

PUBLIC BATHS IN ISLAMIC LAW

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There is a long history in Middle Eastern monotheism of distrust of the public bath. James the Brother of the Lord was commended for never entering baths.¹ Prophetic hadith forbids prayer in baths, among other places. The use of water from the bath for the minor ritual ablution seems to have been controversial in the early eighth century C.E., with doubts raised especially in Basra. In the classical schools, on the other hand, which formed across the ninth century, the principal objection to baths was that they involved bodily exposure, an objection maintained chiefly in literature of the Ḥanbali school, increasingly ignored by the rest. Thus, the literature of Islamic law suggests that public baths were accepted without demur by most pious Muslims. Baths also come up in the law of theft and its punishment, for it was unclear whether taking someone's clothes met the definition of theft for which a hand should be cut off.²

Hadith on baths.

Prophetic hadith concerning baths fall into several groups—in G. H. A. Juynboll's terminology 'matn clusters', meaning similar texts with variant chains of authorities.³ First we have the Prophet saying, 'The whole earth is a place of prostration (*masjid*) except for the

¹ Eusebius, *Ecclesiastical History*, II, xxiii.

² Two previous studies of the bath in Islamic law, which this study usually complements but does not supersede, are Mohammed Hocine Benkheira, 'Hammam, nudité, et ordre morale dans l'Islam médiéval', *Revue de l'histoire des religions* 224 (2007): 319-71, 225 (2008): 75-128, and Mohammed H. Benkheira, "'La maison de satan': le hammâm en débat dans l'Islam médiéval", *Revue des l'histoire des religions* 220 (2003): 391-443. Other previous studies include Geert Jan van Gelder, 'The *ḥammām*: a space between Heaven and Hell', *Quaderni di studi arabi*, n.s., 3 (2008): 9-24, stressing Arabic literature, and Heinz Grotzfeld, *Das Bad im arabisch-islamischen Mittelalter* (Wiesbaden: Harrassowitz, 1970), a full historical treatment. A comprehensive survey from the Ottoman period is al-Munāwī, *K. al-Nuzḥah al-zahīyah fī aḥkām al-ḥammām al-shar'īyah wa-al-ṭibbīyah*, ed. 'Abd al-Ḥamīd Šāliḥ Ḥamdān (Cairo: al-Dār al-Miṣrīyah al-Lubnānīyah, 1408/1987).

³ G. H. A. Juynboll, *Encyclopedia of canonical Ḥadīth* (Leiden: Brill, 2007), xxviii.

bath and cemetery.’ MOSES TOLD SO BY GOD, ADDING LATRINE, ACC. TO NAWF AL-BIKĀLĪ *APUD* `AL. IBN AḤ., *SUNNAH*, 60 69. ‘Bath’ and ‘cemetery’ are sometimes mentioned in the opposite order, and ‘pure’ sometimes appears before ‘place of prostration’, but there is no significant variation of wording. These versions all go through a Medinese, ‘Amr ibn Yaḥyá (d. after 130/747-8), being then transmitted from him by Basrans, Kufans, and fellow Medinese of the next generation.⁴ G. H. A. Juynboll offers no opinion as to whose hadith report it was originally.⁵ (Baths also appear on a longer list of places where prayer is forbidden, along with garbage heaps, slaughterhouses, cemeteries, the middle of the road, places where camels are stood, and on top of the Ka‘bah.⁶) The second main group has the Prophet forbid nudity at the bath: ‘Whoever believes in God and the Last Day, let him not enter the bath save with a wrap (*mi‘zar*).’ Variants tell Muslim women not to enter the bath at all, tell Muslim men not to allow their wives to go to the bath at all, and add the prohibition of sitting where wine is passed. No generalization is possible about where these reports were transmitted, for they come from different Companions and go through Followers (Muslims of the generation that met Companions but never the Prophet himself) of Yemen, Mecca, and Egypt.⁷

There are many versions of a hadith report from ‘Ā’ishah the Prophet’s favourite wife. In some, she reports that the Prophet forbade men and women to enter baths, then made a relaxation (*rakhkhaṣa*) in favour of men in wraps (*mayāzir*). In some versions, she adds

⁴ Abū Dāwūd, *al-Sunan*, k. *al-ṣalāh* 24, *bāb fī al-mawāḍi‘ allatī lā tajūzu fīhā al-ṣalāh*, no. 492; al-Tirmidhī, *al-Jāmi‘ al-ṣaḥīḥ*, *al-ṣalāh* 119, *bāb mā jā’a anna al-arḍ kullahā masjida illā al-maqbarah wa-al-ḥammām*, no. 317; Ibn Mājah, *al-masājid* 4, *bāb al-mawāḍi‘ allatī tukrahu fīhā al-ṣalāh*, no. 745; Aḥmad, *al-Musnad*, 6 vols. (Cairo: al-Maṭba‘ah al-Maymaniyyah, 1313/1895), 3:83, 96 = ed. Shu‘ayb al-Arna’ūt, &al., 50 vols. (Beirut: Mu‘assasat al-Risālah, 1413-21/1993-2001), 18:307-9, 312-13, 410-11 (henceforward, references to the latter edition in *italic*).

⁵ Juynboll, *Encyclopedia*.

⁶ Ibn Mājah, *al-masājid* 4, *bāb al-mawāḍi‘ allatī tukrahu fīhā al-ṣalāh*, no. 746.

⁷ Al-Nasā’ī, *al-Mujtabā*, k. *al-ghusl wa-al-tayammum* 2, *bāb al-rukḥṣah fī dukhūl al-ḥammām*, no. 401; Tirmidhī, *Sunan*, *al-adab* 43, *mā jā’a fī dukhūl al-ḥammām*, no. 2800; Aḥmad, *Musnad* 1:20, 2:321 1:277, 14:27-8. The Twelver Shi‘i tradition quotes this stricture of both the Prophet and the imam Ja‘far al-Ṣādiq: al-Kulaynī, *al-Kāfi*, k. *al-zī wa-al-tajammul*, *bāb al-ḥammām*; ed. ‘Alī Akbar al-Ghaffārī, with Muḥammad al-Ākhundī, 8 vols. (Tehran: Dār al-Kutub al-Islāmīyah, 1389, 1391), 6:497, 502.

expressly that he made no such relaxation in favour of women.⁸ The Basran Ḥammād ibn Salamah (d. 167/783-4) appears to be the common link uniting these. Mohammad Hocine Benkheira is willing to blame him for inventing this report, but Juynboll refrains from identifying anyone as its inventor.⁹ A variant gives a back story, in which a contingent of women from Syria (usually Homs, sometimes Damascus) pays a visit to ‘Ā’ishah, who challenges them: ‘Are you the ones who have women enter baths? I heard the Messenger of God . . . say, “There is no woman who puts aside her garment in other than her husband’s house but that the screen is torn between herself and her Lord.”’¹⁰ The Kufan Maṣṣūr ibn al-Mu’tamir (d. 132/749-50) appears to be the common link for this version. The main reported transmitters of it from him are the Kufan Sufyān al-Thawrī (d. 161/777?) and the Basran Shu’bah (d. 160/776). Juynboll tentatively considers the latter to be the most likely inventor of this version.¹¹

There is also a rather blatantly anachronistic hadith report in which the Prophet foretells temptation: ‘There will be conquered for you the land of the barbarians. You will find in it houses called baths (*ḥammāmāt*). Let men not enter them except wearing wraps (*uzur*). Forbid them to women except for one who is ill or who has just given birth.’ According to the prominent hadith collector Abū Dāwūd (d. 275/889), this hadith report was transmitted only by Egyptians.¹² However, baths in Medina are already referred to in a

⁸ Abū Dāwūd, *Sunan*, k. *al-ḥammām*, no. 4009; Tirmidhī, *Jāmi’*, *al-adab* 43, *mā jā’a fī dukhūl al-ḥammām*, no. 2802; Ibn Mājah, *Sunan*, *al-adab* 38, *bāb dukhūl al-ḥammām*, no. 3749; Aḥmad, *Musnad* 6:132, 139, 179 41:466, 42:9, 288.

⁹ Benkheira, ‘Hammam’, 341-2; Juynboll, *Encyclopedia*.

¹⁰ Abū Dāwūd, *Sunan*, k. *al-ḥammām*, no. 4010; Tirmidhī, *Jāmi’*, *al-adab* 43, *mā jā’a fī dukhūl al-ḥammām*, no. 2803; Ibn Mājah, *Sunan*, *al-adab* 38, *bāb dukhūl al-ḥammām*, no. 3750; Aḥmad, *Musnad* 6:41, 173 40:167-9, 42:251; by another Kufan *isnād* bypassing Maṣṣūr, Aḥmad, *Musnad* 6:41 40:167-9; by an Egyptian *isnād* from another wife of the Prophet’s, Aḥmad, *Musnad* 6:30144:193-4. As part of a long speech to a Homsī man with a different *isnād*, ‘Abd al-Razzāq, *al-Muṣannaf*, ed. Ḥabīb al-Raḥmān al-A’zamī, Min Maṣṣūrāt al-Majlis al-‘Ilmī 39, 11 vols. (Johannesburg: Majlis Ilmi, 1390-2/1970-2), 1:293-4.

¹¹ Juynboll, *Encyclopedia*, 564.

¹² Abū Dāwūd, *Sunan*, k. *al-ḥammām*, no. 4011; Ibn Mājah, *Sunan*, *al-adab* 38, *bāb dukhūl al-ḥammām*, no. 3748; also ‘Abd al-Razzāq, *Muṣannaf* 1:290-1.

hadith report in which the Prophet, hearing that Umm al-Dardā' has just come from the bath, warns her against undressing.¹³

The eighth-century controversy.

The earliest controversy of which I have found a record concerns the utility of waters from the bath for performing ritual ablutions. Doubts about baths tend to be expressed by Basrans. Al-Ḥasan al-Baṣrī (d. 110/728) disliked that one perform the major ritual ablution with the water of the bath. By another report, he even made out baths as a cause of major ritual pollution: 'When you leave the bath, perform the major ritual ablution.'¹⁴ He is also reported to have expressed distaste for baths on account of the naked bodies there displayed: 'Islam is mightier (*a 'azz*) than that.'¹⁵ By a Basran chain of authorities (*isnād*), the Companion Abū Hurayrah (d. ca. 58/677-8) said, 'There are two sorts of water that do not suffice (for performing ritual ablutions): seawater and bathwater.' There were some misgivings elsewhere, as well. As reported by a Kufan chain of authorities, the Companion Ibn 'Abbās (d. 68/687-8) said, with al-Ḥasan, 'The major ritual ablution is necessary from the bath.' By a mixed Kufan/Meccan *isnād*, the Companion 'Abd Allāh ibn 'Amr (d. 63/683?) would perform the major ritual ablution on account of the bath.¹⁶

It was generally Kufans who defended the bath. Their leading authority Ibrāhīm al-Nakha'ī (d. 96/714?) would go into the bath and perform the major ritual ablution on the way out. He quoted the earlier Kufan authorities 'Alqamah (ibn Qays, d. ca. 70/689-90) and al-Aswad (ibn Yazīd, d. 75/694-5?) as performing the major ritual ablution with bathwater and not consider it as requiring ablution. He also quoted the Companion Ibn Abzā, governor of Khurasan for 'Alī, as saying, 'The bath was made for purifying. One does not purify

¹³ Aḥmad, *Musnad* 6:362 44:589.

¹⁴ Ibn Abī Shaybah, *Muṣannaf*, k. *al-ṭahārah* 127, *fī al-ghusl min mā' al-ḥammām*; ed. Muḥammad 'Abd Allāh al-Jum'ah and Muḥammad Ibrāhīm al-Luḥaydān, 16 vols. (Riyadh: Maktabat al-Rushd, 1425/2004), 1:198.

¹⁵ 'Abd al-Razzāq, *Muṣannaf* 1:292.

¹⁶ Ibn Abī Shaybah, *Muṣannaf*, k. *al-ṭahārah* 127, *fī al-ghusl min mā' al-ḥammām*; ed. Jum'ah & Luḥaydān, 1:198.

oneself of it.’ Contrary to another Kufan tradition, he related that Ibn ‘Abbās, on being asked about bathwater, said, ‘Water does not render one impure.’ Several quotations document the approval of baths for ritual ablutions of al-Sha‘bī (d. after 100/718-19); among others, we are told that he would enter the bath and perform the major ritual ablution there, saying ‘If I washed on account of it, I would not enter it’, also, ‘If you have washed with water, you have washed with it.’ Some non-Kufans are also quoted. Hishām (presumably ibn Ḥassān, Basran, d. 148/765-6?) told the Kufan Ibn Idrīs (d. 192/807-8) that bath water suffices for someone in a state of major ritual impurity. The well-travelled Medinese ‘Ikrimah (d. 107/725-6?) was asked about the bath, which Magians and the majorly impure enter, betraying the fears of those who doubted baths, mainly that the water would communicate the impurity of non-Muslims and Muslims in a state of impurity. He said, ‘Water is pure—nothing makes it impure.’¹⁷ One of the Twelver imams is quoted as warning ‘Do not wash from the *ghassālah* of bath water, for there bathe in it adulterers, bastards, and haters of our house, the worst of them’, apparently in fear of moral pollution.¹⁸ There also seems to be a vestige of fear of moral pollution in a story of the Companion Ibn ‘Umar’s being shocked to discover naked men in the innermost part of a bath, then having not only the bathers expelled but also the place washed in preparation for his return.¹⁹ Fear of such communicability seems to have died away in the course of the eighth century, along with such ideas of purity as that ablutions were required after touching anything that had itself been touched by fire (a token of Hellfire).²⁰

¹⁷ Ibn Abī Shaybah, *Muṣannaf*, k. *al-ṭahārah* 127, *fī al-ghuṣl min mā’ al-ḥammām*; ed. Jum‘ah & Luḥaydān, 1:196-7.

¹⁸ Either Mūsā al-Kāẓim or ‘Alī al-Riḍā, both being referred to as ‘Abū al-Ḥasan’: Kulaynī, *Kāfī*, k. *al-zī wa-al-tajammul*, *bāb al-ḥammām*, ed. Ghaffārī, w. Ākhundī, 6:498-9.

¹⁹ Ibn Sa’d, *al-Ṭabaqāt*, ed. Eduard Sachau, &al., 9 vols. in 15 (Leiden: E. J. Brill, 1904-40), 4/1:113 = repr. 9 vols. (Beirut: Dār Ṣādir, 1957-68), 4:153-4.

²⁰ V. Marion Holmes Katz, *Body of text: the emergence of the Sunnī law of ritual purity*, SUNY series in medieval Middle East history (Albany: State Univ. of New York Press, 2002), 102-23.

Sometimes also the bath was defended on moral grounds. The Companions Abū al-Dardā', Abū Hurayrah, and Ibn 'Umar are all quoted as saying, 'What a good house a bath is. It takes away filth and reminds one of Hellfire'; that is, it conduces to a pious and sober frame of mind.²¹ The Companions Ibn 'Abbās, Jarīr ibn 'Abd Allāh al-Bajalī, and al-Ḥusayn ibn 'Alī are all cited as examples of pious men seen going to the bath.²² Sometimes the *isnād* is Kufan but sometimes also Basran and Medinese or Syrian, confirming that there was disagreement within the Basran school. There was also evidently a Kufan minority opposed to the bath, for 'Alī, by a Kufan *isnād*, is quoted as saying, 'What a bad house a bath is.'²³ An early Twelver Shi'i collection of hadith confirms that 'Alī and 'Umar were quoted both ways, as approving or disapproving baths. This collector himself evidently prefers the reports by which 'Alī said 'What a good house is a bath. It reminds one of Hellfire and puts away filth', whereas 'Umar said, 'What a bad house a bath is. It exposes the private parts and tears the screen.'²⁴ Contradictory reports (such as those placing Ibn 'Abbās, Ibn 'Umar, and Abū Hurayrah, among others, on both sides) suggest, of course, that eighth-century disputants were projecting their own ideas onto Companions of the previous century, not actually remembering what they had said.

There is some talk of avoiding nudity. By a Basran *isnād*, the caliph 'Umar wrote to a prominent Companion forbidding anyone to enter the bath save with a wrap (*mi'zar*) or for two to bathe from the same tub (perhaps a mixture of concern for nudity and transmission of impurity).²⁵ Similarly, the caliph 'Umar ibn 'Abd al-'Azīz (r. 99-101/717-20) is said to have

²¹ Ibn Abī Shaybah, *Muṣannaf*, k. al-ṭahārah 131, *man rakhkhaṣa fī dukhūl al-ḥammām*; ed. Jum'ah & Luḥaydān, 1:200-1. Ibn 'Umar is cited both for and against baths in a series of anecdotes and quotations *apud* Ibn Sa'd, *Ṭabaqāt* 4/1 (Leiden): 112-14 = 4 (Beirut): 153-5, some translated by Benkheirah, 'Hammam', 365-7.

²² Ibn Abī Shaybah, *Muṣannaf*, k. al-ṭahārah 131, *man rakhkhaṣa fī dukhūl al-ḥammām*; ed. Jum'ah & Luḥaydān, 1:200-1.

²³ Ibn Abī Shaybah, *Muṣannaf*, k. al-ṭahārah 130, *man kāna lā yadkhulu al-ḥammām wa-yakrahu*; ed. Jum'ah & Luḥaydān, 1:200.

²⁴ Kulaynī, *al-Kāfī*, k. al-zī wa-al-tajammul, *bāb al-ḥammām*; ed. Ghaffārī, w. Ākhundī, 6:496.

²⁵ 'Abd al-Razzāq, *Muṣannaf* 1:291; shorter version, Ibn Abī Shaybah, *Muṣannaf*, k. al-ṭahārah 132, *man kāna yaqūlu idhā dakhaltahu fa'dkhulhu bi-mi'zar*; ed. Jum'ah & Luḥaydān, 1:201; from Syrian sources, that 'Umar

written to the governor of Basra forbidding anyone to enter the bath without a wrap (also to have had someone flogged for entering without a wrap, along with the owner of the bath). On seeing the Kufan al-Ḥasan ibn ‘Ubayd Allāh (d. 136/756-7?) going into the bath, someone asked him whether he had his wrap (*izār*) with him, adding that ‘Alī had said, ‘Whoever exposes his private parts, the King will turn away from him.’²⁶ However, a Twelver Shi‘i source offers a surprisingly lenient definition of the private parts (*‘awrah*) that call for screening. One of their imams, Mūsā al-Kāzīm (d. 183/799), is quoted as saying, ‘The private parts are two, one before and one behind. As for the one behind, it is screened by the buttocks, so if you screen the rod and testicles, you have screened the private parts.’²⁷

Surprisingly, the literature of Islamic law has much more against baths than the literature of renunciation (*zuhd*), dominated though it is by recommendations of abstemious living from the Prophet, his Companions, and Followers. The Companion ‘Umar is quoted as saying, ‘Beware of frequently going to the bath, frequent depilation, and walking on carpets, for God’s servants are not given to luxury (*laysū bi-mutana‘imīn*).’²⁸ [The Egyptian traditionist and jurisprudent ‘Abd Allāh ibn Wahb (d. 197/813) is said to have gone into the bath, then heard someone reciting Q. 40:47, ‘They complain in the Fire’@, whereupon he fell down unconscious. ‘The depilatory paste (*nūrah*) was washed from him without his awareness.’²⁹ Sahl ibn ‘Al. al-Farḥān, Isfahani (d. 276/889-90), asked God to relieve him of the need for cleaning himself & entering the bath, lest he see naked people, so that his hair

so instructed all his military commanders, Ibn Abī Shaybah, *Muṣannaf*, k. *al-ṭahārah* 132, *man kāna yaqūlu idhā dakhaltahu fa’dkhuḥu bi-mi‘zar*, ed. Jum‘ah & Luḥaydān, 1:201-2.

²⁶ Ibn Abī Shaybah, *Muṣannaf*, k. *al-ṭahārah* 132, *man kāna yaqūlu idhā dakhaltahu fa’dkhuḥu bi-mi‘zar*; ed. Jum‘ah & Luḥaydān, 1:201-3. ‘Umar ibn ‘Abd al-‘Azīz was above all opposed to Muslims’ having their bodies exposed to non-Muslims, according to Benkheira, ‘Hammam’, 362-4.

²⁷ Kulaynī, *Kāfī*, k. *al-zī wa-al-tajammul*, *bāb al-ḥammām*; ed. Ghaffārī, w. Ākhundī, 6:501.

²⁸ Ibn al-Mubārak, *al-Zuhd wa-al-raqā‘iq*, ed. Ḥabīb al-Raḥmān al-A‘zamī (Malegaon: Majlis Iḥyā’ al-Ma‘ārif, 1386; repr. with different pagination Beirut: Dār al-Kutub al-‘Ilmiyah, 1419/1998), no 759; cited by Benkheira, ‘Hammam’, 360. The largest collections of early renunciatory sayings are the first eight or nine volumes of Abū Nu‘aym, *Ḥilyat al-awliyā’*, Aḥmad ibn Ḥanbal, *al-Zuhd*, Ibn al-Mubārak, *al-Zuhd*, and the *zuhd* section of Ibn Abī Shaybah, *al-Muṣannaf*.

²⁹ Abū Nu‘aym, *Ḥilyah* 8:324.

fell out & did not come back (*Hilyah* 10:212).] But the market, not the bath, appears to be the main place threatening to lure the renunciant away from his proper devotions.

The classical schools of law on baths.

In the ninth century and later, mistrust of baths seems to have had to do mainly with immodesty; that is, the fear that bathers should expose more of their bodies than was proper. What men need to keep covered, in most accounts of Islamic law, is the area from the navel to the knees. But it seemed more dignified always to cover more. Let me cite the examples of two prominent Shāfi'i jurists of eleventh-century Baghdad. An assistant teacher recalled of al-Māwardī (d. 450/1058), 'I never saw anyone more sedate than he. I never heard from him any jest and I never saw his forearm from the time I became close to him until he departed from this world.'³⁰ When some students called on Abū Ishāq al-Shīrāzī (d. 476/1083), they found him wearing so little that he could not stand all the way up to greet them lest he expose himself.³¹ The point of the story is the austerity of his living, but he must have had enough to cover himself from the navel to the knees if he could receive them sitting; therefore, his commendable modesty had to do with the rest of his body. At the same time, of course, Māwardī and Abū Ishāq's modesty would not have been worthy of mention unless most men had been in the habit of exposing more.

Although nudity was abhorrent to adherents of all schools, it was especially among jurists of the Ḥanbali school that distrust of baths persisted the longest. The Ḥanafī school virtually ignores the problem, so far as I have noticed.³² A ninth-century collection of Mālikī opinions quotes Ibn al-Qāsim as quoting Mālik concerning someone who enters the basin of a

³⁰ Yāqūt, *The Irshād al-arīb ilā ma'rifat al-adīb*, ed. D. S. Margoliouth, E. J. W. Gibb Memorial Series 6, 7 vols. (Leiden: E. J. Brill, 1907-27), 5:408 = *Irshād al-arīb ilā ma'rifat al-adīb*, ed. Iḥsān 'Abbās, 7 vols. (Beirut: Dār al-Gharb al-Islāmī, 1993), 5:1956.

³¹ Subkī, *Ṭabaqāt al-shāfi'īyah al-kubrā*, ed. Maḥmūd Muḥammad al-Ṭanāḥī and 'Abd al-Fattāḥ al-Ḥulw, 10 vols. (Cairo: 'Isā al-Bābī al-Ḥalabī, 1964-76), 4:219.

³² I have not found any discussion of bathing in either of two extensive accounts of Ḥanafī law, Badr al-Dīn al-'Aynī (d. [Cairo] 855/1451), *al-Bināyah sharḥ al-Hidāyah*, ed. Ayman Ṣālīḥ Sha'bān, 13 vols. (Beirut: Dār al-Kutub al-'Ilmīyah, 1420/2000), and Ibn al-Humām (d. Cairo, 861/1457), *Sharḥ Faṭḥ al-qadīr*, 9 vols. (Bulaq: al-Maṭba'ah al-Kubrā al-Amīriyah, 1316, repr. 10 vols., Beirut: Dār al-Kutub al-'Ilmīyah, 1415/1995). Benkheira cites the sole example of al-Sarakhsī (d. 483/1090-1?), who defends the bath: 'Hammam', 95-6.

bath (*hawḍ al-ḥammām*) when it is full: does it make him ritually pure? Mālik said, ‘Yes, if it is pure.’ Ibn al-Qāsim glossed Mālik’s saying as, ‘He means the water and the man.’³³

That is, the water might be impure if some filth was in it, but it was not impure itself on account of being associated with the bath. Later surveys of Māliki law apparently ignore the question.³⁴ [Mālik himself said not to enter bath—Wāqidī, *apud* Dhahabī, *Siyar* 8:63.]

Al-Shāfi‘ī himself is unconcerned with pollution transmitted by water, quoting a hadith report according to which the caliph ‘Umar performed the minor ritual ablution in a Christian’s water from a Christian’s container, then says that there is no harm in performing ablutions with a polytheist’s water or the leftover from his ablution water, so long as no polluting element (*najāsah*) is known to be in it.³⁵ Māwardī mentions the prohibition of ritual prayer in baths. He explains that some adherents of his school identified the reason as the presence there of polluting substances (*najāsah*), some that it is the resort of devils. He himself concludes that it is permissible if one is sure there is no polluting substance present.³⁶ Abū Ishāq al-Shīrāzī says one does not pray in a bath and that there is disagreement as to the reason, some saying it is because it is a place for the removal of impurities (*najāsāt*), some because it is a place where private parts are exposed, hence praying there is discouraged.³⁷ (This seems a reasonable summary of the early debate.) According to the summary of the Yemeni al-‘Imrānī (d. 558/1163), some say the Prophet forbade ritual prayer in the bath because of impurity (*najāsah*) in it, likening it to the cemetery, others because it is the refuge

³³ Al-‘Utbī (d. 255/869?), *al-‘Utbīyah*, *apud* Ibn Abī Zayd al-Qayrawānī, *al-Nawādir wa-al-ziyādāt*, ed. ‘Abd al-Fattāḥ Muḥammad al-Ḥulw, &al., 15 vols. (Beirut: Dār al-Gharb al-Islāmī, 1999), 1:68-9.

³⁴ Those I have consulted include al-Bājī (d. Almeria, 474/1081), *al-Muntaqā*, ed. Muḥammad ibn ‘Abbās ibn Shaqrūn, 7 vols. in 4 (Cairo: Maṭba‘at al-Sa‘ādah, 1331-2; repr. n.p.: Dār al-Fikr al-‘Arabī, n.d.), al-Qarāfi (d. near Old Cairo, 684/1285), *al-Dhakhīrah*, ed. Muḥammad Būkhūbzah, 14 vols. (Beirut: Dār al-Gharb al-Islāmī, 1994), and al-Ḥaṭṭāb (d. Tripoli in Libya, 954/1547), *Mawāhib al-jalīl*, 6 vols. (Cairo: Maṭba‘at al-Sa‘ādah, 1328-9, repr. Tripoli in Libya: Maktabat al-Najāh, 1969).

³⁵ Shāfi‘ī, K. *al-Umm*, k. *al-ṭahārah* 7, *mā’ al-naṣrānī*; ed. Rif‘at Fawzī ‘Abd al-Muṭṭalib, 11 vols. (al-Manṣūrah: Dār al-Wafā’, 1422/2001; 2nd printing 1425/2004), 2:27.

³⁶ Māwardī, *al-Ḥawī al-kabīr*, ed. Maḥmūd Maṭrajī, &al., 24 vols. (Beirut: Dār al-Fikr, 1414/1994), 2:337-8 = ed. ‘Alī Muḥammad Mu‘awwaḍ and ‘Ādil Aḥmad ‘Abd al-Mawjūd, 20 vols. (Beirut: Dār al-Kutub al-‘Ilmiyah, 1414/1994), 2:261-2 (henceforward, references to the latter edition in *italic*).

³⁷ Abū Ishāq al-Shīrāzī, *al-Muhadhdhab*, 2 vols. (Cairo: Muṣṭafā al-Bābī al-Ḥalabī wa-Awladuh, 1396/1976), 1:92.

of demons (*ma'wá shayāṭīn*), on account of the discovery of private parts there. This would make it discouraged in all bathhouses. By contrast with the Ḥanbali school, however, the Shāfi'i school considers that the bath is clearly a pure place, so prayer in it is sound, as in other places. They take the hadith report, according to 'Imrānī, as recommending (that is, not requiring).³⁸ In his commentary on Abū Ishāq's textbook, al-Nawawī (d. 676/1277) endorses the view that the bath is a resort of demons, hence prayer there is discouraged to the point of being forbidden, although the prayer there remains valid.³⁹

Ghazālī (d. 505/1111), a major authority in the Shāfi'i school as well as a highly entertaining exponent of Sufism, considers both legal and spiritual aspects of the bath. He warns against looking at private parts or exposing them to view, but then describes how, as the weaver looks at clothes and contemplates how they were made, the carpenter at the ceiling and contemplates how it was made, the mason at the wall and contemplates how it was made, and so on, the one who travels the road of the Afterlife piously takes warning from everything he sees. He probably alludes here to the tradition that the bath may usefully remind one of Hellfire. Perhaps also the sight of nudity properly reminds a pious seeker of the Last Judgement to come or one of the torments of Hell. Among the *sunan* (precedents to follow) is not to salute on entering the bath. If someone salutes, the reply is *'āfāka Allāh*. There is no harm in shaking hands or saying *'āfāka Allāh* as a salutation. One does not speak much in the bath or recite the Qur'an save to oneself (*sirran*). It is discouraged to enter the bath between the sunset and evening prayers or near to sunset, that being the time when devils are most. There is no harm in being rubbed down by someone else, as demonstrated

³⁸ 'Imrānī, *al-Bayān*, ed. Aḥmad Ḥijāzī Aḥmad al-Saqqā, 13 vols. (Beirut: Dār al-Kutub al-'Ilmiyah, 1423/2002), 2:111-12.

³⁹ Nawawī, *al-Majmū'*, ed. Zakarīyā 'Alī Yūsuf, 18 vols. (Cairo: Maṭba'at al-'Āsimah and Maṭba'at al-Imām, 1966-9), 3:166. Benkheira discusses the connection between devils and the bath in 'Maison', 423-7. I can testify that the connection flourishes in Egyptian folk belief to this day.

by the practice of the Antiochene renunciant Yūsuf ibn Asbāṭ (d. 195/810-11).⁴⁰ Plainly, tolerance of the bath was the prevailing position of the Shāfi'i school, with reservations.

It was above all in the Ḥanbali school, distinguished from the other Sunni schools by its moralism and insistence on following hadith, where uneasiness about baths continued to be expressed. In *al-Mughnī*, formally a commentary on the *Mukhtaṣar* of al-Khiraqī (d. 334/945-6), Ibn Qudāmah (d. 620/1223) includes a section on the bath in *kitāb al-ṭahārah* even though it is not covered in Khiraqī's treatment of ritual purity. Aḥmad ibn Ḥanbal considered that building a bath and buying, selling, and renting one are all discouraged. Abū Dāwūd asked him whether it would suffice if one stipulated to the renter that he must not allow anyone to enter without a wrap, to which he said, 'How can one be sure of that?' It was hateful on account of the exposure of private parts, the seeing of them, and women's entering them. There are some concessions. If a man is sure not to see private parts, nor others his, then it is permissible, for it is related that Ibn 'Abbās entered a bath at al-Jahfah, that the Prophet did, and that Khālīd ibn al-Walīd did. Al-Khallāl related that al-Ḥasan and Ibn Sīrīn would go into the bath.⁴¹ It is permissible for a man to wash nude if no one will see him, since the prophets Moses and Job did. But women are forbidden to enter the bath except from necessity: menstruation, parturition, illness, or need of washing when that is not possible at home for some reason, such as fear of illness or harm.⁴²

As for ritual observances, it is permissible to recollect God in the bath (that is, to pronounce his name, probably to repeat short verbal formulae of praise and supplication). Abū Wā'il (Kufan, d. ca. 100/718-19) was against it, likewise al-Sha'bī, al-Ḥasan, Makḥūl (Damascene, d. 116/734-5?), and Qabīṣah ibn Dhu'ayb (also Damascene, d. 80s/700-9).

⁴⁰ Ghazālī, *Ihyā' 'ulūm al-dīn* 3, k. *asrār al-ṭahārah* 2, fī *al-nazāfah wa-al-tanfīz*, end of *al-naw' al-awwal* ; 4 vols. (Cairo: al-Maṭba'ah al-Maymanīyah, 1306), 1:113-14.

⁴¹ Ibn Qudāmah, *al-Mughnī*, ed. 'Abd Allāh ibn 'Abd al-Muḥsin al-Turkī and 'Abd al-Fattāḥ Muḥammad al-Ḥulw, 15 vols. (Cairo: Hajr, 1406-11/1986-90), 1:305.

⁴² Ibn Qudāmah, *Mughnī* 1:306-7.

However, Ibrāhīm al-Nakha'ī and Mālik did not discourage it, considering it like recollection (*dhikr*), which is good in every place. Aḥmad said he had heard nothing against it.⁴³

There was some uncertainty in the mature Ḥanbali school about ritual prayer in the bath. Ibn Mufliḥ al-Qāqūnī (d. Damascus, 763/1362) reported that forbidding prayer in the bath was the more widespread and sound opinion among the adherents of the school, and identified it as one of the *mufradāt*, positions upheld by the Ḥanbali school alone. But some prominent Ḥanābilah had reservations. Al-Majd (d. Harran, 652/1254?) considered it sufficiently well-established that Aḥmad had counted prayer in the bath discouraged but not that he counted it forbidden. Some held it permissible if the appointed time for one of the prayers was running out, as recounted by Aḥmad ibn Ḥamdān (d. Cairo, 695/1295).⁴⁴

It may be added that Ibn Ḥazm (d. Majorca, 456/1064) unsurprisingly forbids prayer in any part of the bath, citing the hadith report that the whole earth is a place of prostration except for the bath and cemetery, also the opinion of Aḥmad ibn Ḥanbal.⁴⁵ Unfortunately, it is very uncertain whether his views are dependably the same as those of the Eastern Zāhiri school, dying out in the East during his lifetime, although on this point it seems likely enough. He says nothing of the permissibility of baths for performing ritual ablutions.

The Shi'ah seem to have generally approximated the Shāfi'i attitude toward the bath, which is to say that they raise the subject in their books but do not seem distressed by it. An early exposition of Zaydi law first states that ritual prayer is discouraged in baths, cemeteries, and thoroughfares, then identifies the reason for its being discouraged in baths as the filth that is found there, then explicitly makes an exception for bath houses (*buyūtuḥā*), where filth is

⁴³ Ibn Qudāmah, *Mughnī* 1:308.

⁴⁴ Al-Mardāwī, *al-Inṣāf fī ma'rifat al-rājiḥ min al-khilāf 'alā madhhab al-imām Aḥmad ibn Ḥanbal*, ed. Muḥammad Ḥāmid al-Fiḳī, 12 vols. (Cairo: Maṭba'at al-Sunnah al-Muḥammadiyyah, 1955-8, repr. Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1419/1998), 1:344.

⁴⁵ Ibn Ḥazm, *al-Muḥallā*, ed. Aḥmad Muḥammad Shākir, 11 vols. (Cairo: Idārat al-Ṭibā'ah al-Muniriyyah, 1347-52), 4:27-8, 31.

not found and hence there is no hindrance to prayer.⁴⁶ A late synthesis of Zaydi discussions pronounces it licit to perform the major ritual ablution with water from the bath, citing as evidence the hadith report about the Prophet's entering a bath at al-Juhfah and performing the major ritual ablution there.⁴⁷ It later reports that it is forbidden to expose the private parts where they may be seen, in the bath or elsewhere, but does not forbid anyone to enter the bath.⁴⁸ Shaykh al-Ṭā'ifah al-Ṭūsī (d. Najaf? 458/1065-6?) reports that it is forbidden to pray in baths (*buyūt al-ḥammām*) if they are polluted, discouraged but valid if they are pure.⁴⁹ This is confirmed by a major summary of Twelver law from two centuries later, which discourages the ritual prayer in a bath, latrines, stables for camels, an ant hill, a watercourse, a marsh, snow, among graves, fire houses, taverns, thoroughfares, and the houses of Magians, although accepting it in churches and synagogues.⁵⁰ Our one major summary of Ismā'īlī law, from al-Qāḍī al-Nu'mān (d. Cairo, 363/974), does not discuss it, so far as I have discovered.⁵¹

The bath occasionally comes up in legal discussions of other issues than the required rituals. Benkheira has remarked that one Shāfi'ī jurist, Māwardī, mentions that a man may be required to pay for his wife to visit the bath as part of his duty of maintenance (*nafaqah*), depending on local custom.⁵² Most jurists carefully define theft, the crime that is punished by amputation, as the removal of someone else's property from his protected zone (*ḥirz*). This probably does not apply to footwear or clothing stolen from a bath. 'Imrānī asserts that there is no amputation for theft from what is not someone's protected zone according to the

⁴⁶ Al-Mu'ayyad Aḥmad ibn al-Ḥusayn (d. 421/1030?), *Sharḥ al-Tajrīd*, ed. Muḥammad Yaḥyá Sālim 'Izzān and Ḥamīd Jābir 'Ubayd, 6 vols. (Sanaa: Markaz al-Turāth wa-al-Buḥūth al-Yamanī, 1427/2006), 1:336.

⁴⁷ Ibn al-Murtaḍá, *al-Baḥr al-zakhkhār*, ed. Muḥammad Muḥammad Tāmir, 6 vols. (Beirut: Dār al-Kutub al-'Ilmīyah, 1422/2001), 2:57.

⁴⁸ Ibn al-Murtaḍá, *Baḥr* 5:581.

⁴⁹ Al-Ṭūsī Shaykh al-Ṭā'ifah, K. *al-Khilāf*, ed. 'Alī al-Khurāsānī, Jawād al-Shahristānī, and Mahdī Najaf, 6 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1416-21), 1:498; *idem*, *al-Mabsūṭ*, ed. Muḥammad Taqī Kashfī and Muḥammad al-Bāqir al-Bahbūdī, 8 vols. (Tehran: al-Maktabah al-Murtaḍawīyah li-Iḥyā' al-Āthār al-Ja'farīyah, n.d.), 1:29.

⁵⁰ Al-Hillī al-Muḥaqqiq al-Awwal, *Sharā'ī 'al-islām, al-rukn al-awwal, al-muqaddimah al-khāmisah*; Najaf: Maṭba'at al-Ādāb, 1389/1969, 1:72.

⁵¹ Al-Qāḍī al-Nu'mān, *Da'ā'im al-islām*, ed. 'Āṣif ibn 'Alī Aṣghar Fayḍī, 2 vols. (Cairo: Dār al-Ma'ārif, 1951, repr. 1969).

⁵² Benkheira, 'Hammam', 94; Māwardī, 15:20 11:429.

Shāfi‘īyah, Mālik, Abū Ḥanīfah, and Aḥmad, only Dāwūd al-Zāhirī (d. Baghdad, 270/884) saying there is. If someone hangs up his clothes in the bath and someone else steals them, the thief may have his hand cut off if they were guarded, but if there is no guard, then they are not protected (*maḥrūz*) and there is no amputation, for the bath is effectively a thoroughfare (*mustatraq*).⁵³ Ibn Qudāmah confirms that this is the rule of the Ḥanbali school, adding the unaffiliated jurists Ishāq (ibn Rāhawayh, d. 238/853?), Abū Thawr (d. 240/854), and Ibn al-Mundhīr (d. 310/922-3?) to the list of those who took this position. If someone undresses as is his habit and does not entrust his clothes to anyone, then there is no amputation for the one who steals the clothes nor fine for the owner of the bath. The owner of the bath cannot reasonably be expected to prevent theft, since people are accustomed to putting their clothes one’s on top of another’s.⁵⁴

The legal literature on baths will occasionally tell us something about actual practice, such as Ibn Qudāmah’s observation that patrons tended to pile up their clothes in confusion. Shi‘i hadith testifies to survival of ancient methods of cleansing oneself. An ‘Abd al-Raḥmān ibn al-Ḥajjāj is quoted as saying, ‘I asked Abū ‘Abd Allāh (Ja‘far al-Ṣādiq) about the man who uses the depilatory stone (*al-nūrah*), using with it flour and oil, mixing them together, then rubbing with them after the stone in order to cut off its odour. He said “There is no harm in it.”’⁵⁵ When al-Munāwī (d. 1031/1621?) complains,

Whatever women enter it with insolence and high spirits, exposing the ornaments that God (be he exalted) has commanded to be hidden except in the proper place, as the women of our time do, along with omitting to pray and exposing the parts of their bodies that should be hidden, there is no doubt that this is forbidden,

⁵³ ‘Imrānī, *Bayān* 12:374, 383.

⁵⁴ Ibn Qudāmah, *Mughnī* 12:431, apparently quoting Abū Ya‘lā ibn al-Farrā’ (d. Baghdad, 458/1065).

⁵⁵ Kulaynī, *Kāfī*, k. *al-zī wa-al-tajammul*, *bāb al-ḥammām*, ed. Ghaffārī, w. Ākhundī, 6:499. Followed by a report that Mūsā al-Kāzīm was seen doing just this. Benkheira refers to the *nūrah* as a depilatory paste only (see esp. ‘Maison’, 426), but the medieval dictionaries I have consulted refer expressly to a *ḥajar* (stone), usually limestone (*kils*) in particular, while the cited passage from Kulaynī seems to require that stone and paste be distinct instruments. [For conflicting reports as to whether the Prophet used the *nūrah* (some contrasting his use of his hand only for the pubes and anal area), v. Ibn Sa‘d, L1/2:142-3 B1:442-3.]

we may believe what he says about Egyptian practice in his own day but doubt whether practice in the past had actually been much different.⁵⁶

Conclusions.

Tracing the topic of baths across time shows us more about the evolution of Islamic law. It has been observed that nudity is the overriding cause for concern about baths in prophetic hadith and again in legal discussions from the ninth century onwards, whereas it is only one of several causes for concern in reported legal discussions of the early eighth century. From this, two inferences are possible. Those who trust the authenticity of prophetic hadith as recorded in the great collections of the ninth century will suppose that this is one of many instances of wandering attention from eighth-century jurists, then rediscovery by ninth-century jurists of what the Prophet had originally laid down by his precept and example. Those who are more sceptical of hadith will suppose that this is one of many instances rather of evolving debate across the eighth and ninth centuries, with ninth-century jurists losing interest in some of the issues that animated their predecessors (here, the dangers of water-borne ritual impurity and association with anything reminiscent of Hellfire), projecting back other concerns (here, nudity at the bath) onto the Prophet in the form of hadith supporting their preferences.

Disagreement in the eighth century fell mainly along geographical lines, with Basrans less accepting of baths than Kufans. In the ninth century and later, as usual, there is disagreement among and within the different schools of law. The literature of Islamic law normally presents not a distinct rule for every situation but a range of proposed rules. In this case, the Ḥanafī and Mālikī schools appear to have been fairly indifferent to the problem of baths while the Shāfiʿī and Shiʿī schools tended in the same direction over time. Only the Ḥanābilah maintained strong distrust of the bath.

⁵⁶ Munāwī, *Nuzhah*, 44.

Finally, the topic of baths also furnishes a striking example of discrepancy between prophetic hadith and the doctrine of the schools. Hadith unambiguously forbids women to go to baths, but no such rule is stressed by most jurists and in practice it must have always been usual for city women of means to go to the bath. (It is conceivable that early discussions and the rule as formulated in hadith reflect the situation a little before mass conversion to Islam. It presumably would have been easier for pious Muslims to make a principled decision against baths when they were a tiny ruling stratum mostly sequestered in garrison cities, considerably more difficult for their successors to require large numbers of converts to renounce their customary bathing practice.) Discrepancy between prophetic hadith and the law is less common than disagreement within and between schools, but it is not unheard of. For example, hadith unambiguously bids men to allow their wives to go to the mosque but only the Ḥanbali, among the Sunni schools, strongly upholds this rule.⁵⁷ In both instances, discouragement of going to the bath and encouragement of going to the mosque, the Ḥanābilah probably stood out partly because of their traditional stress on morality, partly because of their loyalty to hadith, and partly because of their minority status, which made it more attractive for them to insist on nonconformity with widespread custom.

⁵⁷ See Christopher Melchert, 'Whether to Keep Women Out of the Mosque: A Survey of Medieval Islamic Law', *Authority, Privacy and Public Order in Islam*, ed. B. Michalak-Pikulska and A. Pikulski, *Orientalia Lovaniensia analecta* 148 (Leuven: Peeters, 2006), 59-69.