technically – the amount of 500 Iraqi *ratls*
   a. The hadith only mentions ‘qullatain’ so the ‘Ulema differ over the exact volume.
   b. Today it is between 191-195kg according to some estimations.
   c. The Hanafi scholars refer to it in terms of surface area.
   d. Sheikh Wahbah al Zuhayli; a contemporary faqih, said it is around 270 L. Others said 190 L, others said 216-217 L. Some said 200 Kg and others said well over 200L.

‘And it is a lot’

This precludes the entire debate. The point is that it is a lot of water.

The class position is that the quantity of water is not the significant factor, rather if a change occurs due to najasah, then the water is no longer pure.

‘*When it mixes with filth*’

There are 3 opinions within the madhab itself

**Summary of the Rulings in the Hanbali Madhab regarding when Najasah falls into water**

1. If najasah falls into water less than 2 qullah, the water becomes najas *even if it does not change.*
2. In general, if najasah falls into water above 2 qullah and it does not change, it is Tahoor because the water is such a large amount and the najasah is insignificant.\textsuperscript{60}

3. There are variances in the different periods of the Madhab:

<table>
<thead>
<tr>
<th>Period</th>
<th>Less than 2 Qullah</th>
<th>2 or more Qullah</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mutaqaddimeen (Earlier)</td>
<td>Najis</td>
<td>a. Urine – \textbf{Najis, Except if too difficult to remove}</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b. Other – \textbf{Tahoor}</td>
</tr>
<tr>
<td>Mutaakhireen (Latter)</td>
<td>Najis</td>
<td>Tahoor</td>
</tr>
<tr>
<td>Sheikh Uthaimeen and others</td>
<td>\textbf{Tahoor} with great caution</td>
<td>Tahoor</td>
</tr>
</tbody>
</table>

In every Madhab; if the water changes; such that the smell, taste, colour resemble najis, then it is najis. This is whether the water is less or more than 2 qullah.

\textbf{Discussion}

\textbf{The Position of the Mutaqaddimeen – Early/classical Hanbali Madhab:}

1. \textbf{If the water is less than two Qullah:}
   a. any \textit{amount} of any najasah makes the water najas, even if there is no change to the water.

2. \textbf{If the water is more than two Qullah:}
   a. \textit{Any najasah except for Human Urine or Liquid Waste}
      1. The water is Tahoor as the najasah is too insignificant with respect to the amount of water.
         For Example, Donkey droppings (najas) fall into a container of water more than two Qullah; this water is tahoor.
      b. \textit{If the najasah entering the water is Human Urine or Liquid waste}\textsuperscript{61}
         1. The water is najas even if the water does not change.
         2. \textit{With the exception} – ‘if it is too difficult to remove the human urine liquid waste then it is tahoor. (If the water has not changed)

\textsuperscript{60} This refers to standing water, not running water.
\textsuperscript{61} Liquid waste tends to be a bigger problem because it dissolves better.
a. ‘Too difficult’ means for a standard man of standard strength
b. This allowance was made due to difficulty
c. The ‘ulema mention that the benefit of mentioning this issue is that if the water is less than two Qullah there is no benefit to even try to take the urine out.

3. If the urine is not difficult to get out of water measuring more than two Qullah, then the water is najas.

4. If it is possible to remove the urine then it must be removed or the water will be najas. For example, in a well with four Qullah, falls a single drop of urine, which is not difficult to remove and the water has not changed; this water is najas according to the mutaqqaddimeen.

Hence, in this opinion if the najasah is human urine or liquid waste, and no change in the water has occurred, the ruling of this water revolves around whether there is difficulty removing the najasah or not:

a. If there is difficulty – the water is Tahoor
b. If there is no difficulty – the water is Najas

If the najasah is other than that, and no change has occurred in the water, the ruling revolves around the amount of water:

a. If it is less than two Qullah, the water is najas.
b. If it is more than two Qullah, the water is tahoor.

Evidences pertaining to the position of the Mutaqaddimeen

‘when water reaches qullatain, it does not become najas’:

1. Hadith narrated on the authority of Abu Hurairah R: ‘Indeed water is Tahoor, it is not made filthy by anything’
   a. Hence in a large amount of water, impurity does not make it najas.
   b. This hadith is narrated in Ahmed and Abu Dawood, Al Nisaai, Al Tirmidhi and others.
   c. It was authenticated by Ahmed, Ibn Ma’een, Ibn Taymiyyah. Al Tirmidhi said it was Hassan. Imam al Daraqutni said ‘It is not established’. Imam Nawawi said that the position of these scholars and their ruling that the hadith is authentic or Hassan takes precedence over the statement of Imam al Daraqutni.63 Wa Allahu ‘Alam (and Allāh knows best)
d. This hadith is a key narration in the issue of purification used by all scholars of fiqh.

2. Hadith ‘If the water reaches two qullah, it cannot become filthy’.
   b. It was rendered weak by Ibn Abd al Barr\textsuperscript{64} and Isma’ee al Qaadi. It was considered ṢaṢīṢ by a number of scholars including Imam Ahmed, Imam Shāfi’i’, Ibn Ma’een\textsuperscript{65}, Ibn Mandah\textsuperscript{66}, Abdul Haqq al Ashbeeli, Ibn al Mulaqqin\textsuperscript{67} and others. Imam Nawawi said the hadith is ṢaṢīṢ and the major scholars of hadith considered it to be authentic.
   c. Ibn Taymiyyah said that the majority of the people of knowledge in hadith, considered the hadith to be Hassan. Ibn Taymiyyah is indicating that there is a problem with the hadith, but it is acceptable and can be used as \textit{hujjah}, evidence.

These two aṢadīth effectively govern the entire chapter.

Differentiating between urine and other najasaat

1. Ṣadīth ‘Not one of you should urinate in standing (i.e. not running) water then wash in it’
   a. ṢaṢīṢ, narrated by Imām Bukhārī in the Book of Wudhu.
   b. The Hanabila derived from this hadith that it is not permissible to urinate in water, and then wash in it, whether the water changed or not.

Difficulty in removing najasaat allowing the water to be used.

1. This is based upon a fiqh principle (qawaaid fiqhiyyah) which states that when things become difficult, the rulings become relaxed.

The Position of the Muta-akhireen – Latter Hanbali Madhab:

The rulings are the same as in the earlier position, except that the latter madhab does not differentiate between urine and other najasaat. Hence, they said;

1. If the water reaches two qullah it will not become impure unless the water changes.
2. If the water is less than two qullah and \textit{any} najasaat falls into it, it is najas, even if it does not change.\textsuperscript{68}

The Position of Sheikh Uthaimeen

1. Water does not become impure unless it changes.

\textsuperscript{64} Big Maliki Muhaddith and Imam of the West
\textsuperscript{65} Teacher of Imam Bukhari
\textsuperscript{66} scholar of Hadith
\textsuperscript{67} Shāfi’I’ Hadith Scholar
\textsuperscript{68} There are many statements in the madhab and this position can be found in Sharh Muntaha al Iradaat (purely hanbali fiqh text) Vol 1, page 18.
The volume of the water is not important, be it more or less than two Qullah, and
the type of najasah that mixes with it, is not important.

As long as the colour, smell and or taste has not changed the water is still Tahoor. Despite that if the
water is less than two Qullahs and najasah falls in, one has to be extremely careful, because the reality is
that it will be impure; but we have just not sensed it.

Although this opinion is contrary to the other Scholars of Fiqh, it is the opinion of Abdullah Ibn Abbas R,
Ataa Ibn Abi Rabah, Ikrimah, Sa’eed ibn Jubayr, Al Hasan al Basri, Abdur Rahman ibn Abi Laylah (Imams
of the Salaf). It is also a narration from Imām AṢmed, it is the chosen opinion of Ibn Taymiyyah, and his
student Ibn Qayyim.69

The issue in this opinion revolves around the changing of the properties of water.

The evidence for the Sheikh Uthaimeen’s position

1. Hadith ‘Indeed water is Tahoor, it is not made filthy by anything’.
   a. The exception to the hadith is ‘taghayyur’ (changing of the properties of the water) due
to najasah. There is a consensus of every Scholar that if water changes due to najasah it
is najas.
   b. This exception is implicit in the hadith.
2. The Ayah 6:145:

    قُلْ لَا أَجِدُ فِي مَا أُوْلِجْتُ بِهِ مَعْنًى عَلَى طَاعِمِ يِطْعَعُهُ إِلَّا أَنْ يَكُونَ مِنْهَا"أَوْ ذَٰلِكَ مَسْطُوحًا أَوْ حَمْمٌ جَنِيرٌ أَفَإٓنَّهُ رَجِيمٌ
   أو فِسَاقًا أُهُلِّي لِيَخْرِجُ اللَّهُ بِهِ فَمَنْ اضْطَرَّ عَيْبًا إِلَّا قَبَلَةً ثُمَّ عَفَّدَهُ رَجِيمٌ

    Say [O Muhammad S]: "In all that has been revealed unto me, I do not find anything forbidden
to eat, if one wants to eat thereof, unless it be carriion, or blood poured forth, or the flesh of
swine-for that, behold, is loathsome-or a sinful offering over which any name other than God's
has been invoked. But if one is driven by necessity - neither coveting it nor exceeding his
immediate need -then [know that], behold, thy Sustainer is much-forgiving, a dispenser of
grace."

    The Sheikh says that this ayah demonstrates that only when the impurity is found it becomes
‘rijs’ and then the ruling is established. Hence only when najasah is found does something
become impure.

    For example; if blood falls into water and changes the water, then it is ‘rijsan najsan’ - impure
and najas. However if it does not affect the water then it is clean.

3. Logical argument

69 It is also the opinion of Sheikh Kehlan and AE, it is the class taught position.
a. The Shari’ah is a system full of wisdom and ease, and the reasons for the ruling are based upon that which is seen and understood.

b. The ‘illah (reason) that something is declared najas is the khabath (filth); such that wherever kabath is found it is najas.

c. And if there is no kabath then how can we declare it najas?

Reasons for less emphasis of the Two Qullah argument:

1. The hadith of Qullatain is weak, however a number of scholars deemed it authentic.
2. The hadith of Qullatain indicates recommendation. Water greater than two Qullah cannot carry impurity, but this does not mean that water less than two Qullah must be impure.

If there is a definite impurity in the water but there is no change

Sheikh Uthaimeen says if we know najasah to be present in water but it is not sensed, (i.e its colour and smell and taste are of water), then the water is najas. This is an exception to the rule.

Watering Holes

Masaani’ (watering holes)

Sheikh Hajjaawi discusses watering holes found on the route to Makkah from Iraq which, in pre Islamic times, during the Hajj season, would be excessively used for the needs of people and their animals. It would be an over-used and rare source of water and it would be too difficult to remove the najasah from it.

‘If a woman whilst alone uses a small amount of water and makes a complete purification from a state of ritual impurity, the (left over) water will not lift the impurity of a male’

This is the position of the Madhab.

Discussion

There are seven conditions stipulated in the masalah (issue), all of which have to be present for the water to be deemed unusable;

1. Ritual impurity
2. A man using the water after it has been used
3. A small amount of water
4. The woman is alone with it
5. A woman uses the water first
6. A complete purification
7. She is trying to lift hadath

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70 plural of Masna’
71 With regards to water in fiqh small always means less than two qullah, and large means greater than 2 qullah.
72 i.e. not a sunnah wudu
For example, a woman has a bucket of water with 1.5 qullah, and she is alone in the bathroom, and makes a complete (non-sunnah) wudhu, and then leaves the bathroom. A man enters the bathroom to use that water (left in the bucket). The Hanbali madhab says that he cannot lift his hadath by it.

The Evidence

1. Rasool Allah S prohibited that a man should wash with the *fadl* (lit. overflow/extra) of a woman and a woman should not use the *fadl* of a man. The hadith is narrated by Imam Ahmed, Abu Dawud74, Al Nasaai75 ‘on the authority of a man who accompanied Rasool Allah S’.
   a. The Companion in the hadith has not been named
   i. In the science of hadith this is not a defect which destroys the chain. This is because all of the ṢaṢābah are trustworthy.
   b. Imām Al Bahaqiy said the narrators are trustworthy
   c. Imām of all the Muhadditheen Ibn Hajr al Asqalaani said that the isnad (chain) is authentic.

Sheikh Uthaimeen’s discussion of the position of the Hanabila based on the hadith

1. The Hanabila derived that the man cannot lift hadath from the *fadl* of the woman but they allowed the woman to lift her hadath from the *fadl* of a man.76
   a. Why was one half of the hadith allowed and the other half ignored?
2. They did not allow the man to use the *fadl* of a woman although there is a hadith which supports is permissibility.77
3. They allowed the woman to use the *fadl* of a man although there is not a single hadith that specifically allowed it (check as in the notes opposite way)
4. If the man used this water to remove najasah, or to wash hands on waking it is permissible, however he is not able to lift hadath by it. Although a woman would be allowed.
5. If the water was a large quantity, then, according to the hanabila, it would lift hadath for the man. Although the hadith of Maymuna R indicates that only a ‘jafna’, a small amount of water was used, indicating that a small amount of water is not an issue.
6. The woman has to be in seclusion, in ‘Khalwah’
   a. Khalwah, according to the Madhab means when one is not being observed or not in the presence of a mumayyiz.

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73 *Fadl* – literally extra/overflowing. *Fadl of Allāh* – His Grace. Riba al Fadl – giving something better or extra: In a hadith Rasool Allāh S advised Bilal not to exchange a less quantity of better quality date with more poor quality dates, rather he should sell the poor quality ones to get money and then buy the other dates.
74 Book of Taharah
75 Book of Taharah
76 Not all the Hanabila agreed with Al Hajjaawi on the issue. A number of them corrected the position in the Madhab. Secondly there is a difference in the understanding of the hadith, hence the difference of opinion is understandable and acceptable
77 Narrated in Muslim in the book of menstruation in which Rasool Allah S used the same water as Maymunah R which she used for purification.
i. Mumayyiz – the one who is able to discern right from wrong; who has reached the age of Tamyeez ‘discernment’, approximately seven years, but some reach the age younger and some older.

b. Hence if a woman was in the presence of a nine year old this would break the seclusion and the water would be fit to lift hadath for the man even if a small amount. 78

7. If the purification of the woman was incomplete, or the seclusion was interrupted, the conditions would not be met, and the water would still be allowed for the man.

8. If the purification was not lifting hadath, such as a sunnah wudu, the conditions are also not met.

The correct position

Sheikh Uthaimeen 79 says that the prohibition still stands and to use the fadl of a woman is makruh according to the hadith. 80

The reason it is not haram (prohibited) is because of the hadith of Ibn ‘Abbas R who narrated that some of the wives of Rasool Allah S, R, made ghusl from a small amount of water, then Rasool Allah S came to make ghusl from it and they said to him ‘Ya Rasool Allah, we were impure due to intimacy (junub), then we used this water. Rasool Allah S replied that the water itself does not become junub’. Indicating that the water has not become impure and he S continued to make ghusl. 81

Hence Sheikh Uthaimeen concludes that a man is allowed to use the fadl of the woman when she is by herself even it is little to lift his own hadath. This is the chosen opinion of Sheikh al Islam Ibn Taymiyyah r.

Summary

78 The Sheikh is trying to indicate the irregularities in the issue
79 Sheikh Uthaimeen is regarded as one of the fuqaha of our time, despite his background, originating from Najd, he is respectful to the scholars.
80 The fuqaha delve into a lot of detail regarding the term Makruh. The founders of fiqh of Usul (the Ahnaaf) divided makruh into two;
Makrooh tahreeman – something so hated it is close to haram,
Makrooh tanzeehan – hated and best avoided. This second category is the same as Makrooh as understood by the majority of the scholars.
For acts that are Makruh Tahreeman, one is rewarded for avoiding them, but if one does them, some said they are not punished.
If one ‘denied’ and act that is makrooh tahreeman, they are not ex-communicated (classed a kaafir), such as if they denied the obligation of Ṣalāh they would be ex-communicated.
The reason for the differentiation is because the Ahnaf argue that certain things are definite (like salah), however other things are established by evidences which are speculative in nature or ‘dhanni’ (such as by hadith al ahad singular or uncertain narrations). The fuqaha then will not classify the person as kaafir if they deny something established in a non-definite way.
For example smoking; Some scholars said it was haram based on the ayah in 4:29 ‘Do not kill yourselves’, this is a big statement, but there is no definitive evidence. Smoking is a clear cause of lung cancer, other peripheral issues include that it is a waste of money, it discolours teeth and leaves bad breath. Others said it is makruh. The Hanafis did all the hard work then the Shafi’is came along and added the ‘tahreemi/tanzeehi’
81 فی النص أو الفرع. Also narrated by Imám Alìmed, Abu Dāwūd in Kitab al Taharah, An Nasaa'i in Book of water, Imám Al Tirmidhi in the book of water, who said that the hadith is Hasan Fāsih. It is also authenticated by Ibn Al Khuzaymah (Shafi’i) Ibn Hibban (Shafi’i, Ibn Hibban (Shafi’i/Ahl al Fadlth), Al Haakin, Al Nawawi, and al Dhahabi.
1. Tahoor water – pure and purifying – it is the only one that will lift hadath (ritual impurity) and removes najas (filth), according to the madhab. According to Sheikh Uthaimeen and Ibn Taymiyyah najasah can be lifted by other means also.

2. Water in it is original state wherever it is found is tahoor. It is allowed to use, but considered makruh by the madhab if something was mixed in it that did not dissolve (camphor/grease).

3. Water (covered and uncovered) heated by filth is also makruh, according to Al Hajjaawi due to the filth potentially getting in.

4. Water that changed in its natural environment, with nothing added, but because it remained still is tahoor.

5. Water found in natural environments with things growing in it, such as water lilies, moss, leaves, mud is still tahoor, even if the mind perceives it is as unclean.

6. If dead carcasses are adjacent to the water, or it has been heated by the sun, or by a pure substance it is tahoor.

7. If water was ‘used’ for a recommended purification like a sunnah wudu, ghusl for jumuah, second or third washing, then the used water is allowed for purification, although makrooh according to the madhab.

8. If the water reached two qullahs (>400L), and najasah fell in it, it is still purifying as long as it did not change, (and so long as it was not urine/liquid human waste that was not difficult to remove. If it is difficult to remove because it is a popular drinking spot or the only watering hole, then the water is tahoor, according to the early Madhab) The Latter madhab did not differentiate between the types of najasah. The taught opinion is that only if the water changes completely it is no longer usable.

9. A man can wash from the left over of a woman who lifted her hadath in seclusion even if there is a small amount of water (although makruh). Al Hajjaawi says a man cannot.

The Second Category of Water – Taahir

If its taste or colour or smell changes due to cooking, or by something falling into it, or a small amount of water used to lift hadath, or someone dipped their hands in that small amount after waking from a sleep during the night which broke their wudhu, or it was the last round of water used to remove najasah from something, so the water is Taahir

Taahir water according to the Madhab

1. If the properties of water have completely or almost completely changed from their original state (and is not due to najasah), it is taahir, pure but not purifying.

2. It cannot then be used to lift hadath but it will not prevent one from the Ṣalāh. For example, Soup; it is taahir. It cannot be used to make wudu, but if it fell on clothing it will not prevent one from praying the Ṣalāh.

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82 Such as water in deep wells, or glaciers that have not changed for millions of years

83 Taste, colour or smell
Changed by cooking

1. According to the madhab water in which pure substances are cooked, such that there is an obvious and significant change in its colour or taste or smell, is taahir.

Changed by something falling into it

1. If something pure falls into water and changes one or more of its properties, then it is taahir.
2. Exceptions to this have already been discussed above:
   a. That which is too difficult to take out - such as mud, and leaves from neighbouring trees.
   b. Those things which do not dissolve in the water; like Camphour.

The Hanbali madhab says that changed water is unable to purify because it is no longer mutlaq, absolute water, i.e. it is considered to be something else, and its name becomes prefixed, such as water mixed with rose concentrate will be called Rose Water.

Discussion

Sheikh Uthaimeen explains that water only loses its ability to purify when it is no longer regarded as water at all. This is the chosen opinion of Sheikh ul Islam Ibn Taymiyyah r.

For example;
1. A mixture such as Rose Water
   a. It strongly retains the characteristics of water.
   b. It has not confidently been disregarded as ‘water’; it is still called Rose Water
   c. We cannot confidently say it has lost its ability to purify.
2. Tea
   a. Until the water which has a tea bag in it is deemed to be tea, it is still considered to be purifying water.
   b. As soon as it adopts a different name and it is not perceived to be water, it is at this point it has lost its ability to purify.

Sheikh Uthaimeen discusses that in the Hanbali Madhab if the water was changed intentionally, such as if a pure substance was mixed into water, which changed one of its properties, then it is no longer purifying. However, if the mixing occurred unintentionally, such as with mud, and it was too difficult to remove, then this water is considered purifying. Hence, the Madhab differentiates between water that was changed intentionally and unintentionally.

Sheikh Uthaimeen highlights that what actually affects the ruling of water is the whether a change has occurred and not whether it happened intentionally or unintentionally, or whether it was difficult to remove from the water or not. There is no evidence to make that differentiation.
This is in keeping with Sheikh Uthaimeen's opinion that unless water has changed completely and has lost its properties, it is still Tahoor.

‘A small amount of it is used to lift hadath’

For example:

A man has a bucket of pure water less than Two Qullah, from which he intends to make wudhu, so he puts his hands into it and washes them, then he dips his hands in again to wash his face and continues making his wudhu.

According to the Madhab this water cannot be used afterwards to lift hadath again, because the water was a small amount and the hands were going back into the water and it does not matter how physically clean the hands were before starting. This water is now ‘used’ water.

Discussion

Sheikh Uthaimeen says there is no evidence for this ruling. The evidence some scholars cited to support this ruling was the analogy that ‘you cannot free a slave twice’.

According to Sheikh Uthaimeen and many scholars this analogy is a poor one, for two reasons;

1. The two subjects (the slave and water) are not directly comparable.
2. It is actually possible to free a slave twice; he could be enslaved a second time and freed again.

The correct opinion about a small amount of water used to lift hadath

The water remaining after it was used to lift hadath is still tahoor, even if it is a small amount. This is because the default ruling of water is that it is tahoor, and it is not possible to leave that ruling unless there is a Shari’ah evidence.

Sheikh Muhammad Mukhtar al Shinqitee mentions that there are three positions in the matter of used water:

1. That the water mentioned in all of these circumstances is tahoor, except when it changes as a result of using it.
   a. This is the position of the Maliki Madhab, according to the popular opinion
   b. And also a position of the Shafi’iyyah
   c. It is also a narration from the Hanabila, and it is the chosen position of Sheikh ul Islam Ibn Taymiyyah. It is also the position of Sheikh Uthaimeen, Sheikh Muhammad Mukhtar al Shinqiti, Sheikh Kehlan and Ustaadh Abu Easa.

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84 Even if water was not falling back into the container from the limbs
85 There is a distinction between a position of Imām Shafiee’ himself and the Shaf’iyy Madhab. The madhab was evolving continuously, and was contributed to by a number of different minds, whereas Imām Shafi’i gives his own opinion according to his own evidences. This is the same in the other schools and with the other scholars, where the School may have had 2 or 3 popular opinions and the Imām himself may have had 2 or 3 statements.
2. Water that has been used is not tahoor but taahir.
   a. This is the position of the Majority.
3. Water that has been used is Najas
   a. This is a statement of Al Qaadi Abu Yusuf\(^{86}\) and some of the Hanabila.

**A review of the evidences supporting the first position**

1. Hadith of Abu Sa’eed Al Khudri R, who states that Rasool Allah S said: ‘Indeed water is tahoor and it never becomes najas’.
   a. It is derived from this that the default ruling of water is tahoor. There is no evidence to leave that position unless it changes.
   b. It is not najas until it becomes najas.
2. Hadith of Abdullah Ibn ‘Abbas R, regarding the wives of Rasool Allah S when they were bathing from water, and when Rasool Allah S went to use it, they informed him S that they were in a state of janabah\(^{87}\), to which he S replied ‘Indeed water does not enter a state of impurity’.

**Evidences supporting the other two opinions**

1. Hadith ‘let not one of you make ghusl from janabah in standing water’.
2. Hadith indicating not to urinate in standing water.
   a. Our position is that these ahadith indicate that such acts should not be done, however, it does not mean that the water cannot be used for purification afterwards.

‘*Or a ‘yadd’ (hand) is dipped in it*\(^{88}\) *after rising from a sleep at night which invalidated their wudu*’

**Definition of ‘Yadd’**

When used in an absolute sense yadd refers to the hand up to the wrist. But generally it could refer to the entire arm. In this sentence it means the hand.

For example; a man wakes from sleeping during the night and puts his hand and arm into a ½ qullah bucket of water.

**The ruling of this water and its evidences**

The Hanabila say that this water is taahir and no longer purifying.

1. This is based on the hadith that Rasool Allah S said ‘when one of you wakes from sleep, then let him not dip his hand into the vessel until he washes it three times, because he does not know where his hand spent the night’\(^{89}\)

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\(^{86}\) The Companion of Imām Abu Hanifah  
\(^{87}\) A state of impurity after marital relations  
\(^{88}\) The dhamir (pronoun) ‘it’ is referring to the term ‘al maa al qaleel’, the small amount of water  
\(^{89}\) Bukhārī in Kitab al Wudu, Muslim in Kitab al Taharah
2. Imam Muslim records this hadith under the chapter title ‘the chapter of the dislike of the one who is making wudhu or anyone other than that to dip their hand with doubtful (purity) into a vessel before he washes it three times’. This is an indication by the ahl al hadith that this hadith indicates ‘dislike’.

**Discussion**

1. Sheikh Uthaimeen says it is clear that it is not permissible to dip one’s hands into the vessel containing a small amount of water.

2. The Sheikh examines the implications of the ruling derived by the Hanabila from the hadith with regards to conditions which make the water unable to purify;
   1. The hadith specifies nocturnal sleep using the term ‘baatat’ meaning ‘staying over’. According to the scholars this means nocturnal sleep. Hence a long sleep during the day would not render the water non-purifying.
   2. A short sleep would also be excluded.
   3. Other than a hand, such as a foot is excluded.
   4. If the entire arm was put in, the water would not be affected, as only the hand is referred to.
   5. The hadith says ‘one of you’, thereby indicating a Muslim, which would mean if a kaafir dipped his hands in the water would still be tahoor.
   6. The audience of the hadith is not only Muslim but also Mumayyiz. Hence, if a non-mumayyiz dipped their hands into the water it would not affect its ruling. If we compare that to a practicing Muslim, who goes to sleep clean, after istinjaa and wudhu, and is careful about where they put their hands.
   7. A light sleep during the night; such that one is aware of the activity of their hands, would also be excluded.

**The correct position**

The water in which the hands are dipped, whether more or less than two qullah, is tahoor. However, it would be sinful to do dip the hands into the vessel.

The sin is due to disobeying Rasool Allah S, as he S forbade dipping the hands into the vessel on rising from sleep at night, before washing them.
How to reconcile this with the hadith of the water used by the wives of Rasool Allah S for obligatory ghusl, which then he S also used.

1. The wives of the Rasool Allah S were not dipping their hands into the water, rather taking water from a shared vessel using an implement.
2. The two ahadith are different matters; the first hadith Rasool Allah S said that the one who had woken from the sleep at night did not know where his hands had been, whereas the wives of the Prophet S were fully aware of themselves R. Also the first hadith is about najasah on the hands, whereas the second hadith refers to janabah, which is a state of hadath which can occur without any najasah being present.

How to reconcile this with the narration of ‘Aaishah R, who said that she and Rasool Allah S would wash after intimacy from the same water, and their hands would touch.

1. If we cannot prove that water has changed, then we assume that water is upon its default ruling; i.e. Tahooriyyah.

Discussion

In the wearing of gloves during the night, such that the hand would not come into contact with najasah, would the same ruling still apply?

Although the hadith implies that the ‘illah for washing the hands is the possibility that they will become impure, the fuqaha say it is actually not known-. So the action is considered to be from the matters which are ‘ta’abbud al mahd’ – pure worship.95

However, Sheikh Uthaimeen says that the ‘illah is clearly ‘one does not know where the hands have been’. This was also the conclusion of Sheikh al Islam ibn Taymiyyah r, as he reasoned with another hadith in which Rasool Allah S said ‘If one of you should wake from his sleep, then let him blow his nose three times, because shaitan spend the night in his nose’.

Sheikh al Islam says it may have been that the hands had been affected in some way by Shaitan96, which may cause illness or ruin the water and so Rasool Allah S forbade putting the hands in directly.

The mentioning of the reason itself does not mean that it itself is the reason for the prohibition, rather it could be an indicator to the actual reason of prohibition, which may itself be non-tangible.

Sheikh Uthaimeen points out that the illah is known, but it cannot be protected against, hence wearing gloves will not protect against it.

Conclusion

95 In submission ‘ We hear and we obey’; for example we are told to pray five times a day, Allāh T chose this, there is no ‘aqli (intellectual) answer, it is pure worship.
96 Shaitan is non-tangible/meta-physical, and we cannot fully appreciate the nature of what he does in the sleepers’ nostrils
1. One should not put the hands into the water vessel on waking because it is dirty; this is applied at all times and ages.
2. In Shari’ah it is impermissible to put the hands directly into the vessel on waking.
3. The Hanabila regard the water as Taahir (pure but not purifying), however the correct position is that it is still Tahoor. 97 98

‘Or it (taahir water) is the last water used in removing filth’

The madhab, and others, state that only tahoor water can remove najasah. In the madhab there are two opinions as to the number of washes required to render something pure from najasah:

1. Three times
2. Seven times
   a. This is possibly the stronger opinion
   b. Supported by the hadith regarding the najasah of the dog, which is purified with seven washes and the last being with dust.

If we consider the opinion that purifying najasah requires seven washes, the water that runs off from the first six washes is deemed najasah. On the seventh wash, the moment the water touches the item, the item becomes pure, and the water that runs off is also Taahir (but not tahoor). 101

This is what is meant by the ‘last water used in purifying’, if we were considering the opinion that we need to wash only three times, the last water would be from the third washing. 102

There is a statement in the Hanbali madhab manual Al Mughni which states that if the najasah has not been removed by the seventh wash then the number of washes needs to be increased until it is removed.

The class position is the item is pure when the najasah is removed. The ‘illah is the removal of the najasah, and the water which touches it after the najasah has been removed is tahoor.

Discussion

Sheikh Uthaimeen says that the first opinion is from those who categorise water into three; tahoor, taahir and najasah.

However the correct position is that water is only of two categories’ tahoor and najasah. This is the opinion of Sheikh al Islam. 103 104

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97 Taught position
98 This is another criticism, that the water is suitable for drinking, but not for purification
99 Still referring to a small amount
100 A wash is where water is used to pour on the area of najasah, followed by rubbing (but not required), then inspecting, such that there is an interval between each episode of washing.
101 The eighth water would be Tahoor
102 The matn did not mention the number of washes, only the ‘last’ wash
Hence;

1. Any water that is changed by najas is najas.
2. Any water that has not been changed by najas is still tahoor water.

As for taahir water there is no textual evidence for this division in shari‘ah, and this is the chosen opinion of Sheikh al Islam.

The evidence

1. The absence of evidence for the third category.
   a. The Qurān shows that Allāh T sent water for us to drink and cook and purify ourselves.
   b. Those that say that there are three categories need to bring evidence for it.
      i. The proponents use ambiguous evidences to try and support it.
   c. If such a category of water existed that was not allowed for purification there would have been a clear hadith, which does not exist.
2. Complicating that which is simple.
   a. Allāh T explained the intricacies of Wudhu, so would He T not have explained the intricacies regarding water?

The Third Category of Water

Najas water is that which has been changed by filth or encountered filth whilst it was a small amount or that which is separated from an area containing filth before removing that filth.

Najas water is that which has been changed by filth

1. Water that has been changed by najasah
   a. The change occurs in one of the three properties: Colour, or taste, or Smell
   b. The exception to smell is that which has been affected by neighbouring carcasses. There is a consensus on this issue.

For example, a thobe with najasah on it which is washed with water

a. Water from the first 6 washes (according to the madhab) which touches the najasah will be najas.

That water which has encountered najasah when it was a small amount is najas

a. Small meaning less than two qullah

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103 And of Sheikh Kehlan and Ustaadh Abu Easa
104 This is really a Rahmah from Allāh T, and the fiqh of Sheikh Uthaimeen is a manifestation of ease, in the footstep of his mentor and hero Sheikh al Islām Ibn Taymiyyah R. Sheikh al Islām was an ayah from the ayaat of Allāh, in his times and in ours. He has the ability to understand text and maqaasid (objectives) al shariah, and give due right to the details when appropriate, and focussed on the bigger issue when appropriate
105 Third category according to the Hanbali Madhab
b. The madhab base this upon the hadith ‘If water reaches two qullah it does not carry
najas’
c. The hadith for us is a refutation against Al Hajjawi’s opinion mentioned here.
d. The class opinion and the correct opinion\(^{106}\) is that even if water is less than two qullahs
it is tahoor unless it changes, and water above two qullahs is tahoor until it changes due
to najasah. This is also a second opinion in the madhab itself.

‘Or separated from an area containing filth before removing that filth’

For example, a thobe that has najasah on it, which was washed off in the first washing and by the
second it had been completely removed. It was then washed a further five times.

1. There are two positions in the madhab regarding how many times najasah has to be washed;
either three or seven, each washing results in najas water except the last.
2. Hence according to the Madhab although the thobe may be physically clean by the second
washing, it is not legally clean, taahir.
3. Also the water running off the thobe may be physically clean but it is najas in the Madhab even
if no najasah is present.
4. The class position is that as long as it is clean it does not matter how many times it has to be
washed.

Najas water becomes tahoor by adding a lot of tahoor water into it, and not by using dirt and the like, a
large amount of filthy water goes back to the way it was by itself or by removing water from it such that
a large amount of unchanged water remains afterwards’

Najas water returns to the state of tahoor\(^{107}\) in the ways mentioned below:

1.\textbf{ Adding a lot of tahoor water to the najas water}
   a. ‘a lot’ means greater than two qullah.
   b. Not using turab or the like\(^{108}\);
      a. The madhab says that only tahoor water purifies
      b. ‘Like’ referring to cleaning agents such as soap.

\textbf{Discussion}

For example, a container contains half a qullah of najas water, in order to purify it more than two qullah
of tahoor water is added to it to make it tahoor.

1. The condition being that the properties are back to those of tahoor water

\(^{106}\) And the opinion of Sheikh Kehlan
\(^{107}\) This water is only tahoor if the properties are of tahoor water, if they are not then all four madhabs agree it is
najas.
\(^{108}\) Sheikh Uthaimeen explains why the madhab mentions ‘not dirt and its like’. We might think why would we use
mud to clean water? The idea is that it would aggregate the najasah and it would settle at the bottom to leave the
clean water at the top.
2. If the water is still changed in any one of the three properties then it is still najas.
3. *Sheikh Uthaimeen’s position is that it does not matter how much water is added, whether more or less than 2 qullah, it is whether the properties have changed back to tahoor water.*

2. **A large amount of najas water changes by its own accord:**
   1. Large meaning greater than two qullah
   2. Changing by itself – such as the result of evaporation by the Sun.

**Discussion**

For example; there is two Qullah of najas water in a bucket, and after two or three days the smell disappears and there is no sign of najas in it. Nothing has been added to it.

1. The Hanbali Madhab differentiated between a large and small amount of water changing by itself.
2. *Sheikh Uthaimeen’s opinion is that a large amount of water aids the ridding of najasah.*

3. **Removing water from the najas water, such that a large amount of unchanged water remains:**
   1. This stipulates that there must have been more than two qullah of najas water.
   2. And that when removed there must be more than two qullah of water remaining.

**Discussion**

1. The correct position in all three matters above is that water will become tahoor when the najasah is removed, irrespective of the amount, and the means used to remove it, including cleaning agents.
2. Using turab to purify
   a. Sheikh Uthaimeen says that the water does not become purified with turab although it is a purifying substance, however it purifies metaphorically and not physically, but on the contrary, when making tayammum properly the face would become dirty looking.
3. According to the madhab all liquids are purified in the same way when they are affected by Najasah.
4. *The correct opinion about other liquids is that all liquids are pure until they change.*

If one has doubts about the purity/filthiness of water or other things, he builds upon certainty.

Two scenarios exist:

1. The water is tahoor but doubt exists regarding its purity and is suspected to be najas.
2. The opposite, the water is najas and doubt exists regarding its impurity and it is suspected to be pure.
In both of these scenarios we ‘build upon ‘yāqeen’ certainty;\textsuperscript{109}

1. In first scenario the water was certainly tahoor but doubt arose regarding its purity. This doubt cannot overcome the position of certainty, hence the water is tahoor.
2. In second scenario the water was certainly najas, and its najasah was doubted, the doubt does not overcome the position of certainty hence it is najas. This principle applies to anything.

For example

1. A man has a thobe and he is not certain whether it is pure or not.
   a. It is pure until he reaches certainty that it is najas.
2. There is a sheep skin, and we are not certain if it is from a slaughtered sheep or from carrion\textsuperscript{110}.
   b. We build upon the certainty that as a community we only handle slaughtered sheep, farmers do not sell carrion. Hence it is considered a halal skin
3. A man is not certain if the ground on which he is going to pray is pure or najas
   c. It is pure until we are certain that it is najas

This is a very beautiful principle; such that should the water actually be najas or the skin actually be carrion, there is no sin upon the person. It gives ease in the time of difficulty.

**The evidence for this principle**

Ṣadīth narrated by Abdullah ibn Zayd R, that a man came to Rasool Allāh S complaining that he had some problems with his stomach during Ṣalāh, and he was not sure whether he had passed wind or not. So Rasool Allāh S advised him not to leave the Ṣalāh except if a sound was heard or a smell was smelt.\textsuperscript{111}

a. Rasool Allāh S established the principle to build upon yāqeen; recognising that anyone can suffer from such a problem. The wudu is not nullified unless one has reached certainty that is has been broken, by sound or smell.

Narrated by A’ishah R\textsuperscript{112}, that the companions came to Rasool Allāh S and said ‘ya Rasool Allāh there are people who have brought meat for us and we don’t know whether they have mentioned the name of Allāh on it or not, Rasool Allāh S told them to say bismillaah and eat it.\textsuperscript{113}

\textsuperscript{109} A major rule in Usul al Fiqh (rules which help derive rulings) is that certainty cannot be removed by doubt. If there is certainty in a matter, doubt cannot change that scenario.

\textsuperscript{110} One that was not slaughtered, which would make the skin haram

\textsuperscript{111} Narrated in Bukhārī in the Book of Wudu, in the Chapter of the one who does not have to make wudu for anything other than what come out of the two private parts. Narrated in Muslim in the Book of Menstruation in the chapter of the evidence upon the person who is sure of his state of wudu and then doubts in the fact that he has broken it that he should carry on praying with that state of wudu.

\textsuperscript{112} In al Bukhārī in the book of sacrificing and hunting the slaughter of the Bedouins not the local Arabs. Indicating that Imām Bukhari is going even further.

\textsuperscript{113} This is not a licence to eat ‘Big Macs’ etc
1. Aishah R said that the people referred to were not Muslim.
2. It is highly likely that the meat was not actually halal.
3. Yet Rasool Allāh S implied that we would expect the meat to be Halal, it being from amongst our people, yet the Religion was new and was not yet being practiced fully.
4. Rasool Allāh S did not ask them to make enquiries. The principle is that the meat is halal, and it is what it is expected to be, and if it is not we say bismillāh.

It is narrated from Umar Ibn Al Khattab R whilst he was walking with ‘Amr ib Al ‘Aas, they came across a man next to a pool of water in the ground, and Amr asked the man whether the water was najas or not. ‘Umar R told the man not to say.114

1. The principle is that water is tahoor by default
   a. The narration indicates that the water may appear to be tahoor, and if it was not that he should not reveal that it is not.115
   b. The hadith is not authentic
      2. Narrated from Abd Al Razzaq in his Musannaf on the authority of Yahya ibn Abdur Rahman ibn Hatib116 on the authority of ‘Umar ibn al Khattab. Yahya ibn Ma’een117 said that Yahya ibn Abdur Rahman did not hear from Umar. Hence the narration is munqati’ broken. There is a missing narrator who is not a Sahabi.
         a. The tābi’i left out the name of the narrator. The muhaddithin investigate the reasons for leaving it out. However, the doubt of the hadith is too great so it is ruled as daeef (weak) and is not acceptable as evidence.
         b. However it is similar to the hadith mentioned in Bukhārī regarding wudu, hence the principle has already been established.
         c. The principle is also understood by the ‘aql; for example if rain water was to fall on us from a gutter; we would not know for certain its purity as it may have encountered some najasah in the gutter. However if we were to raise enquiries every time we are touched by water, it would be an incredible burden. Hence, from

114 Q: Do we need to tell someone if we know that the water in Najas? A: Yes. How to understand this in the context of the hadith, that the individual ruling of the ṢaṢābah is not an evidence upon the nation. There are many similar controversial narrations. The ‘ajaa’ib. They are respected but either they have issues of authenticity or the opinion is held by only a small amount of ṢaṢābah that have a huge amount of understanding of the deen, so we should say we don’t know and follow what the majority of scholars say. However when realities change and problems extend beyond escape, then we are forced to adopt a more flexible approach.

115 There are number of statements of the ṢaṢābah of this kind, giving the fiqh approach typical of Sheikh Uthaiineen and Ibn Taymiyyah.

116 A Tābi’i

117 The Teacher of Imām Bukhārī, amongst the greatest of the nuqqaad and muhadditheen
common sense it is water until we are certain that it is not. There is no obligation to study the nature of that water, and that is from the vastness of the Mercy of Allāh.

If tahoor and najas water are indiscernible\(^{118}\), it is unlawful to use any of them, and one does not attempt to discern. Pouring it out or mixing it is not a condition for making tayammum.

The Hanabila said it was impermissible to use either the tahoor or najas due to ‘istibaah’ i.e. they are not discernible from each other. This because it is an obligation to avoid najasah\(^{119}\). This is also appreciated by the ‘aql.

Evidence

This ruling is derived from an analogy from hunting\(^{120}\).

1. Hunting is highly regulated by the Qurān and Sunnah.
2. Typically the hunter would release their dog or arrows and say ‘bismillah’ with the intention to maim the animal and then perform the Islamic slaughter on it, or kill it directly. Both would be halal.
   1. Narrated in Bukhāri\(^{121}\) that a man released his arrow at some game\(^{122}\), and the animal fell into water, some distance away, and when he got there the animal was already dead’
      a. Here, there is a possibility that the animal drowned, which would render it ‘maitah’ (carrion)\(^{123}\), and Haram. So Rasool Allāh S said ‘if you find it immersed in water don’t eat it, as you do not know whether the water killed it or the arrow\(^{124}\).’
   2. In another hadith Rasool Allāh S said that ‘if you find with your dog other dogs, do not eat it, as you do not know which one of them killed it’.
      a. This is when the dog is released saying bismillah, and on arriving at the game other dogs are also present all with blood on their mouths, leaving uncertainty as to which one killed the animal. This makes the meat unlawful\(^{125}\).

Qiyas derived from hunting is applied to the issue concerning doubt regarding the purity of water.

Discussion

To make Wudu from any of the containers of water will result in either;

1. The tahoor water being used first, followed by the najas, which would then block the Salāh, or

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\(^{118}\) The difficulty to discern the two types of water is termed ‘Istibaah’

\(^{119}\) such that if there was excrement on the floor it would be haram to pick it up according to the Hanabila

\(^{120}\) Traditionally by using dogs and bow/arrows.

\(^{121}\) Chapter of Sacrificial Animals and Game

\(^{122}\) We do not know what animal it was

\(^{123}\) According to the majority

\(^{124}\) Narrated in Al Bukhari

\(^{125}\) It is not like one killing it with their own hand – i.e. you are certain you killed it
2. The najas water used first, followed by tahoor;
   a. Where najasah on the hands could contaminate the tahoor water if it was a small amount,\(^\text{126}\), and,
   b. In the madhab if there is najasah on something it has to be washed; either
      i. Once, or
      ii. Thrice
   c. Hence washing with the tahoor water (after the najas water) 3 times for wudu would only result in the removal of the najasah and not the lifting of hadath for wudu.

‘He does not attempt to discern’

In this scenario of istibaah, it is not allowed to attempt to discern between them, according to the madhab, because one is definitely najas.

According to Imām Ahmed if there are three containers, two of which are pure and one of which is najas, then it is permissible to make a judgment, because there is a good chance to get it right.

The correct opinion

The position of Sheikh Uthaimeen is that one does make a judgement between two containers, one najas and one pure. This is also the position of Imām Shāfi’ī and also a second position within the Hanbali madhab.

The evidence

Hadīth of ‘Abdullah ibn Mas’ud regarding Salāh, Rasool Allāh S said ‘if one of you has doubt about how many units you have prayed, think about the correct amount and build upon it’

Discussion

1. It is permissible to make a judgement but not an obligation.
2. There is no obligation to find more water if that is difficult
3. The situation has been put on you, and you are held not accountable
4. The Salāh will not be repeated
5. If time and ability allows then no problem??

‘And it is not a condition for tayammum to pour them both out or mix them both’

The madhab says that in this situation of uncertainty one makes Tayammum, the reason is because water has not been found;

\[
\text{قَلِيلُ مَا تَهِيجُوا مَعَهُ مِن مَاءٍ} \text{ صَبِيبًا طِلِيبًا}
\]

\(^{126}\) Which could be avoided by having a large amount or pouring the water onto the hands
Other scholars argued that that is not technically true as there is water present, so to overcome that, they said by mixing the najas and tahoor together, it all becomes najas, or by pouring them both out then there will be no water present, after which tayammum can be made. However al Hajjawi says there is no need to mix or pour them out as there is a legitimate reason for tayammum which is doubt.

**Correct Position**

The taught position is that one can make a judgment to chose one of the two waters, therefore it would tayammum would not be allowed.

*If Tahoor water is indiscernible from Taahir water, one makes a single ablution from them both, a handful from one and handful from the other and prayers a single prayer.*

In the scenario the ‘*istikbah*’ is between Taahir and Tahoor water. Al Hajjaawi says that here one would use a handful from each alternatively in order to wash, such that he would wash his hands from one containers then the other, then wash his mouth from one container then from the other etc.

**Discussion**

According to the Hanbali madhaab only tahoor water lifts hadath\(^{127}\), which is why one has to wash from both. The correct and strongest opinion according to Sheikh Uthaimeen is that both waters are allowed for ablution hence there is no difficulty.

Also, Sheikh Uthaimeen and a number of other scholars hold the position that it is not permissible to wash in the manner suggested above because the nature of the niyyah in it. Niyah for wudu is obligatory, it has to remain unbroken throughout the action\(^{128}\), and no doubt can arise in it\(^{129}\).

Al Mardaawi\(^{130}\) in Al Insaaf said that some scholars held the opinion that one would make wudu from one bucket with certainty then pray, then made wudu from the second with certainty and pray a second time, however Al Hajjaawi did not follow that opinion and emphasised that we pray only once.

Sheikh Muhammad Mukhtar said that this type of doubt does not affect the niyyah in wudu as it is not similar to Ṣalāḥ. This is the correct opinion regarding the niyyah. He also said that one can make wudu from each water completely one after the other intending complete purification before each wudu, as though one is making wudu twice.

*If pure garments (thobes/thiyāb)\(^{131}\) are indiscernible from filthy garments, or likewise with an impermissible garment, then he prays in each garment the number of prayers equalling the filthy or impermissible garments and then adds an extra prayer.*

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127 Taahir water does not lift hadath

128 Such as if one was praying with the intention of Zohr, but during the prayer uncertainty entered his mind and he thought he was praying asr, the Ṣalāḥ is invalid as the niyyah has to remain constant throughout

129 One cannot think they are being purified and are not being purified.

130 Major faqih in the Hanbali Madhab

131 Although this is not the place to discuss clothes it is only relevant due to the similarity of the issues
For example;

A man who has 2 thobes, one is najas\(^{132}\), the other is pure. He would pray twice, changing the thobe for each Ṣalāh\(^{133}\).

If he had three najas (or haram) garments and four taahir, he would pray the number of najas plus one - i.e. four salaat, which would guarantee that he prayed in a pure garment.

The correct opinion

According to Sheikh Uthaimeen\(^{134}\) and the majority of scholars one would make a judgement to select one thobe and pray only once.

Discussion

Al Hajjaawi requests that one repeats the Ṣalāh because there is a possibility that if one prays once only they may have prayed in najas garment.

However Allāh T only obligated one Ṣalāh from each person.

In the madhab if a man who is in a desert for a month has only a najas thobe, he would pray in that thobe because he is obliged to pray by any means, and then he would repeat all of his Ṣalāh in a pure thobe when he returned.

Sheikh Uthaimeen says that this opinion is weak and that the Madhab itself contradicts it. As during salat al khawf\(^{135}\) the madhab allowed the holding of a najas weapon without having to repeat the Ṣalāh afterwards, for the reason of dharoorah (necessity)\(^{136}\).

Sheikh Uthaimeen highlights that if necessity in this scenario permits one salah, so then must the scenario in question. Hence our opinion when there is istibaah between pure and impure garments one makes a judgment and prays only once.

Haram Thobe

This concerns permissibility of the garment and not its purity.

For example, if someone has 10 silk\(^{137}\) and one cotton thobe, then, according to Al Hajjaawi he will have to pray the number of haram thobes plus one\(^{138}\) to ensure he prayed in a halal thobe, because the Ṣalāh is deemed invalid in the haram thobe.

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\(^{132}\) It may have urine on it
\(^{133}\) It is a condition of Ṣalāh to pray in a pure garment
\(^{134}\) And the position of Sheikh Kehlan and Abu Easa
\(^{135}\) The salat during war
\(^{136}\) The normal rule is that it is not permissible to pray whilst holding onto najasah
\(^{137}\) It is haram to wear silk, and there is an old narration from the madhab to pray in impermissible clothes invalidates the Ṣalāh, Ustaadh AE’s opinion it does not invalidate it.
End of the Chapter on Water

138 i.e eleven times